

## COMMITTEE REPORT

**Date:** 12.9.2019  
**Ward:** Rawcliffe And Clifton Without  
**Team:** Major and Commercial Team  
**Parish:** Rawcliffe Parish Council

**Reference:** 19/00009/FUL  
**Application at:** Clifton Ings Flood Alleviation Barrier To The South Of Shipton Road Rawcliffe York YO30 5RY  
**For:** Construction of a temporary access junction and track off the A19 in association with flood alleviation works  
**By:** Environment Agency  
**Application Type:** Full Application  
**Target Date:** 1 March 2019  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 This application is for a temporary access road from the A19 to Clifton Ings where the Environment Agency (EA) intends to undertake works to repair and enhance the existing flood defences. The plans also include a site compound that would be located in the Cornfield.

1.2 There is a separate application for the works to Clifton Ings - 19/00007/FULM which has an associated Environmental Impact Assessment. The EIA contains an assessment on the impact on the environment as a consequence of the entire scheme i.e. it includes an assessment on the environmental impact on the cornfield as a consequence of the proposed access road and site compound.

1.3 The site is located on the south side of the A19, between the Rawcliffe Bar Country Park to the west and 153 to 165 Shipton Road and allotments to the east.

1.4 The Cornfield forms part of the Rawcliffe Bar Country Park. It was established in 2000 and has been managed by Friends of Rawcliffe Meadows (FoRM) since 2003 on behalf of the Council. It was created as compensation for the loss of arable land when the Rawcliffe Bar Park and Ride site and Country Park were created. The Cornfield is an arable field and has been managed to provide nesting and a safe feeding ground for rare birds. Unlike the rest of the Country Park residents are excluded from this area.

### 2.0 POLICY CONTEXT

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

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012.

2.2 Key relevant Publication Draft Local Plan 2018 Policies are as follows -

SS2 The Role of York's Green Belt  
D2 Landscape and Setting  
D6 Archaeology  
GI2 Biodiversity and Access to Nature  
GI3 Green Infrastructure Network  
GI4 Trees and Hedgerows  
GB1 Development in the Green Belt

2.3 Relevant policies of the Draft Local Plan 2005 are as follows -

SP2 The York Green Belt  
GP7 Open Space  
NE1 Trees, Woodlands and Hedgerows  
NE6 Species Protected by Law  
NE7 Habitat Protection and Creation  
GB1 Development in the Green Belt

### **3.0 CONSULTATIONS**

INTERNAL

ARCHAEOLOGY

3.1 The site lies in an area which has been undeveloped. A Roman road and associated funerary activity on the road side is known to exist to the south-east of this site. There is a chance that the works for the creation of the road/compound will reveal the road and/or Roman burials.

3.2 A programme of strip, map and record should take place during the proposed stripping of the topsoil on the site. This provides the best chance of recording the road if it is found. Officers have recommended a condition to cover this issue.

## ECOLOGY

3.3 The access junction and site compound will be in place for the duration of the flood alleviation works which is anticipated to be approximately two years. The new access will be approximately 26m wide where it ties into Shipton Road and will require a length of hedge to be removed.

3.4 The main site access and compound will be located within the 4.6ha field known as 'Rawcliffe Cornfield Nature Reserve'. The land is part of Rawcliffe Bar Country Park which is long-term leased to City of York Council (CYC). Although it does not hold any statutory or non-statutory designation for nature conservation it has been managed positively for wildlife by a voluntary group, the Friends of Rawcliffe Meadows, under successive agri-environment schemes since 2003.

3.5 The field is currently in a 10 year Higher Level Stewardship (HLS) agreement predominantly managed as arable; cultivated and managed with low-inputs, and targeted at declining farmland bird species by providing a foraging resource. The land has also developed to support invertebrates and arable wildflowers and that are classed as species of conservation concern.

