



Notice of a public meeting of

Planning Committee

- To:** Councillors Horton (Chair), Galvin (Vice-Chair), Ayre, Boyce, Burton, Crisp, D'Agorne, Doughty, Firth, King, McIlveen, Reid, Riches, Simpson-Laing, Watt and Williams
- Date:** Thursday, 23 January 2014
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

Would Members please note that the Site Visits for this meeting will commence at 12:30 from Memorial Gardens.

1. **Declarations of Interest**

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

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

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

2. **Minutes** (Pages 5 - 26)

To approve and sign the minutes of the meeting of the Planning Committee held on 19th December 2013.

3. **Public Participation**

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5pm on Wednesday 22nd January 2014**. 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.

Please note that this meeting, including public speakers, will be sound recorded to allow members of the public to listen to the proceedings without having to attend the meeting. The sound recording will be uploaded onto the Council's website following the meeting.

4. **Plans List**

This item invites Members to determine the following planning applications:

a) **Proposed Student Accommodation, Hallfield Road, York (13/03522/FULM)** (Pages 27 - 54)

A major full application for the erection of student accommodation in 2 new four storey buildings providing 326 bed spaces with associated car and cycle parking, access and landscaping following demolition of existing buildings. [Heworth Ward] [Site Visit].

b) **North Selby Mine, New Road, Deighton, YO19 6EZ (12/03385/FULM)** (Pages 55 - 112)

A major full application for the demolition of existing buildings and re-profiling of bunds and areas of the former mine, construction of an anaerobic digestion combined heat and power facility and horticultural glasshouse and associated infrastructure and works (reconsidered application) [Wheldrake Ward] [Site Visit].

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

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-mail – laura.bootland@york.gov.uk

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

- Registering to speak
- Business of the meeting
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Contact details are set out above.

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- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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PLANNING COMMITTEE

SITE VISITS

Tuesday 21st January 2014.

TIME	SITE	ITEM
12:30	Coach leaves Memorial Gardens	
12:40	Land at Hallfield Road	4a
14:20	Former North Selby Mine	4b

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City of York Council

Committee Minutes

Meeting	Planning Committee
Date	19 December 2013
Present	Councillors Horton (Chair), Galvin (Vice-Chair), Ayre, Boyce, Crisp, D'Agorne, Doughty, King, McIlveen, Reid, Riches, Simpson-Laing, Watt and Williams
Apologies	Councillors Burton and Firth

33. Site Visits

Site	Reason for Visit	Members Attended
Former Terry's Factory Site	To enable members to familiarise themselves with the site	Horton, Galvin, Boyce, Reid, McIlveen and Watt.
Askham Bryan College	To enable members to familiarise themselves with the site	Horton, Galvin, Boyce, Reid, McIlveen and Watt.
Land at Haymarket Car Park, Hungate.	To enable members to familiarise themselves with the site	Horton, Galvin, Boyce, Reid, McIlveen and Watt.

34. Declarations of Interest

At this point in the meeting, Members were asked to declare any personal or prejudicial interests they may have in the agenda.

Councillor D'Agorne declared a personal non prejudicial interest in relation to plans items 4c and 4d (Askham Bryan College) as he is employed by York College.

Councillor Galvin declared a personal non prejudicial interest in relation to plans items 4c and 4d (Askham Bryan College) as he uses the college facilities 4 times a year.

Councillor McIlveen declared a personal non prejudicial interest in agenda items 4c and 4d (Askham Bryan College) as a member of the Rounders Association.

Councillor McIlveen also declared a personal non prejudicial interest in plans item 4g as he is a House of Multiple Occupation landlord.

35. Minutes

Resolved: That the minutes of the last meeting held on 21st November 2013 be approved and signed by the Chair as a correct record.

36. Public Participation

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

37. Plans List

Members then considered seven reports of the Assistant Director (Planning and Sustainable Development) relating to the following planning applications, which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers.

38. Haymarket Car Park, Dundas Street, York (13/03302/FULM)

Consideration was given to a full planning application by Hiscox for the erection of part-three and part-four storey office building (Use Class B1a) of 6,545 square metres (GEA). New energy centre (49 square metres), landscaping proposals, improvements to public realm and highways, and associated works at Haymarket Car Park, Dundas Street, York.

Officers circulated an update to the committee report, full details of which are attached to the online agenda for the meeting, details were briefly as follows:

- Vary Condition 3
- Add a condition to prevent doors opening on to the public highway.
- Officers also reported that the weekend hours for deliveries of 9am to 6pm are in line with the rest of the Hungate site and should remain as such, but the weekday delivery times could be varied to 7am to 7pm, as requested by the applicant .

Peter Brown had registered to speak in support of the application on behalf of York Civic Trust. He stated that the Trust was pleased to be able to support the scheme which they considered to be sympathetic and well designed. The building would be a landmark for York and is what the City should be aspiring to for future developments.

Harry Spawton, the agent, and Jason Parker, the architect, had registered to speak in support of the application. They advised that they had addressed the key planning issues and had carried out pre-application consultations which had indicated support for the scheme. A previous application for the site had proposed a higher building and this scheme was also proposing significant improvement to the public realm to provide a 'gateway' into the city centre.

Members queried the scheme not meeting the 10% renewable energy target. Officers advised that the measures being taken to meet the BREEAM excellent rating outweigh the 10% renewable target in this instance and the development was acceptable in terms of sustainable design and construction.

Following further discussion it was:

Resolved: That the application be approved subject to the imposition of conditions listed in the Officers report and the following amended and additional condition:

Condition 3 (varied) Prior to occupation of the development hereby approved the hard landscaping proposals and highways works, as shown on drawing 2561 17C, shall be

implemented (and the existing crossing that will become redundant shall be removed).

A detailed landscaping/highway scheme (including existing and proposed surfacing materials, vehicular parking and servicing arrangements, and the number, species, height and position of trees and shrubs) shall be approved by the Local Planning Authority prior to completion of construction. The scheme shall include proposals for the roof areas, following the concept plans established within the submitted design and access statement, and an interim arrangement for the area within the application site where the office/hotel building is proposed, which shall be provided until construction on that site commences.

The approved scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: In the interests of the highway management, the character and appearance of the area and to enhance biodiversity in accordance with paragraphs 58 and 109 of the National Planning Policy Framework

Additional Condition:

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

Reason: To prevent obstruction to other highway users.

Reason: The development of high quality office space at the application site fits with the planned aspirations for this part of Hungate and is therefore welcome. The proposed building is of adequate environmental standards, including achieving BREEAM Excellent and will encourage sustainable travel. The overall development will enhance the area, respecting the setting of nearby listed buildings and archaeology of importance. There will be no undue impact on surrounding, existing or future occupants.

39. Haymarket Car Park, Dundas Street, York (13/03232/OUTM)

Consideration was given to an outline planning application by Hiscox for an office use (Use Class B1a) with flexible ground floor uses (A1, D1 or D2), or hotel building (Use Class C1) with access at Haymarket Car Park, Dundas Street, York.

Officers circulated an update to the committee report, full details of which are attached to the online agenda for this meeting. The main points were as follows:

- Delete condition 4 as landscaping will be addressed in the reserved matters application.
- Add Highways works conditions.
- Officers also reported that the weekend hours for deliveries of 9am to 6pm are in line with the rest of the Hungate site and should remain as such, but the weekday delivery times could be varied to 7am to 7pm, as requested by the applicant .

Harry Spawton had registered to speak as the planning agent. He advised that significant pre-application consultation had been carried out and work had been carried out to reduce the size of the building from what was already approved under a previous application. The building would be used as a hotel or office. Consideration had also been given to the proximity of the proposed building to the Black Swan.

Mr King had registered to speak as a local resident. He advised that his property overlooks the proposed building and that it

would be too high and too close to his property. He had concerns about the proposals being overbearing and the loss of open space.

In response to Members questions about the mass of the building, Officers confirmed that at the outline stage such details can not be considered.

Members were happy that sufficient information had been provided for the outline application, but asked the applicant to take into account the comments made by local residents.

Resolved: That the application be approved subject to the imposition of conditions outlined in the Officers report and the following additional conditions:

The development hereby approved shall not be occupied until the following works have been approved in writing by the Local Planning Authority and the works have been carried out in accordance with the approved details -

- a) The pedestrian / cycle route through the site
- b) The vehicular access onto Black Horse Lane (if applicable)
- c) Areas for parking, servicing and manoeuvring of vehicles

Reason: In the interests of highway safety and management, and visual amenity.

The development shall not be occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the highway to match adjacent levels.

Reason: In the interests of highway safety and management, and visual amenity.

Reason: The proposed development is considered to be appropriate to the setting, considering the layout, massing and public realm enhancements. The setting would be

enhanced and in relation to the approved master plan, there would be no undue additional harm to residential amenity. The scheme fits with Council aspirations for regeneration of the Hungate area. The development would be sustainable, meeting local construction requirements, and there would be no undue harm, considering flood risk, highway safety and the impact on archaeology.

40. Askham Bryan College, Askham Fields Lane, Askham Bryan, York, YO23 3PR (13/02946/FULM)

Consideration was given to a major full application by Askham Bryan College for the erection of educational and associated buildings and related parking, circulation areas and landscaping (for animal management centre, farm and equestrian purposes, 2 staff dwellings, animal housing), siting of animal shelters, silos and feed bins, erection of security fencing, formation of external equine training areas including polo field, formation of new access to York Road, reorganisation of existing access and parking areas, formation of ponds, change of use of existing buildings, temporary student accommodation and providing glazed roof to existing quadrangle.

Officers provided an update to the committee report, full details of which are attached to the online agenda. The main points were as follows:

- Environmental Protection Unit have no objections to the revised scheme and have agreed conditions.
- Public Rights of Way Comments - Request the applicant to divert the public footpath that current crosses the site of the proposed polo pitch.
- Ramblers Association would prefer the footpath diverted also.
- Revisions to a number of conditions.

In addition, the Officers also had the following verbal update further to the written update:

Condition 18

The existing buildings (marked as 20, 21, 22, 23, 24, and 25 on Drawing Number (0-)91 received 13 December 2013) shall be demolished within 2 months of the transfer of livestock and teaching to the animal management centres hereby approved (AMC1 and AMC2). The parking area to the north of the Animal Management Centre buildings hereby approved shown on the approved plan (Drawing Number (05)01 Revision A received 22 November 2013) edged in purple/brown shall be constructed and laid out in accordance with the approved plans within 2 months of the occupation of the Animal Management Centres, and hereafter such areas shall be retained solely for such purposes.

Condition 28

The first sentence of the condition revised to:

Prior to the occupation of the Animal Management Centres (AMC1 and AMC2) hereby approved, full details of a landscape/habitat creation/restoration scheme for the whole development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.

Condition 29

The first sentence of the condition revised to:

Prior to the construction of each building and the re-profiling to create the polo field a Wildlife Protection Plan shall be submitted to and approved in writing by the Local Planning Authority of what reasonable measures are to be taken to reduce/avoid any possible impact on targeted habitats, areas, and species during the construction phase of the each building and the polo field.

Miss Phillips, the Principle of Askham Bryan College, had registered to speak in support of the scheme. She advised that Education is an important part of York's economy and it was essential that Askham Bryan extends to meet demand as admissions at the College had gone up by 400 on the previous

year. She provided information on the specialist areas taught by the college and advised that there was still a shortage of skilled individuals in some areas of the colleges curriculum.

David Nunns had registered to speak on behalf the Ramblers Association. He advised that views would change considerably for walkers when the buildings are in place and raised concerns about the public footpath affected by the polo field.

Members questioned the registered speaker on a number of aspects of the operation of the college in relation to the application as follows:

- The requirement for a polo field – it was confirmed that the sport has grown in popularity in recent years and the college has taken on a member of staff who specialises in the teaching of polo.
- The public footpath located in the area designated for the polo field – it was confirmed that the college was confident it could manage footpath users as well as operating the polo field but would also be willing to look at a diversion of the footpath.
- Exotic species at the site – it was confirmed that Animal Management is an important part of what the college teaches and high quality accommodation is required to house existing animals and to add new ones.

Resolved: That the application be approved subject to the imposition of the conditions detailed in the Officers report, the conditions outlined above and the following additional/amended conditions:

Condition 7 - No development, other than the Animal Management Centres (AMC1 and AMC2) shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs initially indicated in Drawing Numbers (05)21 Revision A and (05)01 Revision A received 22 November 2013, Drawing Number (05)35 received 23 August 2013, and Drawing Number 3992 (05)45b 29 November 2013.

The details shall include the period/phasing of the landscaping scheme. This scheme shall be implemented within the agreed timescale.

A detailed landscaping scheme for the Animal Management Centres (AMC1 and AMC2, and the birds of prey centre initially indicated the aforementioned plans shall be submitted and approved in writing by the Local Planning Authority and be implemented prior to the occupation of these buildings.

Any trees or plants which within a period of five years from the completion of each phase of the approved landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Condition 8 - Prior to commencement of each building, area of animal enclosures, and the polo field hereby approved an archaeological evaluation in accordance with a detailed methodology (to include geophysical survey, metal detecting, trial trenches, community involvement, analysis, publication and archive deposition) of the site shall be submitted to and approved in writing by the Local Planning Authority.

A report of the results of the evaluation following the aforementioned agreed methodology shall be submitted to and agreed in writing by the Local Planning Authority. The report shall be submitted to the Local Planning Authority within six weeks of the completion of the field investigation.

Condition 9 - Following the carrying out of the archaeological evaluation on each part of the site required by Condition 8, if the Local

Planning Authority so requires, an archaeological excavation of that part of the site shall be carried out before any development is commenced. The excavation shall be carried out in accordance with a detailed methodology (to include trenches, community involvement, post-excavation analysis, publication and archive deposition), which shall first be submitted to and approved in writing by the said Authority. Reasonable access shall be afforded to any Local Planning Authority nominated person who shall be allowed to observe the excavations. A report on the excavation results shall be submitted to the Local Planning Authority within twelve months of the completion of the field investigation

Condition 15 - The specified height of the fence is revised to 2.4 metres.

Condition 16 - The height of the proposed screening altered to 2.4 metres from 2.5 metres.

Condition 17 - Prior to the first occupation of any building hereby approved a Full Travel Plan shall be submitted and approved in writing by the Local Planning Authority. The travel plan should be developed and implemented in line with local and national guidelines. The development shall thereafter be occupied in accordance with the aims, measures and outcomes

Within 12 months of the occupation of the first building of the development hereby approved a first year travel survey shall have been submitted to and approved in writing by the Local Planning Authority. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.
of said Travel Plan.

Condition 20 - Prior to their construction, details of the shelters and 'woodland enclosures' within the Wildlife and Conservation Area shall be submitted to and approved in writing by the Local Planning Authority. The details shall include appearance, scale, siting, and materials. The development shall be constructed in accordance with the approved details.

Condition 26 - Prior to the occupation of each building details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall detail the locations, heights, design and lux of all external lighting associated with that building. The development shall be carried out in accordance with the approved lighting scheme.

Condition 30 - alterations to two parts of the condition - (iv) Additional surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

(v) If soakaways are the proposed method of surface water disposal, these shall be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself. The tests shall be carried out for each of the proposed buildings, the polo field, and the equestrian centre car park and shall be witnessed by the City of York Council's Flood Risk Management Team.

Reason: Much of the proposed development is considered to constitute inappropriate development within the Green Belt, and by

virtue of the scale and siting of some of the proposed development would impact and cause harm to the openness and visual amenity of the Green Belt. Central Government advice in the NPPF makes it clear that such development should not be approved, except in very special circumstances. The proposed facilities are required for the college to expand and compete, and improve existing courses, this is supported by local and national planning policy. The proposed college facilities are required in proximity to the current campus and cannot reasonable be sited elsewhere. It is considered that very special circumstances exist that outweigh the harm to the greenbelt. Other impacts of the development are considered to be acceptable and in accordance with national and local planning policy and where reasonable and necessary will be mitigated by condition.

Approval is recommended subject to the referral of the application to the Secretary of State under The Town and Country Planning(Consultation) (England) Direction 2009 and the completion and signing of a Section 106 agreement covering a contribution towards a pedestrian/cycle path and the use of the ionTRAVEL program.

**41. ASKHAM BRYAN COLLEGE, ASKHAM FIELDS LANE,
ASKHAM BRYAN, YORK, YO23 3PR(13/02969/OUTM)**

Consideration was given to an outline application by Askham Bryan College for the erection of a new building and conversion of existing building to provide student accommodation; the erection of a teaching block following the demolition of a workshop; and the erection of an engineering building.

Officers provided an update to the committee report, full details of which are attached to the online agenda. The main points were as follows:

- The Councils Environmental Protection Unit had requested a number of conditions.
- Revisions had been made to a number of conditions.

The Principle of Askham Bryan college had registered to speak. Full details are reported under the previous minute item.

Resolved: That the application be approved subject to the imposition of conditions detailed in the committee report and the following amended conditions:

Condition 7 - Prior to commencement of each building hereby approved an archaeological evaluation in accordance with a detailed methodology (to include geophysical survey, metal detecting, trial trenches, community involvement, analysis, publication and archive deposition) of the site shall be submitted to and approved in writing by the Local Planning Authority.

A report of the results of the evaluation following the aforementioned agreed methodology shall be submitted to and agreed in writing by the Local Planning Authority. The report shall be submitted to the Local Planning Authority within six weeks of the completion of the field investigation.

Condition 8 - Following the carrying out of the archaeological evaluation on each part of the site required by Condition 7, if the Local Planning Authority so requires, an archaeological excavation of that part of the site shall be carried out before any development is commenced. The excavation shall be carried out in accordance with a detailed methodology (to include trenches,

community involvement, post-excavation analysis, publication and archive deposition), which shall first be submitted to and approved in writing by the said Authority. Reasonable access shall be afforded to any Local Planning Authority nominated person who shall be allowed to observe the excavations. A report on the excavation results shall be submitted to the Local Planning Authority within twelve months of the completion of the field investigation.

Condition 14 - Prior to the occupation of each building details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall detail the locations, heights, design and lux of all external lighting associated with that building. The development shall be carried out in accordance with the approved lighting scheme.

Condition 30 - Alterations to one part of the condition: (a) Proposed buildings within Brownfield areas must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. If the existing connected impermeable areas can not be proven then a

Greenfield run-off rate based on 1.4 l/sec/ha shall be used.

Reason:

The Engineering building is considered to constitute inappropriate development within the Green Belt, and by virtue of the scale and siting would impact and cause harm to the openness and visual amenity of the Green Belt. Central Government advice in the NPPF makes it clear that such development should not be approved, except in very special circumstances. The proposed facilities are required for the college to expand and compete, and improve existing courses. The proposed college facilities are require proximity to the current campus and as such can not be sited elsewhere, and together with the other reasons put forward by the applicant are considered to constitute very special circumstances that outweigh the harm to the greenbelt.

Buildings SV1, SV2, and TB1 are considered to fall within the NPPF exception category of limited infilling or the partial or complete redevelopment of previously developed sites, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Other impacts of the development are considered to be acceptable and in accordance with national and local planning policy and where reasonable and necessary will be mitigated by condition.

Approval is recommended subject to the referral of the application to the Secretary of State under The Town and Country Planning(Consultation) (England) Direction 2009.

**42. FACTORY , BISHOPTHORPE ROAD, YORK, YO23 1NA
(13/03429/REMM)**

Consideration was given to a reserved matters application by David Wilson Homes Yorkshire East for Phase 1 development comprising 57 houses, 1 new 18 unit apartment building and 1 new 11 unit apartment building with a ground floor retail unit.

Officers circulated an update, full details of which are attached to the online agenda for the meeting. The main points were as follows:

- Affordable Housing issues had been tackled at the outline stage.
- A 'Building for Life' report had been completed since the report was written and a maximum score of 9.9 had been received in respect of sustainability.
- Details of amenity space.

Ms. O'Toole had registered to speak as a Local Resident. She advised that her property was directly opposite the entrance for the site and she had been experiencing noise and vibration, despite reporting her concerns to the developers. She also raised concern at the landscaping work that had taken place immediately outside her property, in particular the loss of a number of mature trees, which she had expected to remain until phase 5 of the development. She also advised that residents had concerns about the potential for an increase in traffic in the area.

Eamonn Keogh had registered to speak on behalf of David Wilson homes. He advised that she scheme was a design led bespoke scheme with no standard house type and the street pattern had been designed to reflect the nearby Southbank area. In response to Ms. O'Toole's comments he advised that the tree removal plans had been set out in the original consent. In relation to the noise and vibration issues he was happy to continue liaising with local residents to minimise the problem.

Members welcomed the developer's offer to continue to address the concerns of local residents and following further discussion it was:

Resolved: That the application be approved subject to the imposition of the conditions detailed in the officers report.

Reason: Under this reserved matters application access, appearance, landscaping, layout and scale are for consideration at this stage. The proposal is felt to relate well to the setting of the Racecourse/Terry's Conservation Area and the surviving Grade II Listed factory buildings to the south as well as to the grain of the surrounding built environment. Any impact upon the residential amenity of neighbouring properties is felt to be acceptable and approval is therefore recommended.

43. Our Lady's R C Primary School, Windsor Garth, York, YO24 4QWI (13/02892/FULM)

Consideration was given to a major full application by Mr Joel Owen for the erection of 55 new two storey dwellings and associated works.

Officers circulated an update to the committee report, full details of which are attached to the online agenda for this meeting, the main points were as follows:

- The proposal has been made subject to a holding Direction from the National Planning Casework Unit to enable the Secretary of State for Communities and Local Government to assess whether or not to call-in the application for his own determination. A separate notice has been given that the Secretary of State wishes to issue a Screening Direction of his own in respect of the development in relation to the Town and Country Planning (Environmental Impact Assessment) Regulations.
- Further letters of objection had been received since the agenda was published.
- The Kingsway Residents Association continue to express concerns about over development of the site.

- Continuing concerns had been raised on flood risk.
- The application was acceptable in terms of affordable housing.

A local resident, Mr. Hudson had registered to speak on the application. He asked that if the application be granted then a condition prohibiting site traffic through adjacent housing estates be added. He advised that something needs to be done to help prevent lengthy disruption to local residents.

Members queried a number of points, in particular the adjustments made to the scheme since its deferral at the last meeting. The Architect for the scheme confirmed that in relation to the fence surrounding the site, it was felt that an open aspect should be retained so a smaller fence would be included in the scheme but still of a sufficient height to prevent ingress and egress. A play area was now also included on the site.

Members expressed disappointment at delays to the scheme and following further discussion it was:

Resolved: That the application be approved subject to the Section 106 agreement and the imposition of conditions detailed in the committee report.

Reason: Providing adequate arrangements are put in place to safeguard the boundary of the site with Hob Moor and secured by means of a Section 106 Agreement with additional boundary planting secured by condition, then on-balance the impact of the scheme is felt to be acceptable. Concern has also been expressed that the proposal would represent an over-development of the site however, the pattern of density whilst tight is reflective of that of the housing development to the north and North West as is the pattern of scale and massing. The standard separation distances can also be complied with. In terms of the proposed surface water drainage from the site, particularly its relationship to the nearby Local Nature Reserve, if any permission

is conditioned to require that any surface water discharges are suitably attenuated and discharged to the existing surface water sewer network then it is felt that an acceptable arrangement can be achieved. There are requirements in terms of commuted sums related to Highway Works and Open Space for £38,024 and overall it is felt that the proposal is acceptable in planning terms and approval is therefore recommended subject to the a legal agreement to secure the contributions.

43a 32 Lawrence Street, York (13/03349/FULM)

Consideration was given to a major full application by Mr Richard Lockey for the demolition of an existing car showroom and the erection of 3 new student accommodation buildings comprising of 220 studios with associated external works including freestanding energy building (revised scheme).

Officers circulated an update to the committee report, full details of which are attached to the online agenda for the meeting, the main points were as follows:

- A new unilateral undertaking for money towards open space facilities had been submitted.
- The applicant had provided a short statement to give greater understanding of the particular requirements of the developer.
- A new sustainability statement has been received. Officers suggested the 10% renewable onsite target and the BREEAM Very Good requirements be conditioned.
- Further comments had been received from the Council's Conservation Officer, Archaeology Officer and the Environmental Protection Unit.
- The recommendation to approve be subject to the receipt of an acceptable plan to cover the repositioning of the Air Source Heat Pumps in agreement with the Council's Environmental Protection Unit and appropriate conditions to secure further noise insulation, the completion of the section 106 agreement to provide for off site open space and the expiry of the consultation period with delegated

authority to officers provided any objections received raise no new issues.

The Architect for the scheme, Richard Lockey, was in attendance. He advised that the development had been marketed and an operator requiring self contained student apartments had been sourced. The schemes target would be to reduce costs and energy by various measures such as solar hot water panels with a BREEAM very good rating. He urged members to support the scheme to enable it to progress.

Members were pleased to note that a management plan for parking would be put in place for the site and following further discussion it was:

Resolved: That the application be approved subject to no new issues being raised before the end of the reconsultation period and receipt of the satisfactory section 106 unilateral undertaking and the imposition of the conditions outlined in the committee report and the following amended condition:

Condition 35 - All windows to habitable living spaces (bedrooms and living rooms) at ground floor, first floor and second floor level of Block A, facing Lawrence Street, shall be non-opening to protect future residents from poor air quality along Lawrence Street. Mechanical ventilation shall be provided to draw clean air from the rear of the building. Prior to the occupation of any unit within block A with a window facing Lawrence Street the developer shall provide a maintenance schedule for such ventilation systems, and clarify responsibility for running costs and maintenance works.

Reason: To protect the health of future occupants of the proposed development, in an area of poor air quality.

Reason: The Planning and Environment Team is satisfied that the applicant's needs assessment successfully demonstrates a demand for student housing in accordance

with the requirements of policy ED10.
Furthermore the Inspector in dealing with an appeal against student housing on this site did not object to the principle of the development.

Councillor D Horton, Chair
[The meeting started at 4.30 pm and finished at 7.20 pm].

COMMITTEE REPORT

Date: 23rd January 2014 **Ward:** Heworth
Team: Major and **Parish:** Heworth Planning Panel
Commercial Team

Reference: 13/03522/FULM
Application at: Proposed Student Accommodation Hallfield Road York
For: Erection of student accommodation in 2no. four storey buildings providing 326 bed spaces with associated car and cycle parking, access and landscaping following demolition of existing buildings
By: Maple Grove Developments
Application Type: Major Full Application (13 weeks)
Target Date: 5 February 2014
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 The application is for 2 no. four storey blocks of student accommodation providing 326 bedrooms, together with a cycle block and 10 car parking spaces and associated landscaping. Block A would be sited parallel to the northern boundary within the triangular site, and would contain 108 student bed spaces; the reception would be in this building. Block B would be a U-shaped building and would contain 218 bed spaces. The accommodation would be 27 studio flats, while the other accommodation would be 3, 4, 5, 6, and 7 bed clusters. Block A would be of red brick, Block B would be of red brick on the external elevations, but the elevations facing into the courtyard area would be a lighter coloured brick. Block A and B would each have 2 no. sections of bronze coloured metal panels spanning the full height, on the elevations facing onto the enclosed courtyard/seating area. Each window opening would be recessed and have a metal panel to the side and below the window a glazed spandrel panel. In addition there would be feature windows to break up the elevations, with projecting bronze coloured metal surrounds. Block A would be 67 metres in length and a maximum 16.7 metres in depth. The flat roofed building would be 12.7 metres to the roof parapet, the elevation of Block B would vary between 12.7 and 13.8metres in height to take account of change in land levels. It is proposed to increase the land levels across the site up to a maximum of 2 metres.

1.2 The site is currently hardstanding and one and two storey brick buildings, the site is set down in height from Hallfield Road, with a landscaped area between the road and the site. The site is bounded by Hallfield Road to the east with residential properties to the east of the road. To the north and west are light industrial and retail uses.

1.3 The site is within Flood Zone 2 and 3a.

1.4 The proposed development does not comprise 'Schedule 1' development where an Environmental Impact Assessment is required. The proposed development is however of a type listed at 10 (b) in column 1 of Schedule 2 (Urban Development Projects) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. It is the view of Officers that the proposed site is not within or adjacent to an environmentally sensitive area (as specified in the regulations) and taking into account the characteristics of the proposed development, the location of the development, and characteristics of the potential impact and the proposed development would not result in significant environmental effects and therefore an Environmental Impact Assessment is not required.

1.5 The applicants undertook community involvement prior to the application being submitted. There was a mail drop to the nearby business and local residents detailing the application and alerting them to a web site providing details of the application. In addition there was a drop in session at Ridings House on 11 September 2013; 10 people attended. Seven responses were received. The feedback included the following points: concern over the height of the buildings and its relationship to the adjacent properties; potential to compromise views of the Minister from properties on Hallfield Road; impact on local services including local shops; impact on noise levels especially during night time; the car free scheme and the impact to on street car parking; fear of unsocial behaviour; suitability of site for student accommodation as opposed to residential development. Ward Members were invited to the exhibition.

1.6 Part of the site is owned by CYC.

RELEVANT SITE HISTORY

1.7 12/02486/FUL - Change of use of land to car park - Approved

1.8 05/02275/FUL - Siting of a single storey portakabin and use of land for the purpose of storage, distribution and retail sales of L.P gas (retrospective) - Approved

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

Floodzone 2 GMS Constraints: Flood zone 2

Hazardous Premises GMS Constraints: Transco PLC COMPLE

2.2 Policies:

Application Reference Number: 13/03522/FULM

Item No: 4a

CYSP6 Location strategy
CYGP1 Design
CYGP3 Planning against crime
CYGP4A Sustainability
CYGP6 Contaminated land
CYGP9 Landscaping
CGP15A Development and Flood Risk
CYNE6 Species protected by law
CYNE7 Habitat protection and creation
CYT4 Cycle parking standards
CYT7C Access to Public Transport
CYT13A Travel Plans and Contributions
CYE3B Existing and Proposed Employment Sites
CYED10 Student Housing
CYL1C Provision of New Open Space in Development

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT - No objections

3.1 do not raise concerns in terms of principle of development nor impact on the surrounding highway network

3.2 The proposed access is to be stopped up and the kerb, shared ped/cycle route and landscaping made good. A new vehicular access is to be formed approximately 25m East of the existing access. The access will take the form of a dropped vehicular crossing and priority to pedestrians and cyclists using the adjacent shared route will be maintained.

3.3 The peak demand for car parking will be generated during the term time start/end periods as students arrive and leave. In order to assist with the management of car parking during these periods informal areas for temporary car parking is available within the site. A management plan is also to be implemented which will ensure that the units are occupied/vacated in a staggered approach. Such an approach has been previously agreed by the authority at other adjacent sites.

3.4 Surrounding streets are protected by various waiting restrictions, which will reduce the potential for indiscriminate parking.

3.5 Covered and secure cycle parking (163 spaces) has been provided within a central store on the site. It has been confirmed by the applicant that this facility will

be covered by a CCTV system for security. Officers have sought to secure cycle parking in smaller blocks integral to the building footprint. The applicant has stated

that this is not possible to achieve. Cycle parking provision is at 50% of the CYC Annex E maximum standards, which compares favourably with recently approved schemes at Lawrence Street, Navigation Road and Heslington East where 50% provision has been approved. This is considered to be a realistic level of provision however the supporting Travel Plan indicates that there is scope for further cycle parking to be provided within the site if demonstrated to be necessary in the future. 14 visitor/casual caller cycle spaces are also proposed in addition to this.

3.6 The site is located close to the city centre and has bus stops within a short distance of the site.

3.7 Landscaping plan or site plan should be revised. Where the existing site access is to be stopped up there is a large area behind the footway/cycleway. The area is shown as 'to be made good'; this area needs to be soft landscaped. If the area is just hardsurfaced or left as is, people will start to park cars on it. Planting in this area will improve the streetscene.

3.8 Request conditions HWAY10, 17, 18, 19, and 21, method of works statement, and travel plan

URBAN DESIGN - No comments

ECOLOGY OFFICER

3.9 Requires a bat survey carried out to assess whether any of the buildings offer any suitable bat roosting habitat, and to see if there is any evidence of use. Can be undertaken as a scoping survey

3.10 Response regarding submitted scoping assessment will be reported at committee

FLOOD RISK MANAGEMENT TEAM

3.11 The submitted FRA does not comply with the National Planning Policy Framework's technical guide. As such, it does not adequately assess the development's flood risks. The FRA fails to: Take the impacts of climate change into account; Consider the effect of a range of flooding events including extreme events on people and property; and clearly demonstrate that possible future flood flows will not be pushed onto others / that the proposed development will not increase or exacerbate flood risk to others. (Additional flood risk information recently submitted; awaiting formal response).

3.12 With regards to foul and surface water disposal the FRMT has no objections to the development in principle, request condition

ENVIRONMENTAL PROTECTION UNIT - No objections

3.13 The noise assessment indicated that internal noise levels would be able to comply with the requirements of BS8233, request condition to ensure levels are achieved

3.14 Within the noise report no details are provided on the anticipated noise levels on plant as no such details are known as yet. Request details via condition.

3.15 Request condition for Construction Environmental Management Plan and hours of construction to protect the amenity of the nearby residents

3.16 The applicant has conducted a Phase 1 Desk Top Study and identified that the development site has previously been used for a water works depot and a rope manufacturer. Currently the site is used for activities including a construction company and a garage mechanics. There is also evidence of fuel pumps and underground storage tanks and oil tanks present on the site. These activities may have given rise to land contamination, so appropriate action must be taken to ensure that the site is safe and suitable for its proposed use. As the report suggests, soil sampling and gas monitoring should be undertaken. If contamination is found, please note that suitable remedial action will be required. Require further information via condition

COMMUNITIES AND CULTURE

3.17 Open space payment should be based on the standard rate for each bedroom (£141). This is the standard approach, accepted by other developers as the way off site payments are calculated.

PLANNING AND ENVIRONMENTAL MANAGEMENT

3.18 The need for student accommodation has been established by the applicant. The need for higher education establishments to provide student accommodation is identified in Development Control Local Plan (April 2005). This is carried through to the Local Plan Preferred Options (June 2013). Loss of employment land, sustainability, and design should be considered.

3.19 Should planning permission be forthcoming, consider that a condition be attached to ensure the development remains occupied in perpetuity by students only. Without such a condition, the situation may arise that non students occupy the

properties and as such, it would be necessary to negotiate the provision of affordable housing on the site.

ECONOMIC DEVELOPMENT UNIT - Support application

3.20 Would be a boost to the area and contribute to the overall economic development of the city

3.21 Supports the Economic Strategy by increase housing stock and supports the economic needs and development of the local universities

3.22 Students are an important part of the private rented market and this puts pressure on the local housing stock where students directly compete with those on low incomes for housing.

3.23 EDU recognises the need to create and safeguard employment land but accept this site as proven difficult and unattractive to investors, also have regard to paragraph 22 of the NPPF

EXTERNAL CONSULTATIONS/REPRESENTATIONS

ENVIRONMENT AGENCY

3.24 States the submitted FRA does not comply with the National Planning Policy Framework's technical guide (paragraph 9). As such, it does not adequately assess the development's flood risks. The FRA fails to: take the impacts of climate change into account; Consider the effect of a range of flooding events including extreme events on people and property; Clearly demonstrate that possible future flood flows will not be pushed onto others / that the proposed development will not increase or exacerbate flood risk to others.

3.25 Have verbally agreed to the additional flood risk information submitted 8th January 2014, awaiting formal response

POLICE ARCHITECTURAL LIAISON OFFICER

3.26 Not provided details of security fencing and gates, other boundaries appear to be formed by landscaping only, the development should be contained within its own secure grounds

3.27 Welcome the secure enclosed cycle store, cycle racks for securing bikes are inappropriate, by virtue of the design result in harm to cycles

3.28 Would like the developer to design the following into the development: perimeter fencing/gate specifications; access control; the security of windows and doors (internal/external); CCTV to cover and monitor external spaces, main pedestrian vehicle entrance, building, entrances, lifts and cycle store; 24hr warden cover on the site; exterior lighting; alarming of emergency exit doors; management

plan to cover security measures, anti-social behaviour, guest procedures, maintenance, fire safety; incorporation of small section on security into Design and Access Statement including liaison with the ALO; BREEAM/Secured by Design.

3.29 In respect of management, crime prevention and the amenity of local residents, an Operational Management Statement in support should be made a requirement and condition of any planning consent. This statement should clearly detail how management and supervision of both the accommodation and its occupants are to be addressed.

HEWORTH PLANNING PANEL - Object

3.30 States this is an area of light industry and employment, and this area could be still used for employment. Much employment land in the local area has been lost to housing: Hungate, Leetham's Mill, Rowntree Wharf, Gray's Newsagents, Reynards Bus Depot etc. Featureless blocks are proposed and will result in an eyesore, request that the applicants view the development Reynard & Gray Student sites to see what can be done to enhance the landscape.

7 OTHER REPRESENTATIONS

3.31 The following points are made:-

- Proposed buildings too tall, should be reduced by a storey, would result in a loss of light to Windsor Court flats and the Hallfield Road flats and loss of view and outlook of the Minister and the surrounding area, resulting in an impact on value of property
- Would bring regeneration to the area
- Concerned regarding the impact to the peace, cleanliness, and crime rate of the area with the introduction of student accommodation. Fear of crime theft, littering, vandalism, drugs and drunken behaviour. Concerned regarding the impact to the existing surrounding community, how 326 students can be of benefit to a community filled with young families
- Student accommodation is not in keeping with the surrounding area, used for retail, light industry, and residential accommodation for families and young professionals. Prefer it to be developed to enhance employment opportunities
- for the city, but if it must be a residential development it should be in keeping with the existing residential accommodation. A better use of the land would be to build more affordable housing because that is required in the area, and more in keeping with the current regeneration of the area

- Site not convenient for University of York, which is the largest university in the city, no direct bus route and a 30 minute walk to the campus. The developers do not have the potential tenant base they expect
- The size of the planned buildings are too big for this area,
- Impact on outlook
- Currently a child friendly area, recent housing development nearby have created a family friendly environment if development build will have to move
- Concerned regarding the small number of car parking spaces and where additional car will be parked
- Have used Windsor Court (the tallest building) as a comparison rather than the other dwellings in the area
- Decrease in importance of local residents; If goes ahead then Hallfield Road will be overcrowded with students. Having more students in the area would mean less local residents wishing to live on Hallfield Road.
- Agents had advised the objector that student accommodation is no different than people living in flats, but they could not build housing on the site due to the close proximity of the industrial area around it
- Request enforceable steps to prevent late night noise as residents return to the proposed development, and no increase in littering
- Accept there is a requirement for purpose built student accommodation but this is not an appropriate application e.g. the accommodation on Navigation Road and the more recent site on Hull Road, these have been built in areas where any potential impact on nearby residential properties is at a minimum. The proposed site on Hallfield Road is the opposite.
- Over past 10 years the area has been slowly emerging from a light industrial area to a residential part of the city providing much needed private and affordable family accommodation. It would be imprudent to then stop that progression of residential building in the area and in effect go backwards by building accommodation for students. Would be creating an enormous space to inhabit a transitory population, rather than using this much needed and valued space near the centre of the city for more affordable and market rate housing which should be a higher priority for the Council.
- Massing concerns

- Aesthetically unpleasant
- The former gas works site that is very close by is a more appropriate site. Sites with easy access to both Universities but sites where there would be less impact on nearby residential properties and the lives of those inhabiting them.
- Expect the council to provide sufficient street markings and parking patrols to prevent the area becoming clogged with parked cars, especially in evenings and at weekends. The parking provided is insufficient for the 326 residents.

4.0 APPRAISAL

KEY ISSUES

- Development in FZ2 and FZ3
- The principle of development
- Increase in land levels
- Design and visual appearance
- Landscaping and amenity areas
- Neighbouring amenity
- Highways
- Drainage
- Sustainability
- Open space
- Ecology

PLANNING POLICY

4.1 The National Planning Policy Framework (NPPF) indicates a strong presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social, and environmental. These roles should not be undertaken in isolation, because they are mutually dependent. The core principles within the NPPF states always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; the use of previously developed land is encouraged.

4.2 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although it is considered that their weight is limited except where in accordance with the NPPF.

PRINCIPLE OF DEVELOPMENT

4.3 The site is within Flood Zones 2 and 3a, as such the development should pass the sequential test, to pass the sequential test it has to be demonstrated there are no reasonably available sites in lower flood risk areas where the development could be located. There are no other available and developable sites of this scale within the central part of the city, which is the preferred location in terms of being accessible to both universities and ready to develop immediately. As such the proposal adequately passes the sequential test.

4.4 In addition the site must pass the Exception Test as approximately half of the site is within Flood Zone 3. In accordance with the National Planning Policy Framework in order for the proposals to be acceptable it must be demonstrated the development will be safe for its lifetime and not increase flood risk elsewhere (paragraphs 102 & 103) and that the proposed development would be safe from flooding. The proposed ground floor levels are set above the level recommended by the Environment Agency: 11.54 AOD which is above the 1 in 100 year flood level. At the time of writing the report the agent had submitted additional information to demonstrate that the development takes into account the impacts of climate change, consider the effect of a range of flooding events including extreme events on people and property; and that possible future flood flows will not be pushed onto others / that the proposed development will not increase or exacerbate flood risk to others. The Environment Agency has verbally confirmed that they considered the additional information to be acceptable. As such the proposed development is considered to fulfil the Exception Test and comply with paragraph 102 of the NPPF.

4.5 The development consists of 2 buildings providing 326 units of student accommodation on 0.66 hectares of land. The site is currently hardstanding with single and two storey brick buildings. The aim of Local Plan Policy E3b is to retain employment sites in employment uses. The site is a brownfield site that has been previously used for industrial purposes; it is not allocated as a development site in the proposals maps of the Local Plan. However within the emerging Local Plan it is identified for out of centre retail. Part of the site has been used for the storage of cars and part is being used as a car wash, the rest of the site is currently unused. The agent has submitted information demonstrating that the council owned part of the site has been marketed on a short to medium term basis for storage; however there has been little interest. Few details have been submitted for the marketing of the rest of the site or supply of employment land elsewhere in the area. The site is currently in the ownership of three parties, and has been underused/vacant for a

considerable period. The NPPF makes clear that the long term protection of sites for employment use when there is no reasonable prospect of a sites being used for that purpose should be avoided.

4.6 Local Plan Policy ED10 relates to student housing. The same approach is repeated in Policy ACHM5 of the Local Plan Preferred Options (2003). The policy advises that proposals for off-campus residential accommodation will need to meet the following criteria -

- o There is identified need
- o The universities are accessible from the site
- o The development is of appropriate design
- o The would not be a detrimental impact on nearby residents
- o Car parking will be satisfactorily managed

4.7 There are around 20,000 students attending full time courses in York. By October 2013, there will be around 8,369 bed spaces in dedicated student accommodation (provided by the higher education establishments and the private sector). Whilst a certain percentage of students will at some point want to be in private accommodation, rather than managed residencies, there is clearly a demand in the market for the type of accommodation proposed. The developers are confident the proposals are viable and this view is not challenged. If in the future demand were to change, the building(s) could easily be converted or adapted to provide flats. A condition would require occupancy only by students engaged in full-time or part-time further or higher education in the city or course or conference delegates, and as such it is clear that an application would be needed for C3 housing, potentially triggering the need for affordable housing, open space and education contributions.

4.8 Both universities are easily accessible from the application site. Design, and car parking is discussed elsewhere as is the impact on surrounding occupants as a consequence of the proposed building.

4.9 The proposed development would bring into use a long-term vacant/underused site, with the potential for the regeneration of the surrounding area.

DESIGN AND VISUAL APPEARANCE

4.10 NPPF advises that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. In terms of housing design and layout the NPPF requires development is safe, accessible, fit for purpose, responds to local character

and context and/or is of innovative design. Local Plan Policy GP1 refers to design, for all types of development. It states that development proposals will be expected to, respect or enhance the local environment. The proposals reasonably comply with these policy requirements.

4.11 The design of the accommodation is relatively simple in appearance and the elevations facing out of the site have few visual breaks. The elevations show each window would have feature bronze coloured metal cladding to the side and glazed spandrel panels underneath; the intention is that the windows will be recessed which

will add an element of depth and visual interest to the elevations. It is considered prudent to condition further details of the windows to ensure that the windows are sufficiently recessed to create the appearance that is proposed in the Design and Access Statement. Together with the feature windows with a projecting metal surround, and the smaller windows on the upper floor providing a different articulation, these design elements are considered to provide an appropriate level of visual interest to the exterior. There would be glimpsed views of the north elevation of Block A from Layerthorpe and Redness Street. Unlike the other elevations there is no variation in the depth, and so it is considered that soft landscaping in the form of a reasonable number of trees at a certain height would soften the appearance.

4.12 The design and appearance of the housing and apartments to the east of Hallfield Road reflect the period of their construction, as does the design of the proposed accommodation. The quality of the architecture to the west of Hallfield Road is utilitarian and the proposed design is considered to be a positive addition in its context. The majority of the buildings on this side of the Hallfield Road and on Redness Street are low level and the proposed building would be taller than these buildings. Whilst it would be prominent it is not considered to be unduly so. The west/side elevation of Block A narrows towards Redness Street. It would still be relatively prominent within the street; however by virtue of the context of the surrounding building it is not considered to result in visual harm to the character and appearance of this street. Any re-development of the surrounding area is likely to be of taller stature than existing, and whilst the proposed building would be visible in views over this side of the city walls it would not be prominent in the wider context, and would not result in harm to the setting of the Central Historic Core Conservation Area or the nearby listed Chimney adjacent to the Morrison's supermarket. The proposed building is of a lower height than the flatted accommodation to the north east. Despite the set back from the road, the proposed development will help to create a sense of enclosure to Hallfield Road by reflecting the scale of the existing flatted accommodation on Hallfield Road.

4.13 A scheme indicating soft and hard landscaping has been submitted. It is considered that there could be improvements, for example the old entrance to the site is shown to be blocked and made good, rather than showing soft landscaping which would be beneficial in this location and would also remove the potential for

cars to park here if it was hardstanding. Heavy standard trees would be expected to the Hallfield Road boundary/frontage, in addition to the specification of the type of trees to be planted in each location. It is considered that the landscaping scheme be conditioned.

4.14 There are references on some of the plans to security fencing and security gates to the boundary, but no details have been submitted regarding its appearance, and therefore it is considered prudent to condition further details.

4.15 The success of the development will be dependent on the choice of materials, the details of the windows and feature cladding, and a substantial landscaping scheme. As such it is considered prudent to condition these details.

AMENITY OF SURROUNDING OCCUPANTS

4.16 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

4.17 Local Plan policy GP1 'Design' requires that proposals have no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures. Policy ED10: Student Housing advises applications for off-campus accommodation must not be detrimental to the amenity of nearby residents.

4.18 Officers consider that the amenity concerns about the development can be split in to two main areas; the first being the impact of the structures themselves and second being the concern about the intensity of the development, the behaviour patterns of students and the impact of this behaviour on the residential amenity of existing residents.

4.19 The separation distance between the Block A and the 5 storey Windsor Court is 27 metres. CABE: By Design guidance , recommends that appropriate separation distances for development in urban locations such as this are 4-storey 18 to 30 metres and 5-storey between 27 and 36 metres, depending on the location. In this case it is considered to be adequate to maintain privacy and outlook from the existing dwellings. The separation distances between Block B and the closest house on Hallfield Road (5 St Hilda's Terrace) would be 36 metres and this dwelling would have an oblique view of the proposed development as the rear elevation faces south west. The closest house facing the proposed development (47 Hallfield Road) would have a separation distance of 45.8 metres from Block B. These distances are considered to be sufficient to maintain privacy and outlook.

4.20 The proposed building would cause an element of overshadowing during the afternoon in the winter months and autumn evenings to the St Hilda's Terrace to the

east. However the limited extent of overshadowing is not considered to result in undue harm to residential amenity of the occupants of these buildings to warrant refusal. By virtue of the distance to the neighbouring dwellings to the proposed development including the proposal is not considered to cause an undue loss of light to the nearby dwellings.

4.21 The proposed would result is a change of outlook for the dwellings to the east; however it is not considered to result in an undue loss of outlook, the distance between the dwelling and the proposed buildings is considered to be sufficient to remove concerns that the buildings would be overbearing and over-dominant. The

proposed development would result in a loss of a view of the Minister from these dwellings and from Hallfield Road. Any development of this site in all probability would result in the loss of a view to the nearby dwellings. However this view is across private land. The loss of a view over private land from private property is not a planning consideration that would carry sufficient weight against the other considerations set out. There would be loss of views of the Minister from Hallfield Road however it is not considered to be an important viewpoint of the Minister, as set out in Central Historic Core Conservation Area Appraisal.

4.22 No details have been submitted regarding the proposed plant machinery, as such it is considered prudent to condition further details to ensure there is no disturbance to the occupants of the nearby dwellings.

4.23 Many of the letters of objection raise concerns about the general behaviour pattern of students which in essence is considered to be one of excess and the impact of having such a large number of students in one location, and the impact to the balance of the existing community. The supporting information states that site would be managed on a 24 hour basis, and condition could be applied that requires a management plan to be submitted to and agreed by the Local Planning Authority and have set out the issues they anticipate to form part of the management of the site. These issues include car parking; change over days, security measures, maintenance, fire safety, and student liaison and community involvement. The introduction of 326 students in this location is not considered to be an undue concentration. The development of the site has the potential to bring regeneration to the surrounding area which would make a positive contribution towards the setting. The increase in population benefits local businesses.

IMPACT TO OCCUPANTS OF THE PROPOSED DEVELOPMENT

4.24 A noise survey was submitted regarding the surrounding uses and EPU have confirmed that with the provision of double glazing, and acoustic vents to the rooms facing Hallfield Road, the north east, south west, and south facades (as set out in the noise report) would provide internal noise levels that would comply with the requirements and provide a reasonable level of amenity to the occupants.

SUSTAINABILITY

4.25 Policy GP4a requires issues of sustainability to be considered within planning applications. The site is in reasonable distance to universities without resorting to private transport, and is in close proximity to shops and other amenities. The site is considered to be in a sustainable location with good pedestrian and cycle facilities in the local area. Local facilities and bus stops served by frequent public transport services are within recognised walking distances of the site. A residential Travel Plan Pack detailing sustainable travel information such as bus timetables will be provided to each occupier. The development would also benefit from covered and secure cycle parking.

4.26 In accordance with current local policy a development such as this would be required to provide at least 10% of its energy demand through on site low or zero carbon technologies and the accommodation should achieve at least a BREEAM rating of 'Very Good'. The applicant has discussed BREEAM in their supporting information however has not confirmed that the proposed buildings would obtain a BREEAM rating of 'Very Good', it is considered that this could be sought via condition. Details have been submitted based on reducing carbon emission by 10% rather than generation of 10% of energy demand requirements from on-site renewable technology, as such the details are not considered to meet the requirements of the Interim Planning Statement on Sustainable Design and Construction. However it is considered that these standards can be secured via planning conditions.