3.6 This proposal would result in the early termination of the HLS agreement which would otherwise end 30/09/2021. Natural England have confirmed that an exceptional circumstances (force majeure) application would be required to avoid Friends of Rawcliffe Meadows being liable to repay the funding received to date. No compensation has been proposed for the Friends of Rawcliffe Meadows for the loss of the remaining two years of funding.

3.7 The Environment Agency (EA) would reinstate the Cornfield to either arable or permanent grassland. The mitigation and management of the Cornfield Nature Reserve will be detailed and secured through a Habitat and Landscape Management Plan.

3.8 The proposed works (access road and site compound) will result in the temporary loss of habitat for and disturbance to a range of protected and notable species. If implemented correctly the avoidance and mitigation measures proposed are considered appropriate and to this effect officers have recommended planning conditions which relate to construction management to protect biodiversity, a restoration strategy (for ecological features outside of the SSSI), and confirmation of an acceptable effect on Great Crested Newts (and their habitat).

## HIGHWAYS

3.9 No objections and note that the proposed access has been approved under the Highways Act. Officers ask for conditions to cover construction management (to keep the highway clean and in terms of routing construction traffic), for the access road to

be surfaced, for no gates to obstruct the highway and for site restoration following works.

## PUBLIC PROTECTION

3.10 Officers ask for a construction management plan, to manage the impacts from noise, vibration and dust during construction.

## EXTERNAL

### RAWCLIFFE PARISH COUNCIL

3.11 Rawcliffe Parish Council objects to this planning application. An alternative route should be sought to avoid the huge potential impact on local biodiversity and wildlife areas. If no alternative is possible, then the Friends of Rawcliffe Meadows should be properly financially compensated to allow them to deal with the impacts of the development.

### FRIENDS OF RAWCLIFFE MEADOW

3.12 The application site is Rawcliffe Cornfield Nature Reserve. This was established in 2000 as mitigation for the development of the Rawcliffe Bar Park & Ride facility and Country Park, the aim being to provide some continuity of arable (i.e. annually cultivated) habitat within the local landscape in order to maintain populations of farmland birds and other wildlife.

3.13 Friends of Rawcliffe Meadows were instrumental in the conception and establishment of the Cornfield Nature Reserve and have managed it since 2003 under successive agreements, on behalf of the principal land owner, City of York Council.

3.14 The FoRM have provided an 11 page objection which raises issue with the extent of the statement provided by the EA in support of the application; that the level of harm identified is not thorough and that there is inadequate mitigation. Their view is that the proposals will result in significant short to medium term adverse impacts on key features of the Cornfield Nature Reserve including declining arable plants and foraging birds. There is significant risk that these impacts will become permanent. There is no credible strategy to mitigate these risks (the objection questions the lack of evidence behind the EA's claims that harm will be avoided and lack of specific information on mitigation), and no evidence that the applicant is offering any net gain for biodiversity.

3.15 FoRM state that the agri-environment funding, which is their only regular source of funding, would cease should development go ahead. Natural England confirm that the development would result in cessation of the current agreement, not just for the 3.16 Cornfield Nature Reserve but for the whole of Rawcliffe Meadows. This will

mean, in effect, that FoRM will cease to operate because the applicant has made no arrangements to ensure continuity of funding. Nor has any compensation been offered to compensate for the 15 years of effort FoRM have invested in the Cornfield, the results of which will largely be obliterated.

#### YORKSHIRE WILDLIFE TRUST

3.17 The Trust supports the detailed comments by the Friends of Rawcliffe Meadows (FoRM) on the Environmental Statement and the proposed mitigation. They consider there has been inadequate assessment of the impacts of the development and inadequate mitigation or compensation. There is also inadequate justification/explanation for the choice and design of the site access.

3.18 The construction of an access road and site compound on the Cornfield is likely to remove most of the wildlife value of the site. Detailed information on the value of the site for wildlife is not adequate in the Environmental Statement which leads to inaccurate suggestions for mitigation.

3.19 It is likely that the reinstatement of the Cornfield after two years of use as a site compound with HGVs using the access tracks will be very difficult if not impossible. The ground will be compacted, the grassland damaged, and the bird and invertebrate assemblages and rare arable weeds will be lost.

#### YORK ORNITHOLOGICAL CLUB

3.20 Ask that the Environment Agency submit a plan of mitigating and remedial actions to be implemented. The FoRM currently receive a grant to reflect the enhanced level of environmental management of the meadow and it is likely that this grant, their major source of income currently, will be at risk. Recognition of this loss should be made.

3.21 The Club is particularly concerned with the use of the site by birds. Its potential is largely dependent on the plant and insect life on the site and this is particularly relevant during the winter and early spring period. The club appreciate that, during the construction period some reduction in its use by the avian community is inevitable but would hope that this can be minimised and subsequent remedial action put in place.

#### INTERNAL DRAINAGE BOARD

3.22 The site lies within the board's district. The application may alter the drainage network in the area therefore the applicant will need to ensure that IDB guidelines are taken into consideration.

#### PUBLICITY / FURTHER COMMENTS

3.23 Nine further comments, in addition to those made by amenity societies / groups have been received which also raise issues around harm to biodiversity. Additional points raised are as follows -

- The cornfield meadow area is managed by the highly respected FoRM (since 2003) and (in part because it is largely undisturbed by humans and dogs) is critical for many farmland bird species.
- Environmental impacts on Cornfield Nature Reserve have not been adequately assessed. Specifically, the Breeding Bird survey 2018 for Rawcliffe Ings in supporting documentation does not include the Cornfield in it's scope. Bird use of Cornfield as a food resource is not mentioned in the application, despite it being one of the main purposes of Cornfield. Specifically, bird species that visit regularly are stock dove (51), tree sparrow (50), greenfinch (45), linnet (112), reed bunting (100), yellowhammer (35) and corn bunting (36). Peak counts recorded in the past five years are given in brackets. Mitigation should include provision of alternative winter crop for birds, in an undisturbed location (ideally adjacent to Cornfield NR) and alternatives if this crop were to fail.
- This site is an important linkage for the reservoir basin and the Country Park as well as for the legally protected and designated SSSI - so many years of work and love have been poured into the site to make it a great place for nature - it is quite unique.
- It is critical for a resident roe deer population which can be protected and feel safe within the confines of the cornfield from dogs.
- Great crested newts live in the adjacent basin area. The discussion in the application of potential impacts on Great Crested Newts states that the works affect areas of poor quality terrestrial habitat for this species. This assertion ignores the presence of extensive areas of tussocky grass margins and the 0.3 ha grass baulk crossing the field. The latter provides a favourable area of foraging habitat and a potential dispersal corridor within 100 metres of the flood basin. It is understood that the baulk will be destroyed.
- Disturbance to valuable hedgehog habitat - hedges included.
- Issues with restoration after damage. An ecologically high quality site is a product of living elements and their care, management and development over time. The use of the site by visiting wildlife is something to which wildlife becomes habituated over time. This is a cumulative process and disruption of the annual cycle will disrupt the build-up of numbers whilst permanent loss of nesting habitat will give them less reason to return anyway.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES

- Status of the site / policy context
- Impact on the Green Belt
- Loss of open space

- Impact on the cornfield / biodiversity
- Highway network management
- Residential amenity
- Flood risk
- Whether very special circumstances exist

## ASSESSMENT

### STATUS OF THE SITE / POLICY CONTEXT

4.2 The application site is designated as existing open space and is within the Green Belt. It does not have a designation as a site of national or local nature importance. However the site is of ecological value.

4.3 As such the following NPPF policies apply -

#### Section 13 Green Belts

4.4 Paragraphs 143 to 146 set out the approach for dealing with development proposals in the Green Belt. The proposed access road and the site compound are both in NPPF terms "inappropriate development" which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### Section 8 Promoting healthy and safe communities

4.5 The relevant paragraph in this section of the NPPF is 97 which states existing open space should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use".