HIGHWAYS

4.27 The National Planning Policy Framework advises that developments should:

- o Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- o Maximise sustainable transport modes and minimise the need to travel.

4.28 Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

4.29 Covered and secure cycle parking (163 spaces) has been provided within a central store on the site. It has been confirmed by the applicant that this facility will be covered by a CCTV system for security. Officers have sought to secure cycle parking in smaller blocks integral to the building footprint. The applicant has stated that this is not possible to achieve. Cycle parking provision is at 50% of the CYC Annex E maximum standards, which compares favourably with recently approved schemes at Lawrence Street, Navigation Road and Heslington East where 50% provision has been approved. This is considered to be a realistic level of provision

however the supporting Travel Plan indicates that there is scope for further cycle parking to be provided within the site if demonstrated to be necessary in the future. In addition 14 visitor/casual caller cycle spaces are also proposed.

4.30 The site is currently served from a kerbed junction onto Hallfield Road. The proposed access is to be stopped up and the kerb, shared pedestrian/cycle route and landscaping made good. A new vehicular access is to be formed approximately 25m east of the existing access. The access will take the form of a dropped vehicular crossing and priority to pedestrians and cyclists using the adjacent shared route will be maintained.

4.31 Ten car spaces are proposed which it is stated will be used by site management staff and disabled residents. The peak demand for car parking will be generated during the term time start/end periods as students arrive and leave. In order to assist with the management of car parking during these periods informal areas for temporary car parking is available within the site. A management plan is also to be implemented which will ensure that the units are occupied/vacated in a staggered approach in order to further minimise and manage the number of cars entering the site. Such an approach has been previously agreed by the authority at other adjacent sites. Surrounding streets are protected by various waiting restrictions, which will reduce the potential for indiscriminate parking. The proposals do not raise concerns in terms of principle of development nor impact on the surrounding highway network.

DRAINAGE

4.32 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan policy GP15a: Development and Flood Risk advises discharge from new development should not exceed the capacity of receptors and water run-off should, in relation to existing run-off rates, be reduced. The Flood Risk Management Team have confirmed that they considered the surface water drainage information submitted acceptable subject to a condition requiring further details.

OPEN SPACE

4.33 Local Plan policy L1c requires developments to make provision for the open space needs of future occupiers. The type of open space required is dependent upon whether the existing open space in the locality is adequate, and whether it has the capacity to accommodate the proposed development.

4.34 Open space is divided into typologies; amenity open space, play space and sports provision. As the development is for university students, there is no need to contribute toward play space, as there would be no increased demand for such.

Officers are of the opinion that to require contributions towards sports provision would not meet the tests of the NPPF, which requires any contributions to be:

- o necessary to make the development acceptable in planning terms;
- o directly related to the development; and
- o fairly and reasonably related in scale and kind to the development.

4.35 This is on the basis that generally the universities will provide sports facilities for students and the LPA would need to demonstrate that a facility could be either upgraded or provided in the locality. A contribution towards amenity space £45,966 (£141 per student room) has been requested, which is in accordance with the latest Open Space contribution requirements, as established in the Supplementary

Planning Guidance on such and national guidance set out in paragraph 73 of the NPPF. The monies would be spent in the Heworth and the Guildhall ward by virtue of the proximity of the site to the ward boundary. The agent has confirmed that they will pay the open space contribution this can be sought via a S106 agreement.

LAND CONTAMINATION

4.36 The site by virtue of its previous uses has a number of contamination issues. The applicant has submitted a phase 1 report of the site and the Environmental Protection Unit is satisfied with these initial details. They have requested that additional information regarding the decontamination of the site be sought via conditions.

ECOLOGY

4.37 The NPPF sets out that the Planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; minimising impacts on biodiversity and providing net gains in biodiversity where possible. A scoping survey for bat activity has been requested, the report was submitted as the report was being written, an update will be provided at the committee meeting.

4.38 Officers suggested a green or a brown roof should be considered given the roof design, however the applicant responded that the proposed landscaping scheme provides an increase in biodiversity and will aid connectivity between Tang Hall Beck and the River Foss. With the landscaping provision proposed the lack of green or brown roof does not present a basis for refusal of the scheme.

5.0 CONCLUSION

5.1 The proposed development will regenerate the area and add to the vitality and viability of this part of the city centre. The loss of employment land will not conflict with national planning policy and there is no evidence that the proposed use will have an undue impact considering crime and disorder. The development will be sustainable and will have no undue impact on the amenity of occupants of the neighbouring dwellings.

5.2 Officers recommend approval of the scheme subject to the completion and signing of a Section 106 agreement or Unilateral Obligation covering an open space financial contribution .

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement
Application Reference Number: 13/03522/FULM Item No: 4a

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

Drawing Number 2012-199/101 Revision J received 09 January 2014
Drawing Number 2012-199/201 Revision H received 23 December 2013
Drawing Number 2012-199/202 received 05 November 2013
Drawing Number 2012-199/204 Revision H received 23 December 2013
Drawing Number 2012-199/205 Revision H received 23 December 2013
Drawing Number 2012-199/206 received 05 November 2013
Drawing Number 2012-199/210 Revision A received 09 January 2014
Drawing Number 2012-199/211 Revision A received 05 November 2013
Drawing Number 2012-199/802 Revision E received 09 January 2014
Drawing Number 2012-199/804 Revision A received 05 November 2013
Drawing Number 2012-199_B01/210 Revision A received 23 December 2013
Drawing Number 2012-199_B01/211 Revision A received 09 January 2014
Drawing Number 2012-199_B02/210 Revision A received 23 December 2013
Drawing Number 2012-199_B02/211 Revision A received 23 December 2013
Drawing Number 2012-199_B02/212 Revision A received 09 January 2014;

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

2 TIME2 Development start within three years -

3 VISQ8 Samples of exterior materials to be app -

4 The development hereby approved shall only be let to or hired by and occupied by either students engaged in full-time or part-time further or higher education within the City of York administrative boundary or delegates attending courses or conferences within the City.

Reason: In order to control the future occupancy of the development in the event of it any part of it being sold or rented on the open market without securing adequate levels of affordable housing and open space provision in accordance with Policy H2a of the City of York Development Control Local Plan and the NPPF.

5 The student accommodation development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'. A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority within 3 months of occupation of each building. Should the development fail to achieve a BREEAM standard of 'very good' a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve a standard of 'very good'. Any agreed remedial measures

shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local Plan and the City of York Council Interim Planning Statement 'Sustainable Design and Construction'.

6 No building work shall take place on the student accommodation until details have been submitted and approved in writing by the Local Planning Authority to demonstrate that the development will provide 10% of its predicted energy requirements from on-site renewable sources. The development shall be carried out in accordance with the submitted details unless otherwise agreed in writing by the local planning authority. The approved schemes shall be implemented before first occupation of the buildings.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design and Construction

7 An occupational management plan for the student accommodation shall be submitted and approved in writing by the Local Planning Authority prior to occupation (of the student accommodation). The development shall be occupied in accordance with the approved document at all times.

The occupational management plan shall include details of site operation/management, car parking, change over days, security measures, anti-social behaviour, maintenance, fire safety, and student liaison and community involvement. The plan shall detail how the operators of the student accommodation would be contactable should the need arise.

Reason: In the interests of the amenity of surrounding occupants.

8 Construction work shall not begin until a scheme for protecting the proposed development from external noise has been submitted and approved in writing by the local planning authority; all works which form part of the scheme shall be completed before the development is occupied.

REASON: To protect the amenities of adjacent residents

INFORMATIVE: To achieve compliance with this condition details should be submitted to demonstrate that the internal and external noise levels at the properties comply with the requirements of the World Health Organisation Guidelines on Community Noise and BS8233 as follows with adequate ventilation provided:-

- 1) Day time internal noise level in living rooms of 35 dB(A) Leq 16 hour (07:00 to
Application Reference Number: 13/03522/FULM Item No: 4a

23:00)

2) Night time internal noise level in bedrooms of 30 dB(A) Leq 8 hour (23:00 to 07:00)

3) Night time internal maximum noise level in bedrooms of 45 dB(A) Lmax

9 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible outside of the site boundary when in use, shall be submitted to the local planning authority for approval. These details shall include maximum sound levels (L_{Amax}(f)) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. 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 rating level of any building service noise associated with plant or equipment at the site should not exceed 5dB(A) below the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 1997, this being the design criteria adopted by EPU, including any acoustic correction for noises which contain a distinguishable, discrete, continuous note (whine, hiss, screech, hum, etc.); noise which contain distinct impulses (bangs, clicks, clatters, or thumps); or noise which is irregular enough to attract attention.

REASON: To protect the amenities of adjacent residents

10 Prior to commencement of the development, an Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To protect the amenity of local residents

11 All construction and demolition 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

12 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess

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the nature and extent of any land contamination, the report shall be submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

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

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

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

Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

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

receptors.

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

Details to include:

- (i) Peak surface water run-off from the proposed development must be restricted to a maximum 34.5 lit/sec.
- (ii) Site specific details of the flow control device manhole limiting the surface water to the 34.5 lit/sec.
- (iii) Storage volume calculations, using computer modelling must be provided, and must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. The full range of modelling should be provided.
- (iv) Site specific details of the storage facility to accommodate the 1:30 year storm and details of how and where the volume above the 1:30 year storm and up to the 1:100 year storm will be stored.
- (v) The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site and that provision has been made to maintain it.

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

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

16 The proposed land levels on site shall be in accordance with the proposed heights shown in Drawing Number 2012-199/802 Revision E received 09 January 2014.

Reason: To ensure the increase in land levels does not result in an overly prominent development.

17 Details of all means of enclosure including gates to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

Reason: In the interests of the visual amenities of the area.

18 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- Vertical and horizontal cross sections of the windows and the feature windows (notation J on the elevation drawings), should include the header and cill, metal cladding panel, glazed spandrel panel;

Reason: So that the Local Planning Authority may be satisfied with these details and to ensure that the windows are recessed as expressed in the Design and Access Statement, but not clearly demonstrated in the submitted plans and elevations.

19 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site. To ensure the planting is sufficient to provide a visual break on the Hallfield Road elevations. To ensure the Hallfield Road access to be blocked up as part of this application is soft landscaped to the benefit of the streetscene and the visual amenity of the development hereby approved.

20 HWAY10 Vehicular areas surfaced, details reqd -

21 The development shall not occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating

the kerb, footway/cycleway, landscaping to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

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

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

23 HWAY19 Car and cycle parking laid out -

24 HWAY21 Internal turning areas to be provided -

25 The site shall not be occupied until a Full Travel Plan has been submitted and approved in writing by the Local Planning Authority. The travel plan should be developed and implemented in line with local and national guidelines. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

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

Reason: To ensure the development complies with advice contained in NPPF and in Policy T13a of the City of York Development Control Local Plan, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

26 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of construction works shall be submitted to and approved in writing by the Local Planning Authority. The statement should include at least the following information;

- 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
- measures employed to ensure no mud/detritus is dragged out over the adjacent

highway.

The development shall thereafter be constructed fully in accordance with the agreed statement.

Reason - In the interests of highway safety and amenity of local residents

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:

- Requested additional information
- Requested revisions to plans and elevations
- Application of conditions and Section 106

2. INFORMATIVE:

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

Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

3. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

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Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

4. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

5. INFORMATIVE:

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.

Contact details:

Author: Victoria Bell Development Management Officer

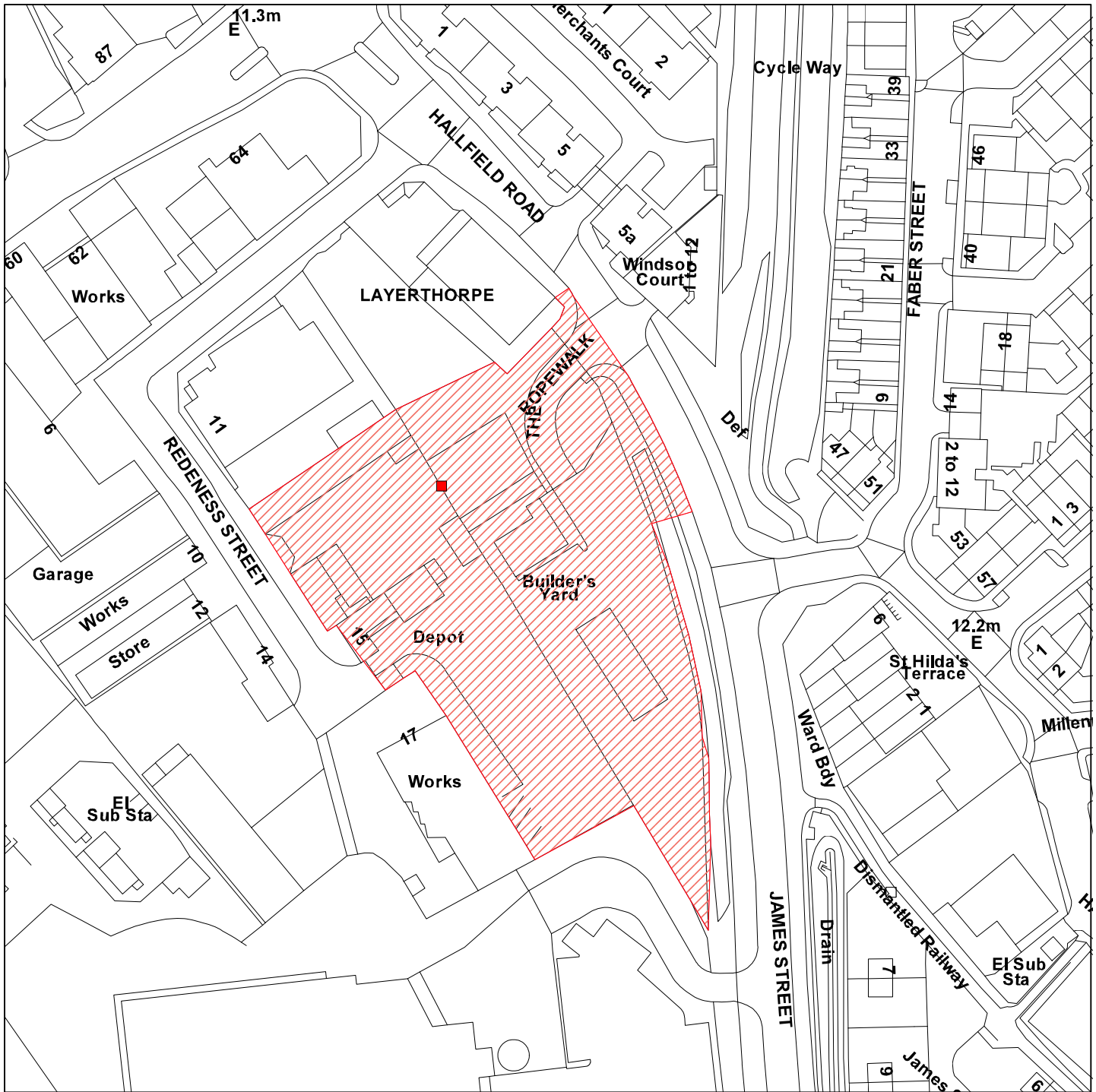
Tel No: 01904 551347

13/03522/FULM

Proposed Student Accommodation Hallfield Road



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	07 January 2014
SLA Number	Not Set

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COMMITTEE REPORT

Date: 23rd January 2014 **Ward:** Wheldrake
Team: Major and **Parish:** Wheldrake Parish
 Commercial Team Council

Reference: 12/03385/FULM
Application at: North Selby Mine New Road Deighton York YO19 6EZ
For: Demolition of existing buildings and re-profiling of bunds and areas of the former mine, construction of an anaerobic digestion combined heat and power facility and horticultural glasshouse and associated infrastructure and works
By: Mr Richard Barker
Application Type: Major Full Application (13 weeks)
Target Date: 6 February 2013
Recommendation: Approve Subject to Referral to Secretary of State

1.0 PROPOSAL**BACKGROUND AND SUMMARY**

1.1 The application seeks full planning permission for the co-location of a 60,000 tonnes a year anaerobic digestion facility (AD) and a horticultural glasshouse facility with associated works, at a former satellite mine site on the edge of the City's administrative boundary, close to the settlement of Escrick. The AD element of the scheme constitutes EIA development and, therefore, the application is accompanied by an environmental statement, as addended. The application was subject to a pre-application public consultation process and has been consulted upon post submission. The application has been strongly opposed by the local community.

1.2 Following Committee approval of the application at its meeting on 25th April 2013, the decision notice was issued in May 2013. However the permission was subsequently challenged in a claim to the High Court by Samuel Smith's Old Brewery and Tim Williams. The basis of the claim was that as the Council had sought to enforce the second part of the restoration conditions attached to the relevant outline (Condition 15) and reserved matter consents (Condition 8), and that the consideration of the appeal against this enforcement notice is still underdetermined, the correct base line for consideration of visual impact and harm to the openness of Green Belt is that of a site which has had all plant, buildings and machinery removed. It was also contended that the Anaerobic Digester element of the application is inappropriate development within the Green Belt. Following legal advice, the claim was not contested by the Council on the basis that it had incorrectly assessed harm to the openness of the Green Belt against a site with existing buildings rather than against the nature of the site after compliance with the enforcement notice. Therefore, the Court quashed the decision to approve the

application. The applicant had not agreed with the claim but for expediency did not contest it. The application is therefore now presented back to Committee for reconsideration taking into account the reasons for the successful challenge.

1.3 The National Planning Policy Framework advises that planning proposals should be approved where the development plan is absent, silent or out-of-date unless the adverse impacts significantly and demonstrably outweigh the benefits of the scheme. The adverse impacts of the scheme have been identified as the potential harm to residential amenity through the increase in HGV movements on the access road, and harm to the Green Belt by virtue of the anaerobic digester element constituting inappropriate development. The benefits of the scheme are the benefits to climate change through the generation of renewable and low carbon energy and the diversion of waste from landfill, as well as the potential for job creation. Officers consider that, in this instance, the identified adverse impacts do not significantly and demonstrably outweigh the benefits offered by the scheme and there are very special circumstances to outweigh the harm to the green belt. . The application is, therefore, recommended for approval, subject to conditions and referral to the Secretary of State.

SITE

1.3 The application site is located approximately 6 miles south of York city centre, on the edge of the City's administrative boundary, and between the settlements of Wheldrake, Deighton and Escrick. It extends to 23.3 hectares and comprises an abandoned satellite mine site that was part of the former Selby Mine Complex (see history below).

1.4 Within the site is the former pithead area (approx. 9.8 hectares) with associated colliery buildings and hardstanding areas, along with the bunded areas that immediately surround them and the access road. Several of the buildings have been demolished including the main admin/amenity building and two stores. The total footprint of existing buildings on the application site has reduced from approximately 10,363sqm to approximately 4,916sqm. The area of landscaped bunds to the south of the pithead, which is largely within the Selby District Council administrative area, falls outside the application site.

1.5 Access to the site is via the existing roadway that is approx. 1.7km long and runs westwards to join the A19 north of Escrick. A public right of way (PROW) between Escrick and Wheldrake, passes the site along its western site boundary, cuts across the site at the site access and then along the lane that runs adjacent to the northern site boundary. A watercourse referred to as Bridge Dyke crosses the site at its western point. The site lies within Flood Zone 1 in the main, with an area of approximately 2 hectares adjacent to the access to the site and the watercourse that the access road crosses, being classified as Flood Zones 2 and 3. The area of

land to the south of the existing colliery apron and buildings is a designated site of importance to nature conservation (SINC). The following residential properties are located around the site:

- Sheepwalk Farm and Cottages to the north of the site, separated from the site by the lane that runs along the northern site boundary;
- Spring House Farm, which is located on the south side of the access road, at a distance of 630m from the site entrance;
- Warren House Farm to the east of the site, accessed via the lane that runs along the northern site boundary past Sheepwalk Farm;
- Chequer Hall Farm lies to the south of the site with its associated fields extending up to the site boundary;

SITE HISTORY

1.6 North Selby was one of six mines that made up the Selby Mine Complex. Five of the six, including North Selby, were satellite sites where labour and machinery were transported underground by shaft to work the coal face. The worked coal was extracted at the main site, Gasgoine Wood, before being distributed nationally.

1.7 Planning permission was granted for the extraction of coal from the Barnsley Seam in 1976 with outline consent for the North Selby Mine itself being granted in 1978 (ref. C/8/999/18/PA) and reserved matters approval for the mine buildings and landscaping being granted in 1981 (ref. C/8/999/18G/PA). This was following grant of consent by the then minerals planning authority, North Yorkshire County Council, and a public inquiry. Full production at the site commenced in 1991 and ceased in 1999. The use of the site for mining purposes was abandoned in 2000 following the removal of the mine shaft machinery and the capping of the shafts.

1.8 The outline planning permission was subject to a condition requiring the restoration of the site to a condition capable of agricultural production following the cessation of the use of the shafts for the conveying of miners and equipment (condition 15). This was repeated in the reserved matters approval (condition 8). The shaft cages and winding houses were removed and the buildings were initially used by an organisation called Project Rich-Seam for the re-training of former miners and then by Network Rail for the training of its staff. Several of the buildings have since been demolished by the landowner Harworth Estates.

1.9 A planning application was submitted by UK Coal in 2000 for the retention of the former mine buildings and reuse of the site for B1 (office and light industrial), B2 (general industrial) and B8 (storage and distribution) purposes by the non-compliance with the restoration condition (ref. 00/00680/FUL). This application remains undetermined.

1.10 In 2010, the Council sought independent legal advice from an external planning barrister with regards the validity of the condition following discussion with the land owners. This advice stated that the condition was unenforceable in its aim of agricultural restoration because the wording of the condition was not specific and did not require a time period within which the scheme for restoration should be implemented. The advice did state that the second part of the condition, which required the removal of all plant, buildings and machinery within 12 months from the date the mine shafts were last used for conveying miners and equipment to work the Barnsley Seam, could be severed from the full restoration requirement of the condition and was therefore enforceable.

1.11 In light of the legal advice, the Council took the decision to enforce against the failure to comply with condition 15 of the outline consent and condition 8 of the reserved matters in respect of the non- removal of the plant, buildings and machinery, but not against the condition in full. An enforcement notice was served in April 2011 allowing a two-year time period for compliance. The land owner appealed the notice and the consideration of the case is to be dealt with by public inquiry. This inquiry, due to take place in November 2011, was put in abeyance by the Planning Inspectorate until this planning application had been determined, and a further period of abeyance has been agreed to allow for the reconsideration of the application following quashing of the previous decision.

1.12 Pre-application discussion has been held with the landowners in respect of different schemes for reuse and redevelopment of the site since prior to the closure of the site for mining purposes. In more recent years, discussion has taken place on the reuse of the site for, firstly, a renewables energy centre with partners Peel Environmental and Science City York and, secondly, a plasma gasification plant by Peel Environmental. The first proposal did not proceed to an application because Science City York withdrew from the scheme. The second proposal did not proceed to an application, though a scoping opinion was requested from the Council, due to issues with noise from the plant.

1.13 A screening/scoping opinion was requested by the applicant in 2012 (ref. 12/01914/EIASP) as to whether the application was an Environmental Impact Assessment (EIA) development. The Council's view was given that the proposals were indeed EIA development and an opinion on the scope of an environmental statement to support the application was provided following consultation with relevant bodies as set out in the EIA regulations (see paragraph below).

PROPOSAL

1.14 The proposal involves the removal of the existing buildings and structures on site, with the exception of the existing substation and sewage treatment works , and, following removal, the erection of an anaerobic digestion combined heat and power facility and a horticultural glasshouse. The two elements would be operated independently, but are proposed to complement each other through the use of electricity and heat generated by the AD facility by the horticultural business. The AD facility and glasshouse operation would comprise the following:

Anaerobic Digestion Facility

1.15 The 60,000 tonnes facility would extend to approximately 6,195 sq.m of gross floorspace and would consist of a process building, tank farm and combined heat and power building, along with auxiliary components and associated weighbridge and kiosk, cycle and car parking and service yard. The main elements are:

1.16 Process building - proposed as an externally cladded portal framed structure approximately 2,566 sq.m in floor area and 12m in height above finished floor level. It would accommodate odour control equipment with a 15m high stack, a pre-preparation area and welfare facilities. The external finish would be silver grey cladding with a darker banding and louvres to the sides with a green clad roof; Tank Farm - would comprise one sanitation tank, two digester tanks and 3 storage tanks with respective heights of 10m, 15m and 18m; Combined Heat and Power (CHP) plant - a separate building of similar construction to the process building and of approximately 9.5m in height above finished floor level with a maximum 22.5m high stack; Auxiliary components - include a 12m high biogas holder, 10m high removal unit and 8m high gas flare.

1.17 The facility would operate continuously. It would be operated by 6 full time staff working shifts between the hours of 05:00 and 20:00. Delivery of organic matter and movement of outgoing materials is proposed to be restricted to daytime hours of 07:00-19:00 Monday- Friday, 07:00-13:00 on Saturdays and only in emergencies on Sundays and Bank Holidays.