#### Section 15 Conserving and enhancing the natural environment

4.6 Paragraph 170 states planning decisions should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

## Relevant policies of the 2018 Draft Local Plan

### GI3 Green Infrastructure Network

4.7 In order to protect and enhance York's green infrastructure networks any development should where relevant maintain and enhance the integrity and management of York's green infrastructure network, including its green corridors and open spaces.

### GI4 Trees and Hedgerows

4.8 Development will be supported where it recognises the value of the existing tree cover and hedgerows, their biodiversity value, the contribution they can make to the quality of a development, and its assimilation into the landscape context.

### Green Belt

4.9 Green Belt policy is detailed in section 10 of the 2018 DLP. The relevant policy to this application is GB1 which explains when planning permission will be granted. As per the NPPF and GB1 the proposed compound and access road are inappropriate development. NPPF paragraph 143 states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

### IMPACT ON THE GREEN BELT

4.10 The access road requires removal of a section of hedgerow (some 26m in length) which runs parallel to the A19 and the access road would be the extent of the cornfield. The works constitute development that would encroach into the countryside and would therefore conflict with one of the Green Belt purposes as set out in NPPF paragraph 134.

4.11 NPPF paragraph 144 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

### LOSS OF OPEN SPACE

4.12 The loss of open space to accommodate the access route would only be policy compliant with NPPF paragraph 97, which relates to open space, if criteria b were applicable as a consequence of site restoration following the works. Criteria b states as follows - *b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location*



4.13 The site would be restored to its previous appearance and use following works. It forms part of the planning balance as to whether the temporary loss of the open space (and its function) during the construction period and subsequent period of restoration is outweighed by the benefits of enabling the flood defence works at Clifton Ings.

## IMPACT ON BIODIVERSITY

### Cornfield Nature Reserve

4.14 The main site access and compound will be located within the 4.6ha field known as 'Rawcliffe Cornfield Nature Reserve'. The land is part of Rawcliffe Bar Country Park which is long-term leased to City of York Council (CYC). Although it does not hold any statutory or non-statutory designation for nature conservation it has been managed positively for wildlife by a voluntary group, the Friends of Rawcliffe Meadows since 2003.

4.15 The field is currently in a 10 year Higher Level Stewardship agreement (HLS) predominantly managed as arable; cultivated and managed with low-inputs, and targeted at declining farmland bird species by providing a foraging resource. The land has also developed to support invertebrates and arable wildflowers and that are classed as species of conservation concern.

4.16 This proposal would result in the early termination of the HLS agreement which would otherwise end 30/09/2021. Natural England have confirmed that an exceptional circumstances (force majeure) application would be required to avoid Friends of Rawcliffe Meadows being liable to repay the funding received to date. No compensation has been proposed for the Friends of Rawcliffe Meadows for the loss of the remaining two years of funding.

4.17 A bee bank created by Friends of Rawcliffe Meadows alongside the western field boundary with a buffer zone will be retained through the works.

4.18 It has been agreed with the Council (Public Realm team) to create a small area c.03ha of sown crop in Rawcliffe Bar Country Park immediately adjacent to the Cornfield to provide a substitute food source for birds and habitat for arable wildflowers. This area will be fenced with the construction zone from which the public will be excluded, therefore reducing disturbance from walkers and dogs.

4.19 Within the Cornfield it is also proposed to leave a 12m buffer between the site compound and field margins to be scarified to replicate the cultivation during normal agricultural activities, for the benefit of arable wildflowers. Seed collection and propagation would further help to perpetuate the plants.

4.20 The EA will reinstate the Cornfield to either arable or permanent grassland. The mitigation and management of the Cornfield Nature Reserve will be detailed and secured through a Habitat and Landscape Management Plan.

#### Hedgerows

4.21 There will be a loss of 26m native species-poor hedgerow and one semi-mature Beech tree alongside A19 Shipton Road for the new access. It is proposed to replace this hedgerow in-situ. Replacement hedgerow and tree planting will be detailed and would be secured through the proposed Habitat and Landscape Management Plan condition.