1.18 The facility would have the capacity to receive 60,000 tonnes per year of source segregated organic municipal, commercial and industrial food waste and agricultural waste. The waste would be delivered to the enclosed process building and following pre- treatment (shredded/pulped/non-biodegradables removed) would be pumped to hydrolysis tanks before being transferred to the digester tanks. Biogas and a digestate consisting of a liquid and solid by-product would be produced. The digestate would be pumped to the sanitisation tank in order to comply with UK legislation on the treatment, handling and disposal of animal by-product. Following dewatering, the digestate would be collected and used as a fertiliser. The Biogas (40% carbon dioxide and 60% methane) would be piped to the gas holder and used in the CHP where it would be combusted to recover energy in the form of electricity and heat. It is anticipated that approx. 2.75MW of electrical energy would be produced. This would be used to power the AD plant with the

remaining supplied to the grid via the existing on site grid connection and to the horticultural glasshouse. An auxiliary flare stack is proposed to burn surplus biogas or when the CHP is not functioning. Heat from the combustion process would be used to maintain the temperature of the AD process with the remaining heat used to heat the glasshouse.

Horticultural Glasshouse Facility

1.19 The glasshouse would cover an area of 51,210 sq.m and would comprise a series of monopitch structures with ridge heights extending to 7m above the floor slab. The floor slab would be raised 350mm above the surrounding ground. The glasshouse would be occupied by an existing horticultural business currently with premises in Howden, East Yorkshire, that propagates plants to supply professional growers in the UK and Europe. The business would employ in the region of 50 staff working 06:00-16:00 Monday-Friday and only occasionally on Saturdays, Sundays and Bank Holidays. The number of staff could increase by up to 50 additional workers per day during the busiest period, which is the 3 month period between mid-November to mid- January. Deliveries and export of plants is proposed to be restricted to daytime hours between the hours of 06:00-16:00 Monday-Friday, with occasional deliveries on Saturdays, Sundays and Bank Holidays during busy periods. The glasshouse would utilise electricity and heat from the AD facility, though would have a back- up boiler. Lighting would be required in the glasshouse to facilitate plant propagation and safe operation. It is proposed to install light blinds to the roof and the side of the glasshouse where required, which would be closed when the lighting is in operation during hours of darkness.

Environmental Impact Assessment and other supporting documents

1.20 The AD element of the proposal is considered to be EIA development as it falls within Schedule 2 11(b) Installations for the disposal of waste of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regs) and because of the size of the site exceeds the relevant threshold of 0.5 hectares, the likely capacity of the facility exceeds 50,000 tonnes per year of commercial, industrial and municipal food waste and agricultural waste, the environmental sensitivity of the site in this rural area and the potential the development has to give rise to significant environmental effects.

1.21 The Council provided a screening and scoping opinion in July 2012 (ref. 12/01914/EIASP), confirming that an environmental statement (ES) was required and setting out the scope of this statement, following consultation with the statutory bodies as outlined in the EIA Regs. The ES included assessments of the following areas: socio-economics; lighting; landscape and visual; transport and access; air quality and odour; noise and vibration; flood risk and drainage; geology, soils and hydrogeology; and, ecology and nature conservation.

1.22 In addition to the ES, the application is supported by a Planning Statement, Design and Access Statement, Need Assessment, Flood Risk and Drainage Assessment, Transport Assessment, Travel Plan Statement, Site Waste Management Plan, Consultation Assessment Report, Sustainability Statement, Geo-environmental Desk Study, Alternative Sites Assessment and drawings including existing and proposed plans and cross-sections, elevation drawings, landscape strategy plan and illustrative views. Reference to these will be made in the appraisal section of this report. An addendum to the Environmental Statement was submitted in October 2013. This contained:-

- Updates to relevant legislation and policy;
- Updates to reflect the demolition of several buildings on the site ;
- Updates to reflect the changes made to several planning application documents including the Carbon Assessment; and
- Updates to reflect revised demolition and construction programme.

1.23 Consultation Assessment Report - This gives a summary of all consultation prior to submission of the application. It concludes that a comprehensive pre-application consultation on the proposal was undertaken by the applicant, providing an opportunity for local residents, stakeholder groups and elected representatives to engage in the process. It explains that changes have been made to the scheme as a result of the consultation programme including modification of the layout to enhance the buffer area, lowering of the AD plant digestate tanks to create a more compact facility and a reduction in the floor area of the glasshouse.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

Floodzone 2 GMS Constraints: Flood zone 2

Floodzone 3 GMS Constraints: Flood zone 3

2.2 Policies:

CYSP2 - The York Green Belt

CYSP6 - Location strategy

CYGP1 - Design

CYGP4A - Sustainability

CYGP4B - Air Quality

CYGP5 - Renewable energy

CYGP6 - Contaminated land

CGP15A - Development and Flood Risk

CYNE5A - Local Nature Conservation Sites

CYNE5B - Avoidance of, Mitigation and Compensation for Harm to Designated Nature Conservation Sites

CYNE6 - Species protected by law

CYNE7 - Habitat protection and creation

CYGB1 - Development within the Green Belt

CYT4 - Cycle parking standards

3.0 CONSULTATIONS

PUBLICITY

3.1 The application was originally publicised in the local press, by the posting of six site notices at the site entrance and in the surrounding area and notification letters were sent to statutory bodies, the three surrounding parish councils and to those properties with adjacent boundaries. The initial consultation period expired on 20 December 2012.

3.2 Further information to the EIA was submitted by the applicant in response to comments raised. This was publicised in the press and notification sent to the relevant statutory consultees to which the information related in accordance with EIA Regulations on 27 March 2013. The consultation period expired on 17 April 2013.

3.3 The addendum to the Environmental Statement submitted in October 2013 was publicised in the press and notification sent to the relevant statutory consultees to which the information related in accordance with EIA Regulations on 27 March 2013. Interested parties were also notified that the application was being

reconsidered following the quashing of the previous decision. The overall consultation period expired on 5th December 2013.

INTERNAL

INTEGRATED STRATEGY UNIT (NOW PLANNING AND ENVIRONMENTAL MANAGEMENT: FORWARD PLANNING – REVISED COMMENTS

3.4 States since the team's original consultation responses, the Council has undertaken a public consultation on the City of York Local Plan Preferred Options (June 2013) and whilst not approved as policy for considering planning applications provides the latest approach to land use planning policy. However, it has little weight as a development plan in the determination of this planning application.

3.5 The site is identified in the City of York Local Plan (4th Set of Changes Development Control Local Plan, April 2005) and the emerging City of York Local Plan (Preferred Options, June 2013). The principles of the Green Belt and its boundaries are maintained by the 'saved' policies of the Yorkshire and Humber Regional Spatial Strategy, which deal with the York Green Belt - Policies YH9 (Green Belts) and Y1 (York Sub Area Policy).

3.6 States in view of planning conditions on the former mine site any new buildings on site would be considered as inappropriate, as they are not considered to be a use suitable in the Green Belt, as outlined in paragraph 91 of the NPPF. The exception would be the glasshouses, which is classed as 'agriculture' and so not inappropriate development in the Green Belt. However, for the other new build element (AD and CHP) which would be regarded as inappropriate, very special circumstances would need to be demonstrated if such projects are to proceed. These may include the wider environmental benefits associated with increased production of energy from renewable sources. Therefore it should be considered whether very special circumstances exist to justify the development in that location, and whether the benefits of such a proposal outweigh the harm to the openness of the Green Belt.

3.7 States the proposed use needs to be considered against the relevant sections of the NPPF, notably:

- One of the core planning principles is to support the transition to a low carbon future in a changing climate and encourage the use of renewable resources such as renewable energy development (paragraph 17);
- The planning system has an environmental role in helping to mitigate and adapt to climate change including moving to a low carbon economy (paragraph 7);
- Planning has a key role to play in delivering renewable and low carbon energy and its infrastructure (paragraph 93);
- Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources; design their policies to maximise renewable and low carbon energy development; and consider identifying suitable areas for renewable and low carbon energy and supporting infrastructure (paragraph 97);
- Local Planning Authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and applications should be approved if their impact are, or can be made, acceptable (paragraph 98).

3.8 The PEM team refers to these NPPF principles being reflected in Policy CC1 (Supporting Renewable and Low Carbon Energy Generation), in the City of York Local Plan (Preferred Options, June 2013) which covers the generation of renewable and low carbon energy, and concludes the application should be considered against the criteria set out in this policy only where they reflect NPPF policy. However, the emerging policy can be afforded little weight at this stage.

3.9 The PEM team refers to the applicant's Supporting Statement which considers the issue of need for the proposal at European, National, Regional, Sub-Regional and Local levels, to meet European and EU legislation. The Statement considers that the proposal would meet such targets and objectives by:

- Diverting municipal food waste, commercial and industrial organic waste and agricultural waste from disposal at landfill;
- Managing waste close to where it is generated;
- Moving waste up the waste hierarchy through its recovery for energy;
- Generating renewable / low carbon energy in the form of electricity and heat; and
- Assisting in realising the potential for AD deployment for heat and electricity between 3-7 Terawatt hours (TWh) of electricity by 2020,

and it should be considered whether the above objectives justify the proposed development in the Green Belt.

3.10 The team cites Policy WM1 (Sustainable Waste Management) in the in the City of York Local Plan (Preferred Options, June 2013) as encouraging sustainable waste management, including energy recovery, and the reduction of waste going to landfill. The policy also encourages the use of previously developed land for such uses. It also highlights the fact that such facilities should be located in appropriate sustainable locations where they would not give rise to significant adverse impacts on the amenity of local communities and the historic and natural environment, in accordance with other relevant policies in the Plan. However the emerging policy can be afforded little weight at this stage.

3.11 The Minerals and Waste Joint Plan (Issues and Options Consultation) formulated by the Council in conjunction with the North York National Park and North Yorkshire County Council is currently awaiting approval for public consultation. Whilst this site is covered, it is considered the plan is at too early a stage to be a significant material consideration.

3.12 In conclusion PEM states given the site's location in the Green Belt it is considered as 'inappropriate' development in the Green Belt (with the exception of the glasshouses, which are classed as 'agriculture') and consequently, in accordance with the NPPF and Local Plan policies, very special circumstances would be needed to justify the development. Additionally, the NPPF and emerging local policies encourage the uses for renewable & low carbon energy, subject to a number of criteria.

FLOOD RISK MANAGEMENT TEAM

3.13 States that the development is in low risk Flood Zone 1 and greater than a hectare and proposed access is in medium/high risk Flood Zone 2/3. Therefore, a Flood Risk Assessment should be submitted for approval to the Environment Agency. From a surface water discharge point of view, the team has no objections to the development in principle. The Team requests conditions about foul and surface water drainage works. Comments reiterated in respect of the reconsultation with the Environmental Statement Addendum.

ENVIRONMENTAL PROTECTION UNIT

3.14 The Environment Agency has advised that the site will need to operate under a bespoke environmental permit issued by them, as the proposed anaerobic digester and CHP facility will involve a combustion activity and disposal of waste activity as defined under the Environmental Permitting Regulations. Such a permit will be used and enforced by the Environment Agency to ensure that best available techniques

are used to minimise emissions to land, water and air. In addition, other environmental impacts such as energy efficient, waste reduction, raw materials consumption, odour, noise, vibration and heat will all be controlled by condition through such a permit. To date, no environmental permit application has been

made. As a permit is required, the presumption in planning is that any such site will be operated in accordance with the requirements of any such permit to adequately control any environmental impacts from the AD and CHP. As a result, further regulation via condition in the planning permission, if granted, is not necessary.

3.15 However, observations are made in terms of the demolitions and construction phases of the development and the operations of the development not covered by the permit such as the glasshouses. Overall, no objection is raised, subject to conditions.

3.16 Noise: Requests a condition to cover noise, dust and lighting from the construction phase of the development, which are identified as having the potential for major to significant adverse impacts but are of limited duration. Considers the principle noise sources during the operational phase to be from deliveries and traffic noise, the service yards and plant/machinery at the two facilities, individually and cumulatively. Following submission of a noise assessment submitted by Dragonfly Acoustics on behalf of the occupant of Spring House Farm on New Road, detailed reconsideration of the noise levels is outlined in updated comments. The EPU conducted further measuring at Spring House Farm. It is concluded that on the A19, noise impact of the development on existing properties, due to increased traffic movements, will be negligible.

3.17 On New Road, noise associated with traffic prior to 07:00 would be unlikely to result in loss of amenity due to noise providing appropriate conditions as suggested are attached to any approval granted.

3.18 Overall, the development would lead to an increase in noise at the nearest four dwellings. The level of increase would vary from hour to hour at each of the properties; however, the levels of noise are predicted to fall within the World Health Organisation and BS8233 noise standards. The additional noise monitoring carried out by City of York Council has also found that measured noise levels submitted with the application are representative of the existing lowest background noise levels, thus indicating that the submitted noise assessment by the applicant is indicative of the worst case scenario with regard to impact. Requests a condition to minimise loss of amenity due to traffic noise, service yard noise and plant/equipment noise.

3.19 Odour and emissions: The proposed AD facility will be operating under a permit issued by the Environment Agency and so odour will be adequately controlled via conditions contained within the permit. Operations will be undertaken in enclosed buildings operated under negative pressure.

3.20 Lighting: This needs to be considered in terms of nuisance and loss of amenity. The site falls within Environmental Zone 2 (Rural), as specified in the Institute of Lighting Professionals Guidance Notes. However, as background lighting levels are low, suggests that the site currently experiences lighting levels normally found in E0 and E1 Zone (Protected or Natural). As a result, it is recommended that the lighting levels from the site comply with the requirements specified for the E1 zone post curfew of 23:00 hours. Temporary construction lighting is not anticipated to result in light intrusion or loss of amenity and will be restricted to the hours during which such activities are undertaken via condition. Satisfied that the lighting from the proposed development would be unlikely to result in loss of amenity subject to conditions to mitigate against the potential adverse impact.

3.21 Contaminated Land: The ES concludes that significant soil contamination is unlikely to be present at the site, but localised contamination hotspots related to the historic land use and buildings may be encountered and elevated levels of ground gas could pose a potential risk to the development. Further investigation works should be undertaken to fully character the site and remedial work should then be undertaken to ensure that the land is suitable for the proposed use. Conditions requested.

3.22 Air Quality: Atmospheric emissions from industrial processes are controlled through an environmental permit. During construction and demolition phases the main effect would be dust emissions and the potential to cause dust annoyance, risk to human health and harm to ecological receptors. Providing suitable mitigation measures are implemented, the dust could be controlled to a suitable level. The stack height has been chosen to provide adequate dispersion of emissions whilst also minimising visual impact. It is not anticipated that the proposals would give rise to an increase in flow of more than 1000 vehicles or 200 HGV movements per day and based on air quality guidance the significance of the operational phase traffic emissions is therefore considered negligible. There is no specific legislation regarding acceptable or unacceptable odour levels. The Council's Low Emissions Strategy is highlighted and an informative is requested.

3.23 Conditions requested with regards to: a construction environmental management plan to cover noise, dust and lighting during construction phases; noise associated with plant, machinery or equipment associated with the glasshouses; lighting in the glasshouses; contaminated land; and, air quality, specifically a minimum stack height of 22.5m.

PLANNING AND ENVIRONMENTAL MANAGEMENT (LANDSCAPE)

3.24 States the AD complex, whilst of significant overall height, would be compact in nature and the chimney stacks would be relatively slim. The surrounding woods, in particular Spring Wood, and the natural and proposed topography and planting

provide sufficient visual mitigation of the development in the context of the larger landscape. The additional mounding would be noticeable in the immediate landscape as experienced from New Road PROW and neighbouring properties. Nonetheless, the proposed topography and planting would provide an effective screen of the glass houses from adjacent properties. Some degree of sky glow will affect views during hours of darkness, but the lighting and other measures have been designed such that this will be 'negligible'.

PLANNING AND ENVIRONMENTAL MANAGEMENT (ECOLOGY)

3.25 The Council's Ecologist agrees with the overall assessment for the Phase 1 Assessment and Chapter 15 of the EIA regarding Ecology, though highlights some inaccuracies that need to be addressed. Following a response from the applicant's ecology consultant, the officer is happy to accept the clarifications made.

3.26 Requests mitigation for the SINC to secure the long term protection and facilitate the enhancement of the SINC site. This would be primarily through controlled grazing and would require the site to be securely fenced for grazing and a management plan prepared and implemented to facilitate the grazing regime. Grazing would require hardy breeds that would open up the sward and control continued scrub invasion and would need to be for the whole SINC site. The site would also provide an excellent community facility if some form of visitor access could be secured.

3.27 With regard to the additional planting within the SINC requested by the Landscape Officer, an open grassland/scrub mosaic would be feasible and could be beneficial in wildlife terms. States that in respect of the updated ecology chapter of the assessment there are no real concerns, with additional species being identified. A number of minor points are noted, in relation to the grassland of the SINC qualifying for designation, NE7 of the local plan also being relevant to the application. Hierarchy that is used at both national and local level is that where wildlife sites are involved, the initial consideration should always be that the sites and interest are protected and it is only if this cannot be done in its entirety then mitigation of the impacts should be considered and then and only as a last resort is compensation considered.

PLANNING AND ENVIRONMENTAL MANAGEMENT (SUSTAINABILITY)

3.28 Broadly supportive of the scheme given its potential to generate low and zero carbon energy, reduce waste arising and contribute to meeting York's challenging carbon reduction targets (40% reduction by 2020; 80% reduction by 2050). Suggests three ways in which the proposals can be further strengthened: firstly, inclusion of a statement in the Travel Plan setting out that where feasible contract

workers will access the site via bus and/or mini-bus; secondly, on-site training and technology specific training where feasible; and, thirdly, clarification as to when the potential for rainwater harvesting is to be explored.

HIGHWAY NETWORK MANAGEMENT

3.29 Notes that the application has been supported by both a Transport Assessment and a Travel Plan Statement, the scoping of which has been agreed with officers and due to the lack of survey data within nationally recognised programs (TRICS database) information relating to traffic generation has been supplied from the applicants based upon experience of the operation of similar facilities.

3.30 Due to staff shift patterns and the expected hours of operation of both uses the vast majority of the vehicular traffic associated with the proposed development will occur outside of the traditional network AM and PM peak periods when traffic volumes on the A19 and adjacent highways will be at their greatest. These time periods are used for the purposes of assessing the impact of development as the highway network is at it`s most sensitive and the greatest impact will be seen. The potential increase in traffic during the peak network periods is in the region of 8 vehicular movements. This will not have a material impact and will barely be perceivable when considering adjacent traffic flows on the A19.

3.31 Staffing levels for the AD facility are negligible (approx 6) with greater levels of staff required for the glasshouse (approx 50).

3.32 HGV movements are split between those associated with the AD Facility and the Glasshouse. The greater level of HGV traffic will be generated by the AD facility (70 daily movements) with only negligible HGV traffic flows associated with the glasshouse (14 daily movements). The TA has been based upon a worst case scenario which estimates the level of HGV movements during the busiest periods of operation of the facility and assumes that HGV`s with a smaller payload are used resulting in a higher number of total HGV movements. The worst case scenario of peak operation of the site will only be for 1-2 months a year and outside of this period HGV movements will be lower. Under the worst case scenario the whole site could be expected to generate a total of 88 HGV movements over a 12 hour day. This equates to approximately 3-4 trips in and 3-4 trips out per hour (7-8 movements per hour). This level of movements is very low and will not have a material impact on the operation of the junction of New Road and the A19 or on A19 traffic flows.

3.33 The accident history for the A19 in the vicinity of the site access junction has been investigated. This has not identified any accident clusters nor pattern/frequency of accidents which could be exacerbated by the anticipated increase in traffic flows or movements generated by the development.

3.34 A concern of a number of objectors/residents relates to the ability of traffic, particularly articulated HGV's, to turn right onto the A19. The junction has been designed and constructed using Highways Agency (government approved) standards. Vehicles turning right into the site will be able to wait within the island area, clear of through traffic. Traffic leaving the site will be able cross the Southbound traffic stream and wait within the island area before joining the Northbound flow with the exception of articulated HGV's. Articulated vehicles will need to wait for a sufficient break in traffic flow before turning right in one manoeuvre. This is an accepted approach and can be beneficial. When articulated vehicles wait within central reserve islands the angle can make it difficult for the driver to see approaching traffic as it is over their left shoulder. It is therefore sometime safer for drivers to wait and complete the right turn in one manoeuvre.

3.35 The visibility available for vehicles leaving the site and turning right is in accordance with national standards and as such will enable a driver turning right time to assess the speed of approaching traffic and complete a manoeuvre whilst also allowing traffic travelling along the A19 enough forward visibility to see turning vehicles.

3.36 Notwithstanding the above comments the anticipated level of articulated movements is low and when this is further broken down into the total number of vehicles expected to turn right (2-3 per hour) officers do not consider that there are any grounds to raise an objection on safety, traffic generation or capacity grounds. This view is also supported by the visibility achievable at the junction and no identifiable accident pattern.

3.37 The site is in a rural location but has previously been used for high levels of employment. It is accepted that such a location will make sustainable travel a limited option for many staff and visitors. Given the specific nature of the proposed use of the site and requirements the remote location is considered to be acceptable in travel terms. In order to maximise the potential for sustainable travel to occur the application has been supported by a Travel Plan Statement setting out measures that can be implemented to maximise non car access whilst at the same time acknowledging the location. Such measures include incentives to encourage car sharing and the use of a minibus to collect seasonal workers associated with the glasshouse.

3.38 No objections are raised subject to the standard conditions relating to vehicle and cycle parking provision and the implementation of the Travel Plan Statement.

ECONOMIC DEVELOPMENT UNIT

3.39 Strongly supports the application in question based on the potential of the project to create jobs and economic growth in a key growth sector for the local economy.

3.40 Bio-science is identified as a key growth sector for the city in the York Economic Strategy and support is provided through Science City York. The 2011 Future of Business report by HSBC identifies York as a Biotech centre for the future. The wider economic benefits from the project will contribute to growth and innovation in the Agri-food and associated technologies industry across the York and North Yorkshire economies. Agri-food has been identified as a nationally and potentially internationally leading strength of the York and North Yorkshire sub-region, and as such the proposed development could contribute to the critical mass in this industry and position the city to gain further supply chain benefits from these sector strengths.

3.41 In order to ensure that the potential economic benefits of the application are fully realised, it is recommended that a supported skills and training programme from the applicant would be desirable, with the potential for a local apprenticeship programme.

EXTERNAL

COAL AUTHORITY

3.42 Pleased to note that the applicant has obtained appropriate and up to date coal mining information for the proposed development site and has used this information to inform the Geo-Environmental Desk Study Report accompanying the application. The Report correctly identifies that the application site has been subject to past coal mining activity. The Desk Study concludes that the mine entries have been treated and therefore pose a low risk to the development. Whilst development over such features is not usually appropriate, the glasshouses are a lightweight structure and the Study states that further consideration of ground conditions and foundation design will take place prior to development.

3.43 Considers that the content and conclusions of the Geo-Environmental Desk Study report are sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for proposed development. Further more detailed

considerations of ground conditions and/or foundation design will be required as part of any subsequent building regulations application.

3.44 In response to the recent reconsultation reiterates the above comments and states The Coal Authority therefore has no objection to the proposed development.

NORTH YORKSHIRE COUNTY COUNCIL

3.45 County Planning Authority states it would offer no comments in reply.

3.46 Responding as County Highway Authority states it does not consider that the proposal will have a material impact on the operation of the highway network. As such the Local Highway Authority would not raise an objection to the proposal.

NORTH YORKSHIRE POLICE

3.47 Could not initially support the application as the developer had not demonstrated the potential for preventing crime had been satisfactorily addressed. Further information was requested to demonstrate that crime and the potential for sabotage has been fully considered. In light of this additional information, the Police no longer have any concerns or issues as it is considered that the applicant has now clearly demonstrated how crime prevention measures have been considered in respect of their proposal.

3.48 Recent reconsultation – no comments to add to the above.

ENVIRONMENT AGENCY (EA)

3.49 No objections to the proposed development. Confirms that the development will require an Environmental Permit under the Environmental Permitting Regulations 2010 from the Environment Agency.

3.50 With regard to flood risk, the Agency states that the scheme is only acceptable if the measures detailed in the Flood Risk and Drainage Assessment are secured through a planning condition.

3.51 Offers advice to the Local Planning Authority on flood risk: To ensure that their own drainage engineers and IDB agree to the proposed rate of discharge before issuing permission and that the detailed design of the surface water drainage scheme be agreed before development commences. To formally consider the emergency planning and rescue implications of new development in making decisions where warning and emergency response is fundamental to managing flood risk.

3.52 With regard to biodiversity, it considers that the proposals will have a negligible impact upon the local ecology, and may provide ecological enhancement through the provision of new habitat. However, there are currently protected species (great crested newt) and sensitive habitats on site, for which any risk needs to be adequately mitigated throughout the construction phase. The Agency has no objection, subject to the inclusion of a condition covering a construction management statement.

3.53 Welcomes measures outlined within the proposal for the recycling of rainwater, dewatering of digestate and reuse of this process water and Sustainable Drainage Systems.

3.54 Supports the underlying concept of landfill diversion and using waste as a resource, the co location of a user for energy produced is a good sustainable solution. It is important that the facility can be sustained whilst respecting the first line of the waste hierarchy to prevent the creation of waste. The method used to assess availability of feedstock is reasonable, though data for commercial and agricultural waste streams is less reliable as it is not recorded.

4.55 Recent consultation – confirms it has no comments to add to the above

OUSE AND DERWENT INTERNAL DRAINAGE BOARD (IDB)

3.56 The site is within the Drainage Board's area and adjacent to Board maintained watercourses - Bridge Dyke and Halfpenny Dyke. Consent is required for any development within 9m of the bank top of any watercourse or for any culvert, bridge, fill in or discharge. The Board advises the Authority to be satisfied that surface water drainage has been satisfactorily provided for. It seeks any discharge to be regulated to that of a Brownfield Site (140l/s - 30%). The Board notes that surface water is to be discharged to existing watercourses. It recommends a condition relating to surface water drainage works and informatives about maintenance and Board's consent.

3.57 Recent consultation – confirms it has no comments to add to the above

NATURAL ENGLAND

3.58 Natural England advises that the Authority can conclude that the project is not likely to adversely affect the integrity of the Lower Derwent Valley Special Area of Conservation, Lower Derwent Valley Special Protection Area, Lower Derwent Valley Ramsar, River Derwent Special Area of Conservation and Skipwith Common Special Area of Conservation. Subject to the proposals being carried out in strict accordance with the details submitted, advise the Authority, as Competent Authority, that it can be ascertained that as this application will not adversely affect the

integrity of the European designated sites and therefore it does not need to undertake further stages in the appropriate assessment process.

3.59 The proposal is not within close proximity to any Site of Special Scientific Interest or nationally designated site for nature conservation.

3.60 Natural England does not object to the proposed development. It is likely that the development will affect Great crested newt through loss of habitat and construction impacts, but are satisfied that the proposed mitigation would maintain the population. The ES acknowledges that a license is required in order to carry out any works.

3.61 Advises conditions be attached to ensure that the recommendations and mitigation as detailed in section 15 of the ES are implemented in full in order to avoid impacts on protected species. Advises that LPA assess and consider the other possible impacts on local sites, local landscape character and local or national biodiversity priority habitats and species.

3.62 In response to the recent reconsultation, states that based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

3.63 Natural England has published Standing Advice on protected species. In terms of biodiversity, NE states the authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature.

YORKSHIRE WILDLIFE TRUST (YWT)

3.64 States that the surveys for habitat and protected species appear to have been done correctly and the wildlife value of the site has been satisfactorily assessed. YWT accepts that the neighbouring European sites are unlikely to be damaged. Does have concerns relating to the potential for crops to be grown specifically to feed the digester and request a planning condition to prevent the use of purpose grown energy crops and virgin woody biomass in the process in interests of sustainability and prevent agricultural land being used to grow bio-energy crops. The authority should also be confident that the need for feedstock will not reduce recycling in the region. The availability and sustainability of feedstock does not appear to have been addressed. The long term management of the SINC should be secured by an ecological management plan backed up by a legal agreement.

YORK NATURAL ENVIRONMENT PANEL

3.65 The Panel opposes the scheme on the basis that the land should have been returned to agricultural use with every opportunity taken to enhance the wildlife value of the site and that the scheme represents an inappropriate development in the greenbelt. If not agricultural use, the SINC should be extended and improved.

YORK ENVIRONMENT FORUM

3.66 Support the proposals subject to conditions. It is clear that this region, like everywhere else in the UK, needs to respond to the need to produce more power from renewables and to become less dependent on fossil fuels. Already connected to the National Grid, and having had an industrial use for many years, this site offers

a good opportunity for such a scheme if it can be done without negative impact to the environment.

3.67 While the original planning consent required the site to be returned to agriculture when the mine closed, there is little demand for agricultural land at present and that there are other uses to which the site can be put, as long as it abides by key principles relating to: protection of biodiversity; the use being an exemplar of sustainable development; the use providing recompense to the local community to enable improvement of the environmental sustainability of its public buildings;

3.68 Returning the site to agricultural use would have a negative impact on wildlife populations that have become established. Request any approval to be subject to a condition requiring the applicant to protect the biodiversity of the site.

3.69 Request that any approval should include a requirement that the operators of the site ensure that vehicles delivering material to and from the site be powered by biogas produced by operations within the site. The applicant should engage the local community by: installing a public display showing how much power is being produced on the site, quantifying emissions and carbon savings by comparison to a fossil-fuel-fired power station; and, providing the local community direct access to heat, in the form of district heating to public buildings, or by providing subsidies or grants to assist the local community reduce its own carbon emissions.

SELBY DISTRICT COUNCIL

3.70 No response received to date.

JULIAN STURDY MP

3.71 Expresses objections on behalf of a large number of constituents. Recommends the application be refused.

- Traffic concerns relating to significant number of heavy vehicles transporting waste, residual products and employees, which would impact directly on A19, exacerbating the current road congestion on this accident blackspot;
- Green Belt implications from inappropriate and alien development of the scale proposed, which would detract from the area;
- Query whether test of special circumstances has been met;
- Implications of the AD facility on residents' amenity;
- Concern over what is perceived to renege on the 1970s commitment to return land to agricultural use;

- 39% of site is a designated site of nature conservation;
- Highlights that there is not enough suitable waste in the local area with the majority of the feedstock originating from outside North Yorkshire;
- Impacts from lorries transporting waste using thousands of litres of fossil fuel.

NIGEL ADAMS MP

3.72 Writing on behalf of a number of constituents he highlighted; overwhelming community opposition, congestion and lack of capacity on the A19, location in the Green Belt, the condition to restore the site should mining cease, the release of odorous gases to the rural environment

COUNCILLOR RESPONSES

3.73 Councillor Aspden (Fulford Ward) writes to object on behalf of local residents in Fulford. Key concerns raised:

- The development is on a huge scale;
- The site is ultimately on green belt;
- Impact of traffic on the local transport network;
- Increased pollution for the local area.

3.74 Selby District Councillor Reynolds and Selby District and North Yorkshire County Councillor Casling, have written to oppose the scheme:

- Proposal is inappropriate for a Greenfield site in the Green Belt and no special circumstances have been demonstrated;
- There is no certainty that suitable quantities of waste materials are available and indications are that waste will originate from outside the local area;
- There is no need for an AD facility as there are sufficient other sites within a 30 mile radius;
- There would be significant vehicle movements importing waste and removing residual products on an already highly congested road that runs through Escrick village;
- There is potential for offensive smells to be created from the digester plant itself and spreading of residual material on nearby farmland;
- It should be directed to an existing industrial area;
- The claim that there is no demand for agricultural land is spurious as land prices have never been at a higher level;
- The original planning permission was 'in the national interest' and there is no such interest in the present application;
- There as a justifiable expectation that when mining ceased the site would be restored to agricultural use.

PARISH COUNCIL RESPONSES

3.75 The site falls within the parish boundary of Wheldrake, though lies in close proximity to the boundaries with the parishes of Deighton and Escrick. As such, consultation letters accompanied by a copy of the application submission was sent to all three parish councils. Responses have been received from these three parish councils, as well as the parish councils of Naburn, Fulford, Osbaldwick and Thorganby. The parish councils object on the following grounds:

- The proposal would be inappropriate development within the Green Belt and that the "special circumstances" required to permit the development have not been demonstrated;
- This scale of development is not appropriate in a rural area;
- There is no certainty about the sources of suitable waste materials needed to power the operation, a large proportion of which is likely to originate from outside the local area - not appropriate or sustainable to import feedstock and other waste materials from outside York/Selby area;
- There are other locations nearer to the M62 corridor where the proposal indicates a large proportion of the waste feedstock would originate from, notably Kellingley Colliery;
- The proposal would require significant vehicle movements along the already congested A19 corridor, which would exacerbate the congested highway network, make travel for local residents even more difficult and would result in a large proportion of traffic, including merchant vehicles, travelling through the area and potentially re-routing through the villages;
- The Parish Council supports of a residents group which has identified a number of safety issues regarding traffic speed and volume along this route;
- Highlights that there were never previously any significant levels of traffic associated with North Selby Mine as employees operated a shift system and all coal was transported underground;
- There is no information about the eventual decommissioning of plant and equipment, decontamination measures and its following use or status;
- Urge CYC to enforce the planning conditions attached to the original consent for the mine requiring the site to be restored to agricultural use.
- Accept there is an undisputed need for bio-wastes to be diverted from landfill, but there is a lack of clear regional/local strategy for non municipal bio-wastes.
- The site exists due to geological factors and mining logistics, but the locational factors for the proposed facility are less constraint.

3.76 Comments since the reconsultation received from Escrick Parish Council reiterate the points made above and make reference to the draft local plan rather than the Local Development Framework, and suggest the site should be looked at as one planning unit and the impact on the green belt assessed as such.

3.77 In addition to its previous comments, Wheldrake Parish Council states since approval of the development and quashing, the draft CYC/NYCC Minerals and Waste Joint Plan (Site Identification and Assessment Methodology) July 2013 has been circulated. The Parish Council states the proposals would score badly against

section 3,11,15 and 17 of the document if it is adopted. It states the site does not fit well with the because of the sourcing of feedstock from outside the area, the effect on the landscape and green belt and effect on wellbeing safety and heart of local communities so does not address the needs of the community in a sustainable and inclusive manner.

RESPONSES FROM THE COMMUNITY

3.78 North Selby Mine Action Group

- Applicant's claim that there is no space for the AD facility on the Kellingley Colliery site seems implausible and contrived in order to arrive at the conclusion that North Selby is the best site;
- The site is in the Green Belt and given the plethora of sites that have or are in the process of obtaining permission, it is difficult to understand how the test of 'exceptional circumstances' can be demonstrated;
- Queries the 'green renewable energy' credentials of the using a gas boiler of the size proposed and the emissions from the flue have not been modelled;
- Potential for loss of amenity from odour emitted from spreading of digestate on surrounding farmland and impact on traffic generation from spreading vehicles.

3.79 At the time of previous report there were 362 responses received predominantly from residents of the surrounding area and the settlements of Deighton, Escrick and Wheldrake, objecting to the proposals. The comments made can be summarised as follows:

- Use of land: Site should be returned to agricultural land as required by condition of approval for the mine. If not then another natural use, reuse of buildings for more suitable purposes or erection of new homes;
- Future of site/viability: Question whether the size of plant is sustainable necessitating further expansion of the facility or a future alternative use of the site for non-rural activities; business case questioned as only 50% of glasshouse heat requirement from AD/CHP facility; expansion if financial incentives remain.
- Location: Development should be at source and in an urban or industrial area with good road and rail network (e.g. Kellingley Colliery) as not sustainable to transport waste by road from outside the York area.
- Need: Not enough local waste to run the facility and there is capacity at other AD sites (existing and planned); the proposal would not meet local employment needs or provide local jobs; the need for more tomatoes is questioned.
- Green Belt: The proposal is inappropriate development in the Green Belt, which by definition is harmful to openness and for which no very special circumstances have been demonstrated; the scale and magnitude of the industrial buildings are out of keeping with the Green Belt status and that the proposal would harm the openness and historic character and setting of the City of York.
- Access: The site is not served by public transport for employees travelling to the site; a roundabout or lights should be provided at junction as it is unsafe.

- Traffic: The proposal would exacerbate traffic congestion along the A19, increase the number of cars and HGVs using the already overloaded A19 resulting in damage to the road surface and adversely affect highway safety for pedestrians, cyclists and other drivers; the validity of the survey data is questioned.
 - Pollution from traffic: Highlight increased noise pollution, vibration and a deterioration of air quality from increased vehicle movements along the A19 and the effect on human health and quality of life; the potential for pollution from the transport of waste.
 - Pollution from the site: Concerns raised about the impact of noise, light (24 hours) and air quality (odour) pollution from process emissions on human health and quality of life (already noxious smells from other industrial facilities in area); potential for pollution of watercourses and ground water.
 - Wildlife: Concern is raised about the affect on the wildlife in the area and the habitat overall mainly from noise, emissions and light pollution given the sites location near important nature conservation sites and as a third of the site is a Site of Interest to Nature Conservation.
 - Visual impact: Proposal is out of scale and would blight the rural landscape, particularly the chimney, to the detriment of the surrounding agricultural area.
 - Local benefits: Residents consider that there are no local economic or community benefits, such as district heating or jobs; scheme would suppress local, tourist and agricultural economy.
 - Contamination: Concerns are raised about the contamination of surrounding water courses; the lack of reference to the clean up of the larger area of 'contaminated land' is highlighted.
 - Crime: Concern that the proposal could increase crime in the area
 - Safety: Explosion of methane production and mine gas seepage as well as distance from emergency services raised.
-
- House prices: Proposal would impact on price and desirability of houses in the area.
 - Procedural: The length of consultation period is raised and the difficulty in accessing documents on the Council's website.

3.80 The resident of Spring House Farm asked for further conditions to be added with regards an acoustic study, resurfacing of New Road and the removal or relocation of the speed humps.

3.81 Since the approval was quashed and following reconsultation, responses from 60 residents and interested individuals have been received, reiterating or making the same points as set out above but also:-

- Significant Impact of traffic on the A19 in terms of congestion and safety and disadvantages of emergency services
- Air quality in the area would deteriorate and so human health would be

affected

- Wildlife would be adversely affected by the proposals
- The site should be returned to green belt as originally promised
- Obligations and requirements have not been met or have been broken for many years at the site
- The scheme is primarily industrial rather than agricultural
- There is no urgent need for the Anaerobic Digestion facility given the number and capacity of sites in the region. And there are insufficient assurances regarding supply for the facility. The viability should be considered
- There are changes proposed to the scheme which ought to require a new application to be made e.g. waste is to be sourced from, the type and size of vehicles delivering it to site, the types of equipment to be installed and even the layout of the site
- additional waste processing and segregation equipment are now planned as outlined in the re-submission now use a portion of local municipal and industrial waste.
- HGVs will cut through Elvington and Wheldrake causing both serious congestion and disturbance to those local communities on roads never intended to take such vehicles.
- Noise and devaluation of property
- there is fierce competition for suitable organic waste locally several existing local
- facilities (with another one going through planning at Thorganby) having to source waste from further and further away - using carbon and causing pollution.
- The traffic survey and findings are flawed due to the time of year undertaken and methodology
- Very special circumstances for development in the Green Belt were not put forward previously and still do not appear to have been provided

3.82 Just prior to the previous Committee consideration representations was received on behalf of Samuel Smith's Old Brewery (Tadcaster). These asserted that the Officer's report was flawed in terms of the basis for its baseline assessment

on the Green Belt which should have been of a site cleared of buildings as required by the conditions , and should have considered the issue of whether there was no greater impact on openness. It concludes this has not been achieved and the proposal therefore represented 'inappropriate development'. The letter stated that there was the potential for challenge of any decision on this basis.

3.82 Three letters of support from residents of York on the following grounds:

- Waste has to be processed somewhere and this site appears suitable if the road network is improved;
- Returning the site to agriculture would involve remediation measures which would bring doubtful benefit on a small site;
- The spoil heaps should remain undisturbed for ecological reasons;
- Disturbance to residents would be minimal as the site is 2km from Wheldrake and Escrick;
- Horticultural proposals imply savings in food miles and quality of produce;
- The sourcing of waste is a commercial decision for this private venture;

3.83 One letter from a local resident who supports the application stating it is vital that carbon emissions are reduced. This is providing that the applicant agree to conditions covering: protection of biodiversity, powering vehicles by biogas, a public display board shows residents how much power is being produced and an annual subsidy to local communities to assist in reductions in carbon emissions or a pipeline for district heating to public buildings.

3.84 Letter from one resident who agrees with some concerns of the North Selby Mine Action Group over increased traffic and the distance the waste materials would be gathered, but disagrees with other concerns about designation of the site, potential hazard to homes and future expansion. Asks the question of how as a nation, facing ever increasing demand for energy, we can afford to block every single potential development designed to provide another source of electricity and gases.

3.85 Following the recent reconsultation one letter reiterates previous reasons for supporting the proposal.

4.0 APPRAISAL

4.1 The application comprises two elements that could stand alone as commercial enterprises, but which are proposed to be co-located in order to mutually benefit from this relationship in terms of the transfer of electricity and heat. However, for the purposes of assessing the application, the individual and cumulative impacts of the scheme are assessed. The scheme remains as proposed at the time of the previous consideration. The key issues in the determination of the application are:

- Status of the site
- Principle of Development
- Impact on Green Belt
- Design and Visual Amenity
- Economic Benefits
- Highway Implications
- Crime
- Climate Change
- Flood Risk
- Nature Conservation
- Human Health and Residential Amenity
- Consideration of Very Special Circumstances

POLICY CONTEXT

National

4.2 The Coalition Government published its National Planning Policy Framework (NPPF), which came into force on 27 March 2012. Paragraph 14 of the NPPF establishes the presumption in favour of sustainable development, which the Coalition Government sees as a golden thread running through decision-making. It defines three dimensions to sustainable development: an economic role, a social role and an environmental role. The 'presumption in favour' means that development proposals should be approved where they accord with the

development plan without delay unless material considerations indicate otherwise. Where the development plan is absent, silent or out-of-date, planning permission should be granted unless any adverse effects would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, or, specific policies in the Framework indicate development should be restricted.

4.3 The NPPF sets out twelve core planning principles to underpin decision-taking in planning. They include: the proactive drive and support of sustainable economic development to deliver infrastructure; securing high quality design and a good standard of amenity for all existing and future occupants; protecting Green Belts and recognising the intrinsic character and amenity of the countryside; supporting the transition to a low carbon future in a changing climate and encouraging the use of renewable resources for example by the development of renewable energy; conserving and enhancing the natural environment; encouraging the effective use of land by reusing land that has been previously developed, provided it is not of high environmental value; and, actively manage patterns of growth to make fullest possible use of public transport.

4.4 The following sections of the NPPF are of relevance to this application: Section 1 places significant weight on the need to support economic growth through the

planning system; Section 4 promotes sustainable transport; Section 7 seeks good design that adds to the overall quality of the area; Section 8 promotes safe and accessible environments; Section 9 confirms the great importance that the Government attaches to Green Belts and gives advice on protecting Green Belt land; Section 10 covers climate change including the reductions in greenhouse gas emissions and supporting the delivery of renewable energy and ensuring development does not increase flood risk to other areas; and, Section 11 states that the planning system should contribute to and enhance the natural and local environment by protecting valued landscapes, minimising impacts on biodiversity and protecting human health.

4.5 Planning Policy Statement 10 (Planning for Sustainable Waste Management) was amended in March 2011 and is not one of the statements replaced by the NPPF. It sets out the Coalition Government's overall planning policy guidance on waste. It seeks to "protect human health and the environment, by producing less waste and by using it as a viable resource wherever possible". It advises that proposals on sites that have not been allocated or identified in a development plan or where applications are submitted before plans have been reviewed should be considered favourably where they are consistent with the policies in the statement.

4.6 The Government published its Renewable Energy Strategy in July 2009, which sets the strategy for meeting the 15% target placed upon the UK. In 2011, National Policy Statements for Energy: EN-1 and Renewal Energy Infrastructure: EN-3 were approved and are material to decision making on planning applications. These statements identify the potential of plant powered by the combustion of biomass and waste towards renewable energy capacity and the increasing role in meeting the UK's energy needs.

4.7 In July 2013 the Government published the 'Planning practice guidance for renewable and low carbon energy'. The guidance states it 'can be a material planning consideration and should generally be followed unless there are clear reasons not to'.

4.8 The guidance refers to the important role of planning in delivering new renewable and low carbon infrastructure in locations where the local environmental impact is acceptable and highlights technical considerations that need to be given for particular renewable energy technologies including proximity of grid connection infrastructure, size of the site and appropriate transport links.

4.9 It points out that in considering locations, local planning authorities should ensure they take into account the requirements of the technology, the potential impacts on the local environment, including cumulative impacts. The views of local communities likely to be affected should be listened to.

4.10 The guidance states that Planning can provide opportunities for, and encourage energy development which will produce waste heat, to be located close to existing potential users of the heat. Planning can also help provide the new customers for the heat by encouraging development which could make use of the heat.

Regional

4.11 The Yorkshire and Humber Plan Regional Spatial Strategy (RSS) to 2026 was formally adopted in May 2008. The RSS includes policies relevant to strategic development within the York area with specific reference to York's Green Belt. In 2010 the Coalition Government set out its intention to revoke regional strategies through the passing of the Localism Act. The Coalition Government laid a statutory instrument before Parliament in January 2013 that revokes the Yorkshire and Humber RSS but retains the policies contained within it relating to York's Green Belt. This partial revocation came into effect on 22 February 2013. The Ministerial statement in respect of the statutory instrument confirmed the importance the Coalition Government places upon the Green Belt and recognised its invaluable role in protecting this treasured environmental and cultural heritage. This was following the carrying out of an environmental impact assessment into the revocation of the RSS and the implications that abolition in full would have on the position of the Green Belt in York in light of its lack of a local plan. Policies YH9 and Y1 remain part of the development plan for the City. Policy YH9C establishes a Green Belt

around the City and requires the detailed inner boundaries to be defined to establish long term development limits that safeguard the special character and setting of the historic city.

Local

4.12 The City of York Deposit Draft Local Plan (incorporating 4th set of changes) was agreed by the Council for development control purposes in April 2005. Whilst it has not been formally adopted, it reached an advanced stage in the process. The policies contained within it can be given weight and are considered to be material to the determination of the application where they reflect the NPPF. Paragraph 215 of the NPPF allows a 12 month period from its publication within which due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

4.13 The relevant policies are summarised in section 2.2. Policy GP1 of the Local Plan states that development proposals will be expected to (a) respect or enhance the local environment and (i) ensure that residents living nearby are not unduly affected by noise and disturbance. Policy GP3 (Planning against Crime) requires natural surveillance of public spaces and paths from existing or proposed development, secure car and cycle parking locations and satisfactory lighting in developments. Policy GP9 deals with landscaping within residential schemes.

Policy GB1 mirrors Green Belt policy and identifies those new buildings that are appropriate development. Policy NE1 seeks to protect existing trees and hedgerow that are of important landscape, amenity, nature conservation or historical value.

4.14 The Council was preparing a Local Development Framework prior to the publication of the NPPF, but formally withdrew it on 12 July 2012. It is now preparing and working towards the publication of a new Local Plan. The first stage of consultation on the Local Plan Preferred Options Document and Proposals Map took place in June 2013. The Preferred Options document recognises at paragraph 20.21 that the former North Selby Mine Site contains a significant grid connection and provides opportunities for renewable/low carbon energy development. Reference is also made in the document to the pending planning application at the Application Site, as set out in the Planning and Environmental Management Team consultation response. However, as confirmed by the PEM team, the policies within the Local Plan Preferred Options Document can be afforded little weight in the determination of this planning application.

STATUS OF THE SITE

4.15 The site is a former satellite mine located in the York Green Belt. The site was used for conveying miners and equipment to the coal face, but was not used for the extraction of coal itself. The use of the site for mining purposes has been

abandoned following the removal of the shafts and cages in 2000. The site has continued to be used by Network Rail for training of its staff until March 2013 when the company permanently vacated the site.

4.16 The Secretary of State in granting planning consent for the use of the land in connection with the mine imposed a restoration condition. The aim of the condition was for the site to be restored to a condition capable of agricultural production following the removal of the plant, buildings and machinery within 12 months from the date of abandonment. Objectors to the proposals highlight this requirement of the original consent and request that the Local Planning Authority ensure compliance with the condition.

4.17 The NPPF defines previously developed land as 'land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure'. One exception to this is land that has been developed for minerals extraction where provision for restoration has been made through development control procedures.

4.18 However, legal advice from an independent planning barrister given in 2011 with regards to the validity and enforceability of the condition, confirmed that the condition was fundamentally flawed and that it was not capable of being enforced in full. This is because the wording only requires a scheme of restoration to be submitted, but specifies no time frame within which the implementation of the approved scheme is required to take place, hence rendering full restoration

unenforceable. As such, the extent of the Local Planning Authority's action has been to serve an enforcement notice seeking the removal of certain plant, buildings and machinery from the site. It has not been able to require full restoration of the site to a condition capable of agricultural production. The enforcement notice remains in place at least until the determination of this planning application. If the application is approved the notice may be withdrawn ; however if the application is not approved the notice would remain in place but the outstanding appeal lodged against it would be heard. If the notice were to be upheld removal of the remaining plant, buildings and machinery would be expected; however if the appeal is successful the remaining buildings could be retained in perpetuity.

4.19 The fact that the site is not able to be restored through development control procedures means that the site would not be exempt from the definition of 'previously developed land' and, therefore, constitutes previously developed land.

PRINCIPLE OF DEVELOPMENT

4.20 The NPPF establishes a presumption in favour of sustainable development in the determination of planning applications. It advises that planning permission should be granted 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 specific policies in the Framework indicate development should be restricted (para.14).

4.21 Following the partial revocation of the RSS and the withdrawal of the LDF prior to adoption, the only relevant development plan policies are those relating to Green Belt in the RSS. The consideration of the Green Belt position is considered below. The RSS policies seek to establish a Green Belt around the City of York. In accordance with paragraph 14 of the NPPF, as the development plan is absent in all other regards, the proposals should be assessed against the policies in the Framework, and be approved unless there are adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme.

IMPACT ON GREEN BELT

4.22 The site lies within the York Green Belt. The Government attaches great importance to Green Belts and specifies in the NPPF what new buildings are appropriate to construct within them. It states that the construction of new buildings in the Green Belt is considered to be inappropriate development unless it falls into one of the prescribed exceptions. One such exclusion is buildings for agricultural uses (para.89). Section 336 of the Town and Country Planning Act 1990 includes 'horticulture, fruit growing and seed growing' within the definition of agriculture. Therefore, the use of the land for horticultural purposes is an appropriate use of this site and the construction of the proposed glasshouse in connection with this use constitutes appropriate development in the Green Belt.

4.23 A further exception to new buildings being considered as inappropriate development is the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. This includes to check unrestricted sprawl, to prevent coalescence, to safeguard against encroachment, to preserve the setting and special character of historic towns and to assist in urban regeneration by encouraging the recycling of derelict and other urban land. As stated above, it is established that the site constitutes previously developed land. Therefore, the impact of the proposals on the openness of the Green Belt in relation to the existing site needs to be considered.

4.24 In terms of the impact on openness, the application with proposed new buildings should be judged in the context of no buildings currently on site, given the enforcement proceedings requiring clearance of certain buildings and structures on the site. Other development would still remain including the access roads, large areas of hardstanding, waste water treatment plant, bunds and lighting columns. The impact of the development of the site on the openness of the green belt has been reconsidered on this basis since the quashing of the last Committee decision.

4.25 The proposed buildings would range from 9.5m to 12m for the AD/CHP facility, with 18m high maximum AD storage tanks and two stacks 15m and 22.5m high. The gross site area would be 6,195 sq m. This proposed extent of permanent development, comprising buildings of solid massing will inevitably have a greater impact on openness; therefore it will be harmful to the openness of the Green Belt.

4.26 In light of the above, the exception to inappropriate development due to the previously developed land status as referred to in 4.23 would not apply. The development would therefore be defined as inappropriate. Inappropriate development is by definition harmful to the Green Belt and the harm to the Green Belt has substantial weight in the determination of this application. Very special circumstances would need to be demonstrated to outweigh the presumption against inappropriate development, to justify the development. Very special circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Very Special circumstances are considered at paragraph 4.80 below.

VISUAL IMPACT OF DEVELOPMENT AND DESIGN CONSIDERATIONS

4.27 One of the core planning principles in the NPPF is securing high quality design. Paragraph 58 states that development should function well and add to the overall quality of the area.

4.28 The glasshouse structure covers a gross area of 51,210 sq m, all within the boundaries of the previously developed site of the former mine. The existing screening around the site and the low level of the proposed glasshouse structures minimises the visual impact of the glasshouses. Therefore whilst extensive in floor area, this element of the development is considered to have an acceptable visual impact in the locality.

4.29 The AD facility would also be within the confines of the previously developed land. As noted by the landscape architect, the proposed AD facility is relatively compact in nature, covering a total gross area of and the chimney stacks would be relatively slim. The surrounding woods, in particular Spring Wood, and the natural and proposed topography and planting provide sufficient visual mitigation of the development in the context of the larger landscape.

4.30 The site is largely hidden in the wider landscape, though the now demolished and remaining buildings and associated structures were or are visible from publicly accessible places. Spring Wood lies to the west of the site and screens the site from the approach road and from the west. Boundary planting and bunding along the northern boundary partly screens the site from the public right of way that runs along this boundary. The mound to the south of the mine buildings provides

screening from the south. However, the buildings could be seen from the public right of way (PROW) that runs along the western and northern site boundaries. Longer distance views could be gained of some of the buildings across the fields where gaps exist in the field boundaries from Wheldrake Lane, which is to the south of the site and elevated in relation to it.

4.31 The proposed buildings and structures are functional in their design and materials. They would cover a larger area of land than the colliery buildings did, though these are spread out across the extensive hard surfaced apron of the former colliery. The proposed buildings would range from 9.5m to 12m for the AD/CHP facility, with 18m high maximum AD storage tanks and two stacks 15m and 22.5m high. The glasshouse would be approximately 7m high to ridge though the land upon which the glasshouse is to be sited is proposed to be raised by 350mm.

4.32 The proposed structures would be visible from the aforementioned publicly accessible places. The AD facility would be apparent when passing the site along the PROW, being closer to the site boundary than the previous buildings. The glasshouse, given its size, would be visible in part in longer distance views from Wheldrake Lane, particularly when lit.

4.33 The applicant proposes various mitigation measures to minimise the impact of the buildings in the landscape. The height and length of the mounding that runs adjacent to the western and northern site boundaries are intended to be increased and extended respectively. This would shield views of the glasshouse from the PROW or from the adjacent residential properties. The glasshouse, and potentially

the tops of the taller AD/CHP structures and stacks, would remain visible from Wheldrake Lane, though this would be across fields at a distance of approximately 950m. Some additional planting is proposed on the mound to the south of the site to obscure views. Furthermore, the glasshouse operator is proposing blinds to the roof and sides to minimise light spillage. The AD/CHP buildings would have green coloured roofing materials and the tanks would be colour finished green, which would help to improve their industrial appearance and soften their visual impact when viewed from further away. The stacks are relatively slender (the 22.5m high stack is approximately 1.4m reducing to 400mm for the upper 3m) and are proposed to be finished in a silver/light grey colour that would help to reduce their prominence when viewed from a distance against the sky.

4.34 The design of the proposal is appropriate for its function without creating unnecessary height and massing. As considered above the additional bunding and landscaping is proposed to minimise their visual impact in this location.

ECONOMIC IMPACT

4.35 Section 1 of the NPPF establishes the Government's commitment to securing and supporting economic growth and job creation.

4.36 The scheme would create 6 FTE posts in connection with the operation of the AD facility and 50 FTE in the horticultural operation, with a further 50 seasonal workers (Nov-Jan). The applicant estimates that the construction of the site would generate up to 256 jobs. The skills required for the jobs created are considered to be available within the local labour market of the York area.

4.37 Objections from the parish councils and local residents highlight the limited number of jobs created by the development and the likelihood of migrant workers.

4.38 The Council's Economic Development Unit (EDU) has been consulted on the proposal and the information provided by the applicant about job creation. EDU recommends strong support for the application on the basis that it has the potential to create jobs and economic growth in the bio-science and agri-food sectors of the economy. These sectors have been identified as key growth areas for the city and North Yorkshire sub-region. The Unit further highlights the potential for future skills training that would benefit the City.

4.39 The support of EDU in the potential of the development to securing job creation in key growth areas is noted. Whilst desirable, it is considered that a condition in respect of future skills training would not meet the necessity test of Circular 11/95: Use of conditions in planning permission.

HIGHWAY IMPACT AND TRANSPORT CONSIDERATIONS

4.40 Section 4 of the NPPF highlights the importance of transport policies in delivering sustainable development. Paragraph 32 requires all developments to be supported by a Transport Assessment where they generate significant amounts of traffic movements, to demonstrate that the opportunities for sustainable transport modes has, where possible, been utilised, that there is safe and suitable access and that improvements can limit the significant impacts of the development. PPS10 advises that the suitability of the road network and the extent to which access would require reliance on local roads is a material consideration for waste schemes.

4.41 The site is remote from the main built-up areas of York and Selby and has poor public transport links. It is located 1.7km from the A19 and reached by an access road that served the mine. Its remote location means that staff and materials associated with the site would largely be cars and lorries that would utilise the existing highway network. From the site, vehicles would use the access road to

reach the A19, then drive along the A19 northbound to the A64 or southbound to the A63 Selby by-pass.

4.42 Concern has been expressed by local residents and those representing them, about the potential impacts that the traffic generated by the proposal would have on highway safety and congestion on the A19 and the surrounding road network. The Local Highway Authority has been consulted on the application and raises no objection.

4.43 The application is accompanied by a Transport Assessment and a Travel Plan, which have been considered by the Local Highway Authority. Prior to Committee in April the applicant sent further information regarding the operation of the mine at the site, indicating there were around 60 two way Heavy Goods Vehicles (HGV) movements a day, of which 24 were articulated HGVs. The Transport Assessment for the development has been based on a worst case scenario with the number of HGV vehicle movements being estimated as 88 over a 12 hour period. The access road and its junction with the A19 meet highway standards, with visibility for vehicles leaving the site being in accordance with national standards. The Local Highway Authority considers that the number of additional vehicles generated by the scheme in comparison to the load on the A19 would be minimal. Accident records on the A19 do not highlight any clusters or pattern that could be exacerbated by the anticipated increase in traffic movements as a result of the development.

4.44 Waste and raw materials would be brought to the site by HGV and goods and by-products would be transported by the same means. Employees are likely to travel to the site by private car given the hours of work and the specialism of staff. However, where practicable, workers for the horticultural business would be able to

travel to the site by a private bus service provided by the employer as outlined in the Travel Plan

4.45 Therefore, whilst the concerns of residents are noted, it is concluded that in light of the analysis and subsequent lack of objection from the Local Highway Authority, there are no sustainable highway grounds for refusal of the application. No highway improvements works are requested by the Local Highway Authority, but conditions relating to parking provision and the implementation of the Travel Plan are sought.

CRIME CONSIDERATIONS

4.46 Section 8 of the NPPF states that planning decisions should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

4.47 In response to concerns from North Yorkshire Police, the applicant has clarified the position with regards to the security of the site. During construction, a secure compound would be provided for overnight storage of office material and equipment. The AD facility is intended to be secured through the use of appropriate security fencing as well as CCTV, whereas the horticultural glasshouse facility would be monitored by a security company and infra-red CCTV would be installed. Security gates are proposed at the entrance to each facility linked into the perimeter fencing. As well as CCTV, the buildings would be alarmed. The security of the tanks would be in line with the requirements of the Environmental Permit and would be monitored and maintained in accordance with it. Service yards and car parking areas would be lit in accordance with guidelines for lighting external areas.

4.48 As a result of the response the Police consider that the application clearly demonstrates that crime prevention measures have been considered and, therefore, raises no further issues. It is considered that the requirement of the NPPF with regards creating safe environments has been satisfied.

CLIMATE CHANGE AND FLOODING CONSIDERATIONS

4.49 A number of third party comments are made in respect of the need for the renewable energy facility at this location. Section 10 of the NPPF confirms that local planning authorities should not require applicants for energy development to

demonstrate overall need for renewable energy as they provide a valuable contribution to cutting greenhouse gas emissions and should approve such applications if the impacts are or can be made acceptable (para.98).

4.50 The AD facility is proposed at this location in order that the applicant can make use of the existing grid connection. The cost of providing a new grid connection had not existed is estimated to be in the region of £1,660,000. It is the applicant's intention to combust the biogas produced by the anaerobic digestion in order to generate electricity and export any surplus to the national grid. The heat generated would also be utilised by the facility and pumped to the glasshouses. It is estimated that in the region of 18,000MWh of electricity per annum would be generated from a 60,000 tonnes facility (2.75MW estimated maximum electrical output at a single point in time), of which 4,000MWh would be used by the facility itself and 5,000MWh by the glasshouse, leaving 9,000 MWh of electricity per annum available to be exported to the grid. To put this in context, the typical medium consumption figure for electricity per household is 3.3MWh per annum (taken from Ofgem

documentation). The amount of heat generated given the size of the facility would also be 18,000MWh per annum, of which 6,000MWh would be used by the AD facility to heat the tanks and 8,000MWh transported to the heat the adjacent glasshouse (estimated to be approximately 50% of the total annual heat requirement of the glasshouse).

4.51 The potential for renewable energy generation from the AD facility is a clear benefit of the scheme, which would help to meet the Council's renewable energy targets of 38.7MW electricity and 15.1MW heat (Strategic Renewable Energy Viability Study for York produced in December 2010 by consultants AEA).

4.52 A further benefit of the scheme would be the diversion of organic waste from landfill and the utilisation of waste as a viable resource in terms of its potential for renewable energy generation. PPS10 is supportive of such facilities on unallocated sites where they help to implement the planning for waste strategy and providing the scheme is acceptable in terms of its impact on environment factors and landscape.

4.53 An Alternative Sites Assessment has been submitted to support the application. This identifies the North Selby Site as joint third in the consideration of suitable sites for the proposed AD facility. The site that was ranked first was Kellingley Colliery, which is an operational colliery close to the M62. The site was discounted due to the applicant's intention to develop a larger scale thermal treatment facility on the unused part of the site. As a result, there is considered to be insufficient remaining land available that is free from existing site constraints to locate the AD facility at the site. Of the three sites ranked second, one is within the functional flood plain, the second has planning consent for employment development and is largely occupied by such uses and the third is the Vanguard/Monks Cross South site that has planning consent for a stadium and retail uses. The applicant considers that no viable and alternative available sites were

identified through the ASA that would have significantly and demonstrably less overall environmental impact than the North Selby Mine site. Therefore, there is no indication that an identified alternative site should be developed instead of the application site.

4.54 The applicant has submitted further information with regards the Kellingley Colliery site in the form of a more detailed site plan at the request of Officers to confirm the statement that there is no available space on site. Confirmation has also been received about the progress of the planning application for the proposed energy centre at the site with the relevant waste planning authority, statutory consultees and public consultation. The application was submitted on May 2013 and is currently under consideration. In light of this, and the information provided on the other identified sites, the applicant's assessment and conclusions are considered to be acceptable.

4.55 In summary, the proposal would provide clear benefits in terms of renewable energy production and reduction in waste to landfill. The applicant has provided evidence to support their choice of site.

Flood Risk

4.56 Section 10 of the NPPF advises LPA to ensure that a development does not lead to increased flood risk elsewhere and for sites at risk of flooding only accept development where the development is informed by a site-specific flood risk assessment (para.103).

4.57 The site is located predominantly within Flood Zone 1 (low risk), though the western tip adjacent to Bridge Dyke, including sections of the existing internal access road, falls in Flood Zones 2 (medium risk) and 3 (high risk). Bridge Dyke and Halfpenny Dyke are ordinary watercourses maintained by the Internal Drainage Board.

4.58 The layout of the site means that the new buildings proposed would lie within Flood Zone 1. The applicant intends to raise a section of the internal access road, where it crosses Bridge Dyke, in order to reduce its potential for flooding. Flood compensatory measures are proposed. A new site drainage system is proposed involving on-site attenuation ponds to hold water in order to prevent flooding outside the site and improve the quality of the run-off.

4.59 The EA raises no objection to the proposed scheme, subject to a condition regarding the mitigation measures outlined in the ES. The Council's Flood Risk Management Team raises no objections with regards surface water providing conditions are attached to cover foul and surface water drainage works. The IDB requests a condition relating to surface water drainage works.

4.60 As such, the proposal is unlikely to result in flood risk being increased elsewhere, subject to further details being submitted for approval.

IMPACT ON NATURAL ENVIRONMENT

Nature Conservation

4.61 Policy 11 of the NPPF states that the planning system should protect valued landscapes (e.g. Area of Outstanding Natural Beauty) and minimise impacts on biodiversity. Paragraph 111 states that planning decisions should encourage the effective use of land by re-using land that has been previously developed, provided that it is not of high environmental value.

4.62 The site is not designated as a valued landscape. It lies within the potential zone of influence of the Lower Derwent Valley National Nature Reserve, which is a European designated Special Protection Area and Ramsar site as well as the River Special Area of Conservation and the Skipwith Common Special Area of Conservation. In addition, the part of the site that includes the mounding to the south of the mine buildings has been designated a Site of Importance to Nature Conservation (SINC). The site supports a number of habitats for species including Great Crested Newts, bats, barn owls and Little Ringed Plover.

4.63 The EIA considered the impact that the proposed development would have on the designated nature conservation sites as well as on the wildlife that inhabit the site. Natural England, the Environment Agency and the Council's Ecologist have been consulted on the application and other wildlife bodies have commented on the application.

4.64 Natural England concludes that the proposal is unlikely to adversely affect the integrity of the Lower Derwent Valley NNR or the aforementioned European designated sites. It confirms that the site is not within close proximity to any nationally designated site for nature conservation and is satisfied with the proposed mitigation for the Great Crested Newt habitat, which is likely to be affected through loss of habitat and during construction. As such, the body does not object, subject to conditions being imposed. As mentioned at 3.60 a license is required from Natural England in order to carry out any works affecting great crested newts. Officers are of the view that it is likely such a license would be granted.

4.65 The Environment Agency and the Council's Ecologist raise no objection on the grounds of biodiversity due to the negligible impact on the local ecology and the potential for ecological enhancement. The EA request a condition to address the potential for harm to the newt habitat during the construction phase in terms of a construction management statement and the Council's Ecologist seeks a condition to cover future management of the SINC site.

4.66 In light of the comments from Natural England, the Environment Agency and the Council's Ecologist, it is considered that the proposal would encourage the effective use of land through the re-use of land that has been previously developed whilst seeking to minimise the impacts on biodiversity and enhancing the habitat the site provides.

IMPACTS ON HUMAN HEALTH AND RESIDENTIAL AMENITY

4.67 One of the core planning principles of the NPPF is securing a good standard of amenity for all existing and future occupants. Section 11 of the NPPF gives advice on risks from pollution and land instability. In particular, paragraph 123 guides planning authorities to aim to avoid significant adverse impacts from noise and mitigate to a minimum other adverse impacts from noise on health and quality of life. Areas of tranquillity which have remained relatively undisturbed by noise and as a result are prized for their recreational and amenity value should be protected. Paragraph 124 states that where new development falls within an Air Quality Management Area, planning decisions should be consistent with the local air quality action plan. Paragraph 125 encourages good design that limits the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

4.68 Concern has been raised by local residents about the impact of the development on human health of those living within the area. This is in terms of the noise, light, water and air pollution, including release of toxic gases, from the operation of the AD plant as well as noise, vibration and emissions from traffic associated with the development.

4.69 The Environment Agency (EA) and Council's Environmental Protection Unit (EPU) have been consulted and confirm that the AD facility will require a bespoke Environmental Permit under the Environmental Permitting Regulations 2010. This is issued and enforced by the EA and covers emissions to land, water and air from the facility itself as well as odour, noise, vibration and heat. Paragraph 122 of the NPPF guides local planning authorities to focus the acceptable use of the land for the development and not the control of processes or missions where they are subject to approval under pollution control regimes. The assumption in planning is that pollution control regimes will operate effectively to adequately control any environmental impacts and will be properly applied and enforced by the pollution control authority.

4.70 During construction and demolition phases the main effect would be dust emissions and the potential to cause dust annoyance, risk to human health and harm to ecological receptors. Providing suitable mitigation measures are implemented, the dust could be controlled to a suitable level.

4.71 With regards emissions from vehicles, the Council's EPU considers that based on air quality guidance and the increase in flow of vehicles, the impact of traffic emissions once the facility is operational would be negligible. The Council's Low Emissions Strategy is highlighted by the unit and an informative required that encourages the provision of vehicle charging points for electric vehicles.

4.72 The main potential impact on residential amenity is likely to be during the construction phase and from noise disturbance from traffic movements both in service yards and on the access road. It is most likely to affect those properties that immediately surround the site. The Environmental Statement identifies noise disturbance during construction as being significant, but of limited duration. The EPU advises a condition seeking to restrict hours of working during the construction phase. A condition requiring a Construction Management Plan be agreed to control dust during construction and demolition is also requested.

4.73 With regard to noise during the operational stage, the principle noise sources relate to noise from deliveries and traffic, the two service yards and plant and machinery associated with the two facilities. The main properties that would be most affected would be those that immediately surround the site. The layout of the buildings on site was amended prior to submission of the planning application and following a public consultation exercise to reduce the impact of the operation on these surrounding occupants.

4.74 The Council's EPU has undertaken an in-depth assessment of the noise assessment submitted in support of the application and has sought further clarification to assist in this. Whilst noise from traffic on the A19 was considered to be negligible, concern has been expressed about the impact that noise from HGV movements in particular would have on Spring House Farm, which is located on the access road. This is as a result of an increase in the number of maximum noise levels events occurring during the day from up to 88 HGV movements. In addition, there is potential for noise to affect the amenity at the surrounding residential properties for certain periods of the daytime due to an increase in background noise levels.

4.75 However, the increase in noise levels will vary from hour to hour at each of the properties and it is noted that the levels of noise are predicted to fall within the World Health Organisation and BS8233 noise standards. Conditions are recommended by EPU to minimise the loss of amenity due to traffic noise, service yard noise and plant/equipment noise. This includes a condition to control the hours of receipt of delivery and dispatch to 07:00 to 19:00 hours Monday to Friday and 09:00 to 13:00 on Saturdays for the AD facility, and 06:00 to 19:00 hours Monday to Friday and 09:00 to 13:00 on Saturdays for the horticultural facility. There would be no delivery and dispatch on Sundays and Bank Holidays, except in emergency. This would allow a respite to residents within the week as well as on an evening and through the night.

4.76 Whilst the site falls within Environmental Zone 2 (Rural), as specified in the Institute of Lighting Professionals Guidance Notes, the Council's EPU recommends that the lighting levels from the site comply with the requirements specified for an E1 Zone (Natural) past a curfew of 23:00 hours given the low levels of background lighting.

4.77 As the hours of construction will be restricted by condition and will not fall within the time of curfew, it is unlikely that temporary construction lighting would result in light intrusion or loss of amenity. Lighting to the external service and parking areas of the proposed facilities during operation and internally within the glasshouse, were identified in the lighting assessment submitted with the application

as of minor negative significance to nearest residential properties before mitigation. As a result, it is unlikely that the lighting from the proposed development would detract significantly from residential amenity or visual amenity of the landscape from light spillage, subject to appropriate conditions to ensure the mitigation measures are implemented. This includes the use of blinds within the glasshouse in sensitive areas during hours of darkness to mitigate light spillage and sky glow.

4.78 The ES identifies no significant ground contamination issues at the site, though some localised areas of contamination may need to be excavated and removed off site. Whilst elevated levels of ground gas could pose a potential risk to the development, the ES concludes that the likelihood of methane reaching the surface is very low given the depth of the abandoned mine workings and the on-going abstraction of methane at the Stillingfleet former satellite mine site. No significant risks are highlighted from the construction of the glasshouse over the mine shafts. Further investigation works should be undertaken to fully character the site and remedial work should then be undertaken to ensure that the land is suitable for the proposed use.

4.79 In summary, it is considered that the potential effects on human health can largely be mitigated through the imposition of conditions. The identified increase in noise levels and the impact on the amenity of surrounding residents, particularly noise disturbance to Spring House Farm caused by HGV movements on the access road, needs to be balanced against the benefits of the scheme.

WHETHER THERE ARE VERY SPECIAL CIRCUMSTANCES TO OUTWEIGH THE HARM TO THE GREEN BELT

4.80 As set out in the NPPF, very special circumstances for renewable energy projects may include the wider environmental benefits associated with increased production of energy from renewable sources. The applicant has pointed out the weight given to this positive emphasis applied to waste management proposals in appeal cases, and that national policy recognises that some parts of the Green Belt may be less sensitive than others. In such instances very special circumstances may be more easily demonstrated.

4.81 In terms of need, European Union Landfill Directive set increasing targets to reduce biodegradable municipal waste sent to landfill, National, Waste (England and Wales regulations 2011 seek to increase the use of waste as a resource, for example for use as a fuel and place greater emphasis on the prevention and recycling of waste. Waste Strategy for England 2007 required increasing targets of municipal waste recovery, up to 75% by 2020. Paragraph 17 states that recovering energy from waste which cannot sensibly be re-used or recycled is seen as an 'essential component of a well balanced energy policy'. The Anaerobic Digestion (AD) Strategy and Plan June 2011 refers to AD as offering the 'greatest

environmental benefits for treatment of food waste'. The Government Review of Waste Policy in England 2011 reaffirmed the commitment to minimising waste sent to landfill. On a regional and sub regional level the Municipal Waste Strategy for the City of York and North Yorkshire 2006-2026 entitled "Lets Talk Less Rubbish" includes a target to have diverted 75% of waste from landfill by 2013.

4.82 The European Energy Directive 2009 sets targets for the proportion of energy derived from renewable sources, and the Electricity Directive 2009 requires equal consideration of different sized electricity generating schemes to ensure sufficient weight is given in all cases to the need for sustainable electricity regeneration. Nationally the UK Renewable Energy Strategy (2009) sets targets and states "the impending threat of dangerous climate change means we urgently need to reduce our emissions of carbon dioxide and other greenhouse gases. A new focus on renewable energy will play a key role in this." As well as National Policy Statements EN-1 and EN3 pointing out the importance increasing role of energy from waste and biomass, EN3 cites location and site selection factors for biomass facilities including proximity to grid connection combined heat and power opportunities and transport connections. National Planning Policy is as set out above.

4.83 In light of this legislative context and from the evidence supporting relevant policy from European down to local level it is clear that there is a demonstrable need for facilities such as the proposed AD facility to assist in achieving national, regional and local aspirations regarding waste to landfill reduction, and renewable energy generation to combat climate change.

4.84 The availability or otherwise of other sites in locations where they can readily provide the surplus energy produced into the grid should be considered. The alternative site assessment work carried out indicates that such sites are not readily available or capable of accommodating the facility. The cost of providing a new grid connection had one not existed is estimated to be in the region of £1,660,000. Further, despite the clearance of buildings as required by the enforcement notice the access roads, large areas of hardstanding, waste water treatment plant, bunds and lighting columns remain at this previously developed site, and therefore contribute to the urbanised character of the site. The infrastructure and the

proximity to the grid for connection contributing approximately 2.75MW to it therefore also count in favour of the renewable energy facility in this locality. Other factors are existing transport links to the national road network, co-location with the potential heat user to exploit CHP potential and the rural location offering a potential local market for the use of the biofertiliser.

4.85 Benefits to climate change are estimates that there would be a 20,570 tonne saving of carbon dioxide per year through the diversion of waste from landfill to the AD facility.

4.86 Whilst the applicant maintains the view that the site does not have a greater impact on openness of the green belt and is therefore appropriate development, the submitted supporting statement sets out those factors that it considers would amount to very special circumstances if the development were considered to constitute inappropriate development. They include

'The compelling and urgent need for the proposed AD facility in waste, energy and climate change terms;

- *The lack of other a suitable and available alternative site within York or Selby for the AD Facility;*
- *The implications of not granting planning permission for the proposed AD facility both in terms of the continued landfilling of waste and the lost opportunity to sustainably re-use the site;*
- *The AD Facility has the potential to export heat and electricity; and*
- *The AD Facility would bring significant climate change benefits and would provide up to 60,000tpa of waste recovery capacity within an area currently without such capacity, enabling it to meet more sustainably its waste management capacity needs, therefore reducing its dependence on continued landfill*
- *Locational Advantages and Nature of the Proposed Application Site*

4.87 Officers do not consider that any single factor can be described as being so very special a circumstance as to clearly outweigh the harm to the green belt and any other harm as a result of the proposed development. However, taking into account the factors as described above, it is considered that cumulatively these do amount to very special circumstances to outweigh the presumption against inappropriate development due to the greater impact on openness of the Green Belt.

5.0 CONCLUSION

5.1 The application seeks full planning approval for the use of the former North Selby Mine site for the co-location of an anaerobic digestion (AD) facility with combined heat and power plant and a horticultural glasshouse facility. The AD element of the proposal constitutes EIA development and, as such, an

Environmental Statement has been submitted and subsequently added to support the application and to allow full consideration of the likely impacts the facility would have on the environment.

5.2 The Coalition Government's National Planning Policy Framework establishes a presumption in favour of sustainable development, of which it considers there to be three dimensions - an economic role, a social role and an environmental role. It advises that in situations where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework (Para. 14).

5.3 Whilst a previously developed site, the development would result in a greater impact on the openness of the green belt and so in officers' view the AD facility element must be considered to constitute inappropriate development. However, officers are satisfied that there are factors as set out in the report and collated at 4.80 to 4.86 which, when taken together, amount to very special circumstances which clearly outweigh the harm to the green belt due to inappropriateness and any other harm.

5.4 The impact on the character and appearance of the landscape would be limited due to the extent of the existing landscaping and mounding (to be supplemented within the proposals), the compact nature of the development in proportion to the site as a whole and the limited public views.

5.5 In terms of the other adverse impacts of the scheme, these have been identified as harm to living conditions from noise disturbance during the operation phase from HGV traffic along the access road and the increase in maximum noise level events. However these would remain within World Health Organisation acceptable levels and would not be so significant to have a significant adverse impact upon residential amenity.

5.6 In terms of the benefits of the scheme, these have been identified as the economic benefits from job creation and inward investment, the potential renewable energy generation from utilising the biogas produced from the AD and exporting it to the national grid via the existing grid connection and the diversion of waste from landfill. The scheme would create jobs within the key growth sectors of bio-science and agri-foods. The applicant has proposed an AD facility at the site in order to utilise the existing grid connection, which would allow export of electricity to the national grid. The scheme would reduce the amount of organic waste being sent to landfill. The site has the space available to accommodate the horticultural glasshouse facility, which would be suitably located in the rural area and would be able to use some of the electricity and heat generated by the AD facility. There are opportunities for wildlife habitat enhancement as well as landscape improvements.

5.7 Consideration of the application has established that the proposal would pose no harm to other acknowledged interests, subject to conditions. The AD facility would require an Environmental Permit under the Environmental Permitting procedure licensed and enforced by the Environment Agency as the relevant pollution authority.

5.8 The development would fulfil the roles of sustainable development outlined in the NPPF, in particular the economic role through the provision of jobs and inward investment and the environmental role through the enhancement of biodiversity, the minimisation of waste and the provision of renewable energy. These in turn would contribute to the social role, through the benefits to the wider community with regards climate change. Whilst the living conditions of the residents of Spring House Farm would be adversely affected by the increase in maximum noise level events, conditions could be imposed that would restrict the hours of delivery and dispatch to daytime hours and allow a respite on weekends and bank holidays. As such, it is considered that the identified harm to residential amenity would not significantly and demonstrably outweigh the benefits of the scheme.

5.9 Overall, it is concluded that the identified adverse impacts as described above do not significantly and demonstrably outweigh the benefits also as described. Therefore, the application is on balance recommended for approval, subject to the prior referral to the Secretary of State due to the identification of the AD facility as inappropriate development in the green belt.

6.0 RECOMMENDATION: Approve subject to referral to Secretary of State

1 TIME2 Development start within three years -

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

Drawing no. PP-001 Rev. P 'Application Site Local Plan' dated September 2013 and received 6 November 2012;

Drawing no. PP-008 Rev. P1 'Site Layout Plan' dated October 2012 and received 6 April 2013;

Drawing no. PP-009 Rev. P1 'Proposed Roof Plan' dated April 2013

Drawing no. PP-010 Rev. P 'Proposed Glasshouse Floor Plan' dated October 2012 and received 6 November 2012;

Drawing no. PP-011 Rev. P 'Proposed Glasshouse Elevations' dated October 2012 and received 6 November 2012;

Drawing no. PP-012 Rev. P 'Proposed AD Buildings Floor Plan' dated October 2012 and received 6 November 2012;

Drawing no. PP-013 Rev. P 'Proposed AD Buildings Elevations' dated October 2012 and received 6 November 2012;

Drawing no. PP-014 Rev. P 'Proposed AD Buildings Elevations' dated October 2012 and received 6 November 2012;

Drawing no. PP-015 Rev. P 'Proposed AD Buildings Elevations - Overall' dated October 2012 and received 6 November 2012;

Drawing no. PP-016 Rev. P 'Proposed Site Sections' dated October 2012 and received 6 November 2012;

Drawing no. L9 Rev. G 'Landscape Strategy Plan' dated 8.4.13 and received 15 April 2013;

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

3 Prior to the commencement of development, with the exception of demolition and site clearance, a phasing scheme for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the timings of earthworks and planting. The implementation of the development shall take place in accordance with the approved phasing scheme.

Reason: In the interests of the visual and residential amenity.

4 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk & Drainage Assessment (FRA) dated October 2012 by WYG and the following mitigation measures detailed within the FRA:

- Limiting the surface water run-off to a maximum of 540 litres/second, and provision of associated attenuation storage as detailed on pages 23 and 24 of the FRA.

- Provision of compensatory flood storage as per page 14 of the FRA. The compensatory storage should be provided before the raising of the level of the road is commenced. The compensatory storage should also be agreed with the Agency before construction commences.

- Finished floor levels are set no lower than 8.75m above Ordnance Datum (AOD) for the AD Building and 8.5mAOD for the adjacent tank building and CHP building .

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site, 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.

5 Prior to the commencement of development on site, with the exception of demolition and site clearance, details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details. Details to include:-

1. Peak surface water run-off from the proposed development must be restricted to a maximum 540.0 lit/sec.
2. Site specific details of the flow control devise manhole limiting the surface water to the 540.0 lit/sec.
3. Storage volume calculations, using computer modelling must be provided, and must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. The full range of modelling should be provided.
4. Site specific details of the storage facility/ponds to accommodate the 1:30 year storm and the volume above the 1:30 year storm and up to the 1:100 year storm.
5. Proposed ground and finished floor levels to Ordnance Datum shall be shown on plans. As the development is to be raised above the level of the adjacent land, details should be provided of the cut off drain to prevent runoff from the site affecting nearby properties.
6. Details to prove suitability of existing outfall and connection to Internal Drainage Board drainage.
7. Details should be provided of the future management / maintenance of the proposed drainage scheme.
8. Proof of consent from the Environment Agency & Internal Drainage Board to discharge treated foul water to the water should be provided.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site and that provision has been made to maintain

6 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

All machinery and vehicles employed on the site shall be fitted with effective silencers of a type appropriate to their specification and at all times the noise emitted by vehicles, plant, machinery or otherwise arising from on-site activities, shall be minimised in accordance with the guidance provided in British Standard 5228:2009) Code of Practice; 'Noise Control on Construction and Open Sites', and Minerals Planning Guidance Note 11 (1993) 'The Control of Noise at Surface Mineral Workings'.

At all times during the carrying out of operations authorised or required under this permission, best practicable means shall be employed to minimise dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultation with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.

All piling operations shall be carried out using the method likely to produce the least vibration and disturbance. Full details of the dates, times and duration of operations shall be submitted to and approved in writing by the Local Planning Authority before any piling operations are begun and piling operations shall take place in accordance with the approved details

Except in case of emergency, no operations shall take place on site other than between the hours of 08:00-18:00 Monday to Friday, 09:00-13:00 on Saturdays. There shall be no working on Sundays or Public Holidays.

At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

During the construction process heavy goods vehicles shall only enter or leave the site between the hours of 08:00-18:00 on weekdays and 09:00-13:00 Saturdays and no such movements shall take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).

All loaded lorries leaving the site shall be securely and effectively sheeted.

Broadband noise reversing alarms (white noise alarms) shall be used on all vehicles that require audible alarms.

Reason: To minimise the creation and impact of noise, vibration and dust resulting from the site preparation, demolition, groundwork and construction phases of the development and to protect the amenity of local residents.

7 Receipt of waste and dispatch of processed waste associated with the anaerobic digester shall be restricted to the hours of 07:00 to 19:00 hours Monday to Friday, 09:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Deliveries and dispatches associated with the horticultural glass house shall be restricted to the hours of 06:00 to 19:00 hours Monday to Friday, 09:00 to 13:00 on Saturdays and at not time on Sundays or Bank Holidays

No deliveries and dispatches shall take place outside these hours save in cases of emergency when life, limb or property are in danger, or as may otherwise be agreed with the Local Planning Authority and which shall be notified as soon as practicable after the occurrence of any such operations or working.

Broadband noise reversing alarms (white noise alarms) shall be used on all vehicles that require audible alarms.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 25dB(A) at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 1997, this being the design criteria adopted by EPU, including any acoustic correction for noises which contain a distinguishable, discrete, continuous note (whine, hiss, screech, hum, etc.); noise which contain distinct impulses (bangs, clicks, clatters, or thumps); or noise which is irregular enough to attract attention.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

8 Prior to the commencement of development on site, with the exception of demolition and site clearance, a full Lighting Impact Assessment undertaken by an independent assessor shall be submitted to and approved in writing by the Local Planning Authority. The report shall detail predicted light levels at neighbouring residential properties contain the following as a minimum:

- Description of the proposed lighting: number of lighting columns and their height, and proposed lighting units.

- Plan showing vertical illuminance levels (Ev), showing all buildings within 100 metres of the edge of the site boundary

- Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone E1 contained within Table 1 of the Institute of Light Professionals Guidance Notes for the Reduction of Obtrusive Lighting
- Light management plans
- Use of internal blinds to roof and sides of the glass house the glasshouses to prevent light spill to be used from dusk to dawn.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

9 Development other than demolition and that required to be carried out as part of an approved scheme of remediation must not commence until parts a to c of this condition have been complied with:

a. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed prior to any ground/floor slab excavation in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

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

b. Submission of Remediation Scheme

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

c. Implementation of Approved Remediation Scheme The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

10 Reporting of Unexpected Contamination In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the previous condition, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the previous condition.

Reason: To ensure that risks from land contamination to the future users of the land

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

11 Where identified as appropriate and necessary a monitoring and maintenance scheme (to include monitoring of the long-term effectiveness of the proposed remediation) and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

12 In line with the recommendations of the air quality assessment submitted in support of the application, a minimum stack height for the proposed Combined Heat and Power plant of 22.5m is proposed, to ensure adequate dispersion of pollutants.

Reason: To ensure no significant detrimental impact on local air quality and to protect the health of local residents.

13 Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The anaerobic digestion facility and horticultural glasshouse operation shall not come into use until the cycle parking areas and means of enclosure that serve them have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

14 The anaerobic digestion facility and horticultural glasshouse operation shall not come into use until the areas shown on the approved plans for parking and manoeuvring of vehicles that serve them have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

15 The site shall not be occupied until the Travel Plan Statement submitted to support the application has been implemented. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan Statement.

Reason: To ensure the development complies with national planning and transportation advice and guidance which seeks to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport, together with parking for these users.

16 Prior to the commencement of any works on site, a construction method statement detailing how the existing ecology of the site, particularly the existing ponds will be protected from construction impacts, must be submitted to, and approved in writing by the local planning authority. The construction should then proceed in accordance with the approved statement.

Reason: To protect the existing ecological value of the site and ensure risks to protected species are minimised through the construction.

17 Prior to the commencement of development, with the exception of demolition and site clearance, details of a management plan for the long term protection and enhancement of the Site of Importance to Nature Conservation (SINC) shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the means of enclosure between the developed area and the SINC and of a grazing regime.

Reason: In the interests of protecting and enhancing the natural environment.

INFORMATIVE: The method of long term protection would be primarily through controlled grazing using hardy breeds that would open up the sward and control continued scrub invasion.

18 Prior to the commencement of each phase of the development on site, with the exception of demolition and site clearance, details of crime prevention measures shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the method of securing the site with fencing and the on-going security provision for the anaerobic digestion facility and horticultural glasshouse operation. The scheme shall be implemented in accordance with the approved details and they shall be maintained thereafter.

Reason: In the interests of crime prevention and to ensure that the development contributes to a safe environment.

19 Prior to the commencement of development, with the exception of demolition and site clearance, a scheme for works to the surface of the access road shall be submitted to and approved in writing by the Local Planning Authority. The scheme

shall include the removal of the traffic table outside Spring House Farm and the resurfacing of the roadway for a stretch of at least 200 metres outside the property along with phasing for the works. The development shall be carried out in accordance with the approved details and phasing plan.

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:

- Pre-application discussion with applicants;
- Screening and scoping opinion for Environmental Impact Assessment given;
- Revisions sought to scheme with regards landscape mitigation;
- Imposition of conditions to address parking and travel to the site, nature conservation mitigation and enhancement, flood risk and drainage, noise, air quality, lighting and contaminated land and security.

2. INFORMATIVE:

Please note that a bespoke environmental permit is required with regards the anaerobic digestion and combined heat and power facility. This is issued by the Environment Agency under the Environmental Permitting Regulations. You are advised to apply for this permit without delay.

3 INFORMATIVE

In order to facilitate the uptake and recharging of electric vehicles / bikes / scooters, a standard domestic 13A electrical socket shall be fitted to an internal or external wall. This should be capable of charging at a minimum of 3KWh for up to 8 hours without overheating the cabling or socket. Ideally, a 13/32Amp socket should be supplied which can offer up to 7KWh continuous charging with a control and protection function on a specific circuit (to avoid overload through use of other appliances on the circuit). Where mounted on an external wall, a suitable weatherproof enclosure for the socket will be required.

Contact details:

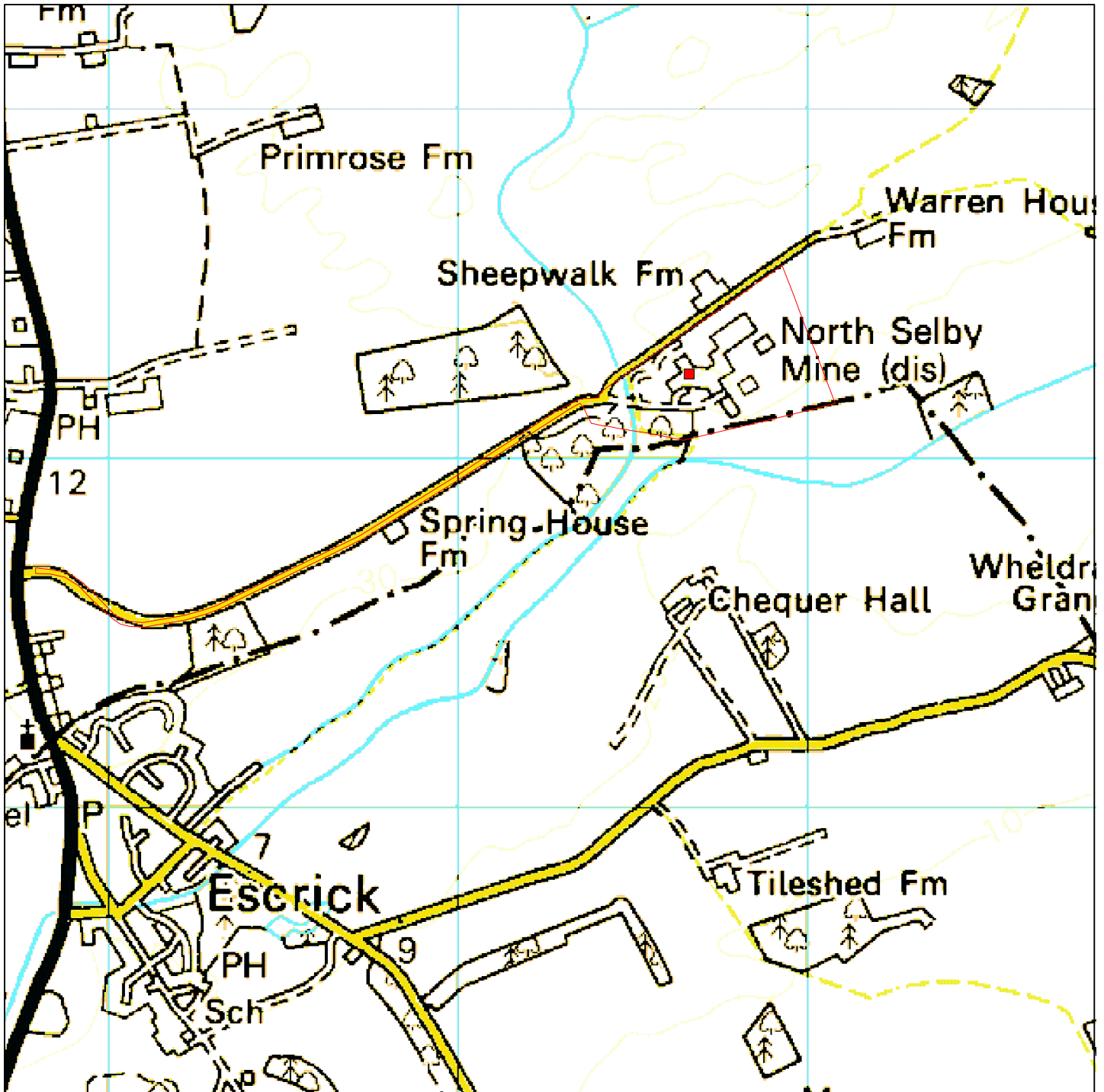
Author: Jonathan Carr Head of Development Services and Regeneration
Tel No: 01904 551553

12/03385/FULM

North Selby Mine, New Road, Deighton



GIS by ESRI (UK)



Scale : 1:16500

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	
Date	15 April 2013
SLA Number	Not Set

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Committee Update – 13/03522/FULM – Hallfield RoadEnvironment Agency

- Received written confirmation that EA have no objection to the scheme

Ecology

- Scoping report is acceptable and no further survey work is required
- Request following condition:

No development shall take place until full details of the measures for bat mitigation and conservation have been submitted to and approved by the Council.

The measures should include:

- A plan of how demolition work is to be carried out to accommodate the possibility of bats being present.*
- Details of what provision is to be made within the new buildings to replace the features lost through the demolition of the original structure. Features suitable for incorporation for bats include the use of special tiles, bricks, soffit boards, bat boxes and bat lofts and should at least replace or substitute for what is existing.*

The works shall be implemented in accordance with the approved details and timing unless otherwise approved in writing by the Council.

Reason: To take account of and to enhance the habitat for a protected species. It should be noted that under NPPF the replacement/mitigation proposed should provide a net gain in wildlife value. To ensure the development is in accordance with the recommendations of the Scoping Survey by Brooks Ecological submitted 09 January 2014.

Informative: If bats are discovered during the course of the work, then work should cease and Natural England consulted before continuing.

Archeology

- Request condition ARCH2 (archaeological watching brief)

Page 4: Alternative sites. The submitted alternative sites assessment looks at site irrespective of location within or outside the green belt. There were found no other sites available other than the application site.

Page 4: Lighting Assessment - Including buildings in the lighting assessment, There are no used lights on the buildings to be considered in the assessment – the lights are via lighting columns which are not subject the enforcement notice

Page 6: Fall back position – the scenarios of what will happen if permission is not granted, or if the enforcement notice is not upheld are covered in the report.

Page 6 Previously Developed Land The enforcement notice require demolition of plant machinery and buildings as specified in the note; it does not require full restoration and this element was considered unenforceable , and therefore the definition of previously developed site is correct.

Page 7: the representations assumes the notice extend to the removal of all hardstanding areas and associated equipment such as lighting columns, fences and access barriers. That is not the case.

Page 8: the applicant has updated the Environmental Statement in respect of these matters to the satisfaction of the authority and addressed the issues of the surveys. The changes have been made in agreement with Natural England. Further assessment work would be carried out at the necessary stage under appropriate the license. The Council's ecologist is satisfied that there is sufficient information in the addendum to the ES to be satisfied with regard to the likely environmental effects

Page 10 at point 7: - Through mandatory training and experience Planning Committee members are aware of the NPPF and the meaning sustainability and the running through it form previous training and the main aspects are covered within the appraisal report with 5.8 bringing them together in the context of the sustainability.

Page 10 at Para 12: The following is intended clarify and supplement paragraph **4.23** of the report, in relation to assessment of the development against the purposes of the designation of the green belt :-

To check the unrestricted sprawl of large built-up areas;– the site is not within or on the edge of a large built up area would not result in sprawl; it would be contained within the former north Selby mine site which is considered to be a previously developed site

To prevent neighbouring towns from merging into one another. The development could not result in coalescence of the nearest settlements i.e. Escrick and

Wheldrake and Deighton given the distances between them

To assist in safeguarding the countryside from encroachment; Again there would be no encroachment into the countryside surround the site, the development will be contained within the former mine site.

To preserve the setting and special character of historic towns; The distance from the site and the intervening landscaping features would mean that the development would preserve the special character of York

To assist in urban regeneration, by encouraging the recycling of derelict and other urban land; It would not directly assist with urban regeneration but would bring a previously developed site back into productive use. It would not undermine wider regeneration objectives by directing development on this site rather than another, bearing in mind the nature of the development the alternative site assessment alternative sites have been considered.

Page 10 Para 12: At **4.25** One other effect on openness of the green belt to be considered could be the additional traffic movements along New Road; these would in terms of the A19 be reported to be minimal overall and so would be negligible here, although in New Road the number of HGV movements at 88 worst case scenario could have a some urbanising effect and therefore a greater impact on openness. In addition, the increase in height and length of bunding to the north and west boundaries would to a degree affect the openness of the green belt.

Page 10 Para 12: For clarity at **4.87** of the report it is proposed to add the words 'and any other harm' to clarify that any other harm has been considered, for consistency with the point made in the conclusion at 5.3 and to ensure that .

Page 11 Para 14: Also at **5.1** to clarify, that the likely environmental effects of the glasshouse was included within the Environmental Statement, notwithstanding any doubt over whether the glasshouse would require to be considered under the environmental regulations.

Update to conditions

Condition 2 should be worded as follows:

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

Drawing no. PP-001 Rev. P1A 'Application Site Local Plan' dated September 2013 and received 6 November 2012;

Drawing no. PP-008 Rev. P1A 'Site Layout Plan' **dated April 2013** ~~dated October~~

Application Reference Number: 12/03385/FULM

Item No:

~~2012 and received 6 April 2013;~~

Drawing no. PP-009 Rev. P1A 'Proposed Roof Plan' dated April 2013

Condition 4 - the fourth paragraph of the condition should state the following:

"Finished floor levels are set no lower than 8.75m above Ordnance Datum (AOD) for the AD Building and 8.5m AOD for the adjacent ~~tank~~ **CHP** building and tank farm ~~CHP building.~~"

Condition no. 7

"Note: The combined rating level of ~~any building service~~ all noise associated with fixed plant ~~or~~ and equipment at the site should not exceed 25dB(A), 1 hour, free-field at ~~1 metre~~ at a location representative of the ~~from the~~ nearest noise sensitive facades when assessed in accordance with BS4142: 1997, this being the design criterion adopted by EPU, including for any acoustic correction for noises which contain a distinguishable, discrete, continuous note (whine, hiss, screech, hum, etc.); noise which contain distinct impulses (bangs, clicks, clatters, or thumps); or noise which is irregular enough to attract attention.

Your Ref: 12/03385/FULM
 Our Ref: SV/MCR/5482/YCC 210114

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Johnathan Carr
 Head of Development Service and Regeneration
 Planning Department
 York City Council
 West Offices
 Station Rise,
 York,
 Yorkshire
 YO1 6GA

BY EMAIL AND POST
 22nd January 2014

Dear Mr Carr

Application 12/03385/FULM

For Demolition of existing buildings and re-profiling of bunds and areas of the former mine, construction of an anaerobic digestion combined heat and power facility and horticultural glasshouse and associated infrastructure and works at North Selby Mine, New Road, Deighton, York, YO19 6EZ

I write on behalf of my clients, Samuel Smith Old Brewery (Tadcaster) and Mr Tim Williams, to submit representations to the above planning application.

You may be aware that my clients have maintained a close interest in the development proposals that have come about on this site and have sought to provide various letters of representation to the Officers who have dealt with the proposals.

In the first instance, you should be aware that I consider the detailed and supporting information accompanying the planning application to be inadequate for you to arrive at a robust recommendation, and indeed for elected representatives to properly determine the proposals currently before them. I provide my reasons for this in relation to the supporting information and content of the planning application below.

I have also had an opportunity to review the Officers report that is to be presented to Planning Committee on the 23rd January 2014. Having reviewed the report I am deeply concerned to note a series of apparent mistakes and misinterpretations of policy and guidance. I consider that these undermine the advice, assessment, conclusions and therefore the recommendation that has been provided to members within the report. I am of the firm opinion that the report provides a misleading assessment of the proposal and that a decision to approve planning permission by members on the basis of this document is likely to be flawed.

Having assessed the available information, it is clear that the proposed development is contrary to a number of important planning policies and guidance within the Development Plan, and government policy in respect of the development within the Green Belt and open countryside.

I believe that this conflict with policy has not been outweighed by material considerations and that planning permission should therefore be refused. My rationale and reasoning, along with detailed consideration of the issues, is set out for your convenience below under a number of sub-headings.

Officer's Availability

As I provided to you in my most recent email message, my clients and I have attempted on numerous occasions to contact the case officer in an attempt to determine the planned presentation of this application to the Planning Committee, and ensure that our further representations are received in timely and reasonable fashion.

A total of 10 telephone messages have been left for officers, with no replies to date, and no explanation provided with regard the failure to respond to reasonable requests on this complex case. These representations are not submitted in a vexatious or obstructive manner, however the inability to discuss detailed issues, the form and timing of the representations and the information available necessitate the preparation of this submission to the Council in advance of the Planning Committee's consideration of the proposal.

Application Documentation

Background

I note at paragraph A1.4 of the Addendum Planning Statement that the agent notes York City Councils decision not to contest the Judicial Review proceedings lodged by my clients. This challenge identified issues with regard the previous grant of planning permission on the site that rendered that decision legally flawed. I would like to make it clear to members that, whilst the City Council chose not to contest the claim, it is also worthy of note that the applicant themselves similarly determined not to contest the proposed challenge, and consented to the quashing of the Council's previous determination of the application.

In effect all parties agree to the quashing of the previous consent.

The Site

It is clear from a review of the application documentation that the built development on the site and therefore the application proposals themselves have changed markedly since the Officers and the Planning Committee last considered the proposals. These changes are clearly material to the determination of the application when it is presented to members at the Planning Committee meeting. This is particularly pertinent given the officer's advice at paragraph 4.1, that:

"The scheme remains as proposed at the time of the previous consideration."

The Amenity block and a number of smaller buildings have been demolished. The rubble and building material associated within the building remain on the site. The demolished buildings total some 5,447 sqm, leaving the built footprint of the site reduced by 53% since the application was last considered. There is no information with regard how or why this demolition has taken place.

The effect of this demolition is considered in greater detail in later sections of this letter, however it is clear that the purported 'Fallback Position' set out with Annex CA of the Planning Statement is now a far less potent threat from the applicant, than had been considered previously. Similarly, whilst the enforcement notice is still outstanding, the removal of the buildings has provided for a much reduced

‘benefit’ to the public purse. In removing these buildings, the scope and extent of the enforcement proceedings which have been held in abeyance can now be focussed on the remaining buildings, plant and machinery which should be removed from the site.

Importantly the proposed AD facility now has a floorspace that is 1,279 sqm larger than the buildings currently on the site.

These changes to the proposal will clearly have to be weighed in the planning balance by members of the Planning Committee when determining the proposals.

Cumulative schemes

I note at paragraph 2.34 of the Amended Environmental Statement that the applicant has completed further consultation with York City Council with regard the potential for the effects of other schemes in the surrounding area to have an cumulative effect in association with the application proposal. It appears that this exercise was not completed for schemes that may be located with the Selby District Council area.

In this regard I am particularly concerned given the recent adoption of the Selby Core Strategy and the decision of Selby District Council to approve development of the only Strategic Site within that Core Strategy. Whilst this recent approval is located circa 7 miles to the south of the proposal, there is little opportunity for traffic generated by either of these developments to exit the A19, and potential for the likely environmental effects of the schemes to generate a cumulative environmental impact.

There may of course be other proposals within the administrative area of Selby District Council which would have a material effect on the consideration of this proposal which I am not aware of that would also need to be considered in assessing the schemes environmental effects.

Baseline conditions

Paragraph 2.28 onwards of the Environmental Statement provides for the baseline conditions from which the assessment will consider the environmental effects of the proposal. The text considers the actual conditions at the time of, or immediately prior to the submission of the application to be the relevant starting point.

The text however fails to properly identify the potential and likelihood that the buildings, plant and machinery on the site are to be removed through the Council’s enforcement of the restoration condition attached to the original planning permission. The failure to identify the existence and ongoing enforcement of the requirement to remove all buildings, plant and machinery from the site provides for an inaccurate identification of the baseline conditions. This is particularly pertinent in the assessment of, for example, the visual and lighting impact of the proposal, judged against the existing situation on the site, rather than the site with these built features removed.

The result is to fundamentally undermine the conclusions reached with regard these features of the Environmental Assessment. Whilst I fully understand the applicant’s position with regard the legitimacy and issues revolving around the enforcement of this condition, the environmental information must reflect the ‘likely environmental effects’ of the proposal, and this necessarily has to be conducted from the correct baseline position. In this regard it is clear that the Council remain willing and capable of enforcing the requirements of this condition, and in the event that the application is refused will likely pursue the enforcement of this requirement.

Whilst the condition has not been complied with by the land owner, weight needs to be attached to the fact that the mechanism and process exists for the enforcement of the condition, and that the relevant body has sought to pursue the enforcement of that condition. The environmental benefits that would accrue as a result of the condition's proper enforcement are therefore likely to be achieved and should be reflected in the baseline conditions.

The situation is analogous to the consideration of cumulative effects of a proposal and surrounding committed proposals. The assessment needs to consider a theoretical base line position that is not in existence in the local environment, but that is likely to occur in the future.

Site Ownership

I have noted discrepancies with regard the stated owner of the application site. The Planning Statement references "UK Coal (Investments) Limited" at paragraph 2.7, however the Environmental Statement states that "Harworth Estates" is the owner of the site. The Certificate B submitted with the planning application cites "UK Coal Investments Limited". Clearly the Council will need to satisfy themselves that the information submitted as part of the application is accurate.

The Proposal

I note within the application documentation the proposed 8m Auxiliary Flare Stack. This feature appears to be a safety feature that comes into operation when required. There is no detail provided within the application package as to the typical frequency and length of operation of the flare stack. It is assumed that that the vented gas will be ignited in order that the gas burns off in the open air. There appears to be no consideration of the environmental effects of this feature of the operation anywhere within the application package. Even the most cursory of reviews would lead me to consider that there may be noise, light and visual effects as a direct result of the operation which should be considered within the environmental information submitted in support of the application.

I have noted that the applicant, at a number of points, makes reference to the existence of the grid connection at the site, as a substantial positive in favour of the development for the proposed development. In the same way as the weight to be attached to existence of building on the site needs to be tempered with the knowledge that the existing restoration condition is in existence, is currently being enforced and that the features being cited remain on the site unlawfully, the officer's report needs to reflect this in relation to the associated plant and machinery.

Alternative Sites

In the consideration of alternative sites for the development it is unclear what weight, if any, has been attached to the location of sites that are outside the Green Belt. Given the importance that is attached to the maintenance of the openness and purposes of including land within the Green Belt it seems logical that in any comparison of alternatives and non- Green Belt locations this should be a weighty consideration in favour of alternative sites that are outwith the Green Belt.

Lighting Assessment

In the same way as the original assessment of the proposal took in to account an incorrect baseline position with regard the visual features of the site, the lighting assessment fails to consider a baseline position without the buildings, plant and machinery including the existing lights upon buildings. Clearly the removal of these inappropriate and urbanising features would reduce the current impact of the site on the surrounding rural area.

Green Belt

It is first important to determine whether the proposal is 'appropriate development' within the Green Belt. Paragraph 89 of NPPF provides for a clear presumption of inappropriateness applying to all development proposals within the Green Belt unless the proposal represents one of the exceptions identified within a series of bullet points.

It appears that the applicant seeks to identify the parts of the scheme which are 'inappropriate' and 'appropriate' with a view to presenting the proposal as sitting on the fence between the two definitions. There is no reasonable basis upon which such a balancing judgement can be made. An application proposal must be considered either as either 'appropriate' or not. This is a point I explore further in the review of the Planning Officer Committee Report.

I note that the applicant does seek to advance a case for very special circumstances, but only in relation to the AD facility. The first circumstance cited relates to the text in paragraph 91 of NPPF, and the suggestion that this provides a positive emphasis in relation to renewable energy developments. The applicant considers that the reference to the need to demonstrate very special circumstances to justify inappropriate development is actually a very special circumstance it itself.

My reading of the text is that it clarifies and confirms that such developments *will* comprise inappropriate development and that very special circumstances *will* be needed to justify them. The reference to wider environmental benefits is simply a clarification that such circumstances *may* be regarded as very special. In addition it refers only to renewable energy projects, and makes no reference at all in this section to waste management proposals.

There is no positive emphasise to the policy in NPPF in favour of renewable energy development within the Green Belt, and no reference to waste management proposals in the vein suggested by the applicant. The text at paragraph 91 simply provides a clarification of the policy hurdles that will need to be overcome.

The reference to the Toddmore appeal appears to follow the applicants view that waste proposals are considered in the same way as renewable energy proposals in the NPPF. This is not the case, the Inspector's comments with regard the Toddmore appeal related to a wind turbine proposal, and there is no component of waste management at all within the proposals. The cited decision is therefore of marginal relevance to the determination of this application.

Whist there may be a limited need for an AD facility in the area, this can in no way be considered to be 'urgent and demonstrable', and cannot in my opinion be considered a very special circumstance in its own right.

With regard the applicant's reliance upon the unavailability of alternatives sites, we consider that the need identified could easily accommodated on a smaller site than those assessed within the applicant's site assessment. In this regard the available areas at, for example Kellingly, should be assessed with regard the development of a smaller facility.

The applicant also claims a series of specific advantages that the application site has, presumably over alternative locations. The features of the site and its suitability for the proposal is, in effect, a repeat of the point that is made with regard the lack of alternative sites and therefore should not contribute to the accumulation of a case for very special circumstances, beyond that already attributed to the purported lack of alternative sites.

The cited implications of not granting planning permission and the implied threat that the site will be sterilised as far as the waste industry is concerned is of very limited relevance. The full and proper exercise of a Development Management function by a Local Planning Authority should of course take into account the 'fall back' position in relation to the site. However the Local Planning Authority must also consider the likelihood that the suggested scenarios for the site will actually occur. In this regard the site owner is a commercial enterprise tasked with ensuring that the maximum financial benefit is gained from the asset. The company is '*experienced in working closely with local communities, public bodies, developers and other professionals to bring life to old brownfield sites and turn derelict land into employment areas, new homes, low carbon energy & environmental projects and parks*' [my emphasis]. I consider that it is highly unlikely that the site would be 'abandoned' in the manner suggested by the applicant.

In addition to this point the features on the site to which the extant planning conditions refer are yet to be fully defined. The conditions references all 'buildings, plant and machinery' and may very well include the removal of areas of hardstanding, alongside equipment, machinery and features such as lighting columns etc. which the applicant cites as remaining. In addition to this, features such as lighting columns are typically removed from redundant sites in order to comply with health and safety requirements and to reduce the site owner's liabilities.

The production of renewable/low carbon energy is clearly a benefit of the proposal, however when considering the attachment of appropriate weight to this criterion the decision maker should be mindful of the large number of renewable proposals being promoted within the surrounding area, including wind turbines (on and off shore), solar power, hydro electric, ground source heat pumps to name but a few. The proposal would undoubtedly make a contribution to the generation of renewable energy, but it is important to put the contribution in to perspective alongside other schemes and projects.

The climate change benefits of the proposal are essentially related to the carbon benefit of the proposal, the diversion of food waste from landfill and the production of bio-fertilizer. Clearly reductions in the amount of carbon released into the atmosphere is a positive in favour of the development, however I am concerned by the claim that the purported diversion of food waste from landfill is likely to occur *only* as a result of the proposal. It is much more likely that this waste stream will be managed elsewhere within existing facilities rather than simply directed to landfill.

On the basis of the above considerations I consider that the case for very special circumstances sufficient to outweigh the harm to the Green Belt has not been made. The circumstances cited by the applicant, either individually or cumulatively do not provide sufficient justification for the development, either in totality or with reference only to the AD facility.

Fall Back Position

In addition to the points raised above with regard the likelihood that the fall back position will occur, the demolition of nearly half of the buildings upon the site has materially changed the level of damage that can be threatened if the application is not granted approval. In considering the application afresh officers and members should be conscious that they should not simply adopt the same position as they arrived at when the application was previously considered.

Previously Developed Land

Previously the proposal has been considered by Council Officers as appropriate within the Green Belt on the basis that it is a Previously Developed site (Brownfield land). The definition of Previously

Developed Land is included within the Glossary to the NPPF, and excludes land that has been developed for mineral extraction purposes where provision has been made for restoration. In this case there has been provision made for the restoration of the site by a condition set out in the Secretary of States Decision Notice.

Legal advice received by the Council in 2011 with regard the validity and enforceability of this restoration condition concluded that the lack of a timescale within which the restoration of the site is required to take place renders the full condition unenforceable. The part of the condition which required that the plant buildings and machinery be removed within 12 months of operations ceasing on the site remains in place and is actively being enforced by the Council.

The existence of the restoration condition, albeit understood to be only partially enforceable, is not debated by either the Council, or the landowner. Whilst the condition was clearly intended to ensure that the site was cleared of all plant, buildings and machinery, and returned back to its previous condition, the level of restoration that can be achieved through enforcement of the condition appears to be less than that originally intended. In my opinion weight should be attached to the intentions of the decision maker in conditioning the planning permission in this manner, notwithstanding the effectiveness of the wording used.

In any case it is clear that provision has been made for restoration through development control procedures, as is required by the definition within NPPF. Whilst this condition is only effective in restoring the visual appearance of the site, in so far as this was effected by the buildings, plant and machinery on the site, the restoration does not go so far as to require that the restoration scheme includes planting of vegetation, land re-grading or other such detailed issues. Nevertheless compliance with the condition would leave the site cleared of all built evidence of the mine workings and restored to its open appearance.

The process of removing the plant, buildings and machinery will obviously ensure that the site will be returned to a state whereby all evidence of buildings, including foundations, associated infrastructure and hardstanding areas, as well as associated equipment such as lighting columns, fencing and access barriers is removed from the site. On my reading of the condition, compliance would require the removal of all built evidence of the mine workings, and leave the site in a state typical of many within the open countryside. Whilst the condition will not be fully restored to agricultural use and its previous condition, it would quickly adopt the appearance of the surrounding area and be assimilated in to the natural rural surroundings.

Committee Report

I do not propose to rehearse the points that I have made above in relation to the case made by the applicant in support of the proposal, but will identify a number of key flaws which I consider fundamentally undermine the consideration of the application by members of the Committee. These flaws amount in my opinion to misadvice with the officer's report and may lead to a determination of the application that is susceptible to legal challenge.

1, The environmental information in support of the application is incomplete. I have already highlighted the lack of information about the flare stack, but would also like to point out the following, with reference to specific paragraphs in the ES:

- 2.28 – 2.29 – The section on baseline conditions fails to recognise that the baseline conditions against which the proposal will need to be assessed should reflect the ongoing enforcement procedure in relation to the site.

- 2.34 – The cumulative effects in relation to schemes within Selby also needs to be updated
- 4.30 – There is no evidence to support the contention that only a large operation can succeed in the plant propagation business.
- 4.75 – 4.81 – There is no indication as to which components of the infrastructure, plant and equipment would be removed as part of the enforcement of the condition. Notwithstanding the applicant's position that the appeal against the enforcement notice will be successful, the environmental information will need to reflect the 'likely effects' of the proposal.
- 8.22 -8.29, 8.38 – There needs to be consideration of the appearance of the site without the remaining buildings, plant and machinery, including their lighting.
- 9.10 – With regard the second sentence, it should be understood that Green Belt is not a 'landscape policy'. In addition the relative location of the site within the Green Belt has no effect on the inappropriateness of the development or the fact that it is harmful.
- 9.159 -9.170 – The Landscape and Visual Assessment, whilst citing the relevant Green Belt policies, provides no conclusion with regard the proposal's impact upon openness of the Green Belt.
- 15.14 – I note that a number of the ecological surveys that have been undertaken in relation to the proposal were conducted over 2 years ago. These should be updated prior to the determination of the application¹. Notwithstanding the site walk over conducted in September 2013, the requirement for up to date detailed survey information of conservation assets remains.

The above list is not exhaustive, however leads me to conclude that the environmental information submitted in support of the application provides for an incomplete assessment of the likely environmental effects to the proposal on the surrounding area. Unless and until the above issues are remedied, I consider that the application is incapable of lawful determination.

2, The approach taken in the consultation response from the Integrated Strategy Unit of the Council (Committee Report, paragraph 3.4 - 3.12) provides for a flawed and misleading assessment of the proposal. The Council is tasked with the determination of a single proposal for a development that comprises a series of interdependent components. This is not an unusual situation, however the officer seeks to draw an artificial division between the agricultural (appropriate) components of the proposal and the AD and CHP components of the proposal (inappropriate in the Green Belt). Such an approach is fundamentally wrong as there is no facility within either planning policy or legislation to split the consideration of a proposal in this way.

It is not possible for the Council or officers to conclude that the proposal is 'partially inappropriate in the Green Belt'. The proposal described within the application being determined needs to be considered as a whole, in its totality and assessed against Green Belt policy in this way. If the proposal is considered to be inappropriate and harmful then Very Special Circumstances will need to be advanced by the applicant that outweigh the harm as a result of the entire development.

3, Paragraph 3.25 of the officer report relays that the North Yorkshire County Council as County Planning Authority has responded that it wishes to offer no comments in reply to the Council's request. Members are left in the dark with regard this unusual response and are not advised in anyway by the Officer with regard the implications and effect of this comment. This is particularly pertinent given the County Council's role in enforcing the extant planning condition requiring the restoration of the site.

¹ R v Cornwall County Council, ex parte Hardy (2000) CO/4784/99

4, Paragraph 4.1 boldly states that the application 'comprises two elements which could stand alone as commercial enterprises'. This is not borne out by the submitted information in support of the proposal.

The text goes on to state that the scheme remains 'as proposed at the time of previous consideration'. This is not the case as there has been substantial changes to the existing built development on the site. As mentioned above, this change in the baseline conditions on the site is a material change in the amount of demolition required as a result of the scheme, which if course has knock on effects for (amongst other things) the purported 'benefits' of the proposals.

5, Paragraphs 4.15 to 4.19 provide a brief description of the conditional nature of the grant of planning permission of this site, the nature of legal advice obtained by the Council and an assessment of the site against the definition of previously developed land within NPPF. I have a number of concerns with regard this section of the Committee Report and consider that the members may be misled by the report as currently worded.

Paragraph 4.16 makes no reference to the fact that the relevant Council have considered these issues, have formally resolved and are actively seeking to enforce the requirements of the restoration condition. This is a weighty material consideration in the determination of this application given the applicants reliance upon their 'fall back' position and the effect that the dismissal of the appeal against the enforcement notice would have on the purported 'benefits' of the application proposal. Whilst the text a paragraph 4.18 goes on to describe the fact that the Local Authority are 'not able to require full restoration of the site to agricultural production.' the text does not go on to explain that whilst restoration of the site (removal of buildings, plant and machinery) is being pursued, the reinstatement of the agricultural production is not necessarily required to meet the definition of the exception set out this with glossary of NPPF.

6, Alternatively or in addition, the question of what is meant by 'agricultural production' is not addressed anywhere within the report. It is a commonly held belief that 'agriculture' would involve the growing of a crop or farming of animals on the land, however the definition of agricultural activities clearly includes a wide range of activities that could be completed on the site following the removal of existing buildings, plant and machinery.

With regard the conclusion at paragraph 4.19, that the site is incapable of being restored through development control procedures is misleading in my opinion. The removal of the buildings, plant and machinery if completed to a full and proper extent will leave the site cleared of built development. Full compliance with the condition will not leave hardstanding, lighting columns or fencing etc. as the applicant suggests. These features are part of or ancillary to the buildings, plant and machinery that are required to be removed through compliance with the planning condition. It is unreasonable for the Council Officer to argue that the buildings will be removed through compliance with the condition, but that the foundations, hardstanding and associated infrastructure and equipment will not removed also. I am therefore of the view that the existence of the restoration condition, the Local Planning Authorities resolution and action in enforcing that condition, and the apparently narrow definition of 'agricultural production' that has been used to identify the purposes of the condition means that the current and likely situation have both been misidentified.

I consider that the restoration condition remains in place, the Local Planning Authority are actively pursuing the enforcement of that condition and that full compliance with the condition will restore the site to a condition whereby it is largely capable of agricultural use. I am of the view that the site remains excluded from the definition of previously developed land, and should be assessed accordingly.

7, The point with regard the Officer's Committee Report is the assessment of the Principle of Development contained in paragraphs 4.20 and 4.21. The officer fails to make any assessment of the proposal with regard its sustainability (the golden thread running through NPPF) in this or any other part of the Committee Report. Members are left without any guidance with regard this key component of the policy framework that governs the determination of this application.

8, The eighth issue relates to the final two sentences of paragraph 4.23 and 4.24, and paragraph 4.84. The officer repeats the conclusion from earlier in the report that the site constitutes Previously Developed Land and then states that the existing site and its openness on the Green Belt needs to be considered. I repeat the exact same point that I have made in previous representations that the current condition of the site is not a permanent impact on the Green Belt, the removal of all buildings, plant and machinery in compliance with the restoration condition will substantially reduce the site's impact upon the openness of the Green Belt and this should be the starting point for any consideration of the proposal's impact. In this regard the commentary at paragraph 2.24 leads the reader to consider that compliance with the restoration condition would not include removal of access roads, large areas of hardstanding, the waste water treatment plant, bunds, lighting columns etc. This inaccurately determines the extent and nature of the conditions enforcement and the result of the successful enforcement of that condition. If the author of the report seeks to guide the members of the Council with regard the likely result of the enforcement action, then this needs to be completed on the basis of a review the proceedings in hand, the position of the various parties and then an assessment of the likely result of the enforcement action, if planning permission were to be refused for the development proposal. This has not been completed.

9, At paragraph 4.28, the officer states that the area of the glass house is all within the boundaries of the previously developed site of the former mine. Again large areas of the site have already been restored through the removal of buildings, and extant enforcement proceedings are seeking the removal of the further components of the previous use. Such a comparison is therefore unwarranted and misleading to members of the Planning Committee.

10, At paragraph 4.29 the officer makes the point that the proposed AD facility is 'relatively compact in nature', however it is unclear what the nature of the proposal is being compared to. If it is relative to the existing buildings in the site, then this continues the erroneous comparison of the proposal with the existing built development of the site, and misleads the Council members tasked with determining the proposals. This incorrect assessment of the Visual Impacts of the proposal is repeated at paragraphs 4.30 and 4.32.

11, In concluding this section of the Officer's report the author fails to quantify, or assess the likely impact on the openness of the Green Belt by virtue of inappropriateness and other harm, and focusses exclusively on the visual impact of the proposal. There is no consideration of the purposes of including land within the Green Belt, the harm by virtue of inappropriateness and indeed to the impact of inappropriate features such as proposed additional bunding and landscaping on the openness of the Green Belt.

12, The concluding sentence to paragraph 4.87 is perhaps one of the most important areas of advice within the Committee report, however has been set out in an unclear and confusing manner. It is completely unclear what the reference to '*... greater impact on openness of the Green Belt.*' relates to. It seems to be suggesting either that the proposal is inappropriate due to its greater impact on the openness of the Green Belt, or that the remaining development on the site following pursuit of the enforcement notice will have a greater impact than the proposal. However my primary concern is that both propositions are manifestly wrong, and misadvise the Committee Members.

13, The Author of the report also fails to identify the harm to the Green Belt by virtue of factors other than visual impact associated with the proposal. Such elements would generally include the harm by virtue of noise and activity at the site, vehicular movements in and around the site as it passes through the Green Belt, the harm to coalescence of settlements in the area and the impact on urban regeneration initiatives. Of course the above is only a small selection of the multifaceted and wide ranging harm to the Green Belt that this proposal will have on the surrounding area.

14, At paragraph 5.1 the officer states that it is only the AD element of the proposal that constitutes EIA development. In my opinion the Horticultural Glasshouse component of the proposal fulfills the definition contained within Schedule II of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, specifically that it is a project for the use of uncultivated land or semi-natural areas for intensive agricultural purposes, and is for an area larger than 0.5 hectare.

Summary

In summary it is clear that both the application supporting information and that the officer's written assessment of the proposal are flawed. These flaws, individually and cumulatively serve to undermine the assessment provided within the Officer report that is due to be presented to Planning Committee on the 23rd January 2014. To attempt to approve the application on the basis of the information currently available, I consider that the Local Planning Authority risk reaching a determination that was open to successful legal challenge.

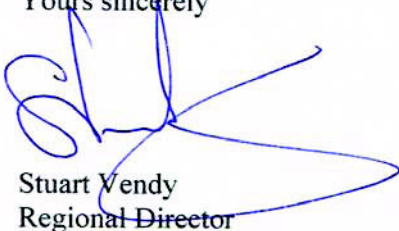
Notwithstanding the above, I consider that the proposal represents an inappropriate and unjustified development within the adopted York Green Belt. The purported Very Special Circumstances and material considerations to which the applicant refers and the officer assesses are in parts inaccurate and misleading.

Whilst the officer's recommendation is for approval subject to referral to the Secretary of State, I consider that the proposal can be reasonably and justifiably refused planning permission by members of the Committee, by virtue of the proposals inappropriateness and the failure to justify the development through reference to very special circumstances.

I would be grateful if you would contact me to confirm receipt of this representation, the planned timetable towards determination of these proposals, and provide me with copies of any additional plans or supporting information that may be submitted to the Council on behalf of the applicant.

I trust the above is clear, however please do not hesitate to contact me if you have any queries.

Yours sincerely



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