#### Protected and Notable Species

4.22 As well as farmland birds, there will be the temporary loss of habitat and disturbance for a range of other species including Roe Deer, Toads, Barn Owls, and Hedgehogs.

4.23 Roe Deer are a native species, abundant through the UK and therefore of low conservation concern. They are found in a range of habitats and will readily displace into the wider area, however the Cornfield does offer the only area free from disturbance of people and dogs in the immediate surroundings.

4.24 Both Toads and Hedgehogs are species "of principal importance for the purpose of conserving biodiversity" covered under section 41 (England) of the NERC Act (2006). Avoidance measures proposed during construction include an ecological clerk of works (ECoW) supervising vegetation clearance works, no night time working and covering deep excavations at night and these provisions should be included in a Construction Environmental Management Plan.

4.25 Barn Owl are protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), making it unlawful to intentionally or recklessly disturb these birds whilst they are building a nest or are in, on or near a nest containing eggs or young or to disturb their dependent young. There are three artificial Barn Owl boxes in the immediate area, including one in the Cornfield, which will be temporarily closed while not occupied prior to construction, to ensure barn owl/s do not occupy the box during construction. The other two boxes will be kept open to provide alternative roosting features away from the main works. There will be a temporary loss of Barn Owl foraging habitat but this is considered not to be significant.

#### Great Crested Newts

4.26 Rawcliffe Meadow SINC (ref. SE55-10YK) immediately north of the flood bank (Blue Beck flood storage basin) supports a medium breeding population of Great Crested Newts; with a combined maximum of 20 individuals recorded across several small ponds and scrapes in 2018. Great Crested Newts (GCN) have full protection

under the Wildlife & Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). No ponds will be lost through the proposal and the areas of core habitat for GCN within the SINC, and connected habitat to the north (allotments etc) will not be impacted, but there will be disturbance and temporary loss to terrestrial habitat within 500m of breeding ponds. Using Natural England's rapid risk assessment tool as a guide it is likely that works will result in wildlife offences and therefore works will have to be carried out under a European Protected Species Licence. A Great Crested Newt Mitigation Plan will need to be developed to minimise potential impacts on newts and terrestrial habitat, and to ensure that adequate mitigation is provided as part of the development proposals.

4.27 In terms of mitigation it is proposed to follow Natural England's European Protected Species Policy 1: Greater flexibility when excluding and relocating European Protected Species (EPS) from development sites. The policy states Defra considers that compensation for EPS impacts can be delivered without the need to relocate or exclude populations, where:

- exclusion or relocation measures are not necessary to maintain the conservation status of the local population;
- the avoid-mitigate-compensate hierarchy is followed; and
- compensation provides greater benefits to the local population than would exclusion and/or relocation.

4.28 The proposed compensation measures, hibernacula within Rawcliffe Meadow SINC, will provide limited enhancement in an area of existing high quality habitat. It will be for Natural England to determine the correct approach however the Local Planning Authority must have regard to the Habitat Regulations in determining the application.

## Habitat Directives

4.29 The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017 (as amended), contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would harm a European Protected Species (EPS). Notwithstanding the licensing regime, the LPA must also address its mind to these three tests when deciding whether to grant planning permission for a development which could harm an EPS.

4.30 The "derogation tests" which must be applied for an activity which would harm a European Protected Species (EPS) are contained within the species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017 (as amended) are as follows:

- that the action is for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature;

- that there is no satisfactory alternative; and
- that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

4.31 In respect of these tests there is justification for the works as they will enable the works to the barrier bank, which will better defend the area from flood risk and in any event the barrier bank in its current form will require remedial works. Natural England have raised no objection to the works subject to the agreed measures to mitigate the environmental effects.

4.32 Rawcliffe Meadow SINC (Blue Beck flood storage basin) supports a medium meta-population of Great Crested Newts which appears to have established since 2015. No breeding ponds or core-habitat will be lost through the flood barrier works, but terrestrial habitat within 500m of breeding ponds will be disturbed and damaged. Great Crested Newts are nominally widespread across Britain and classed as a species of 'least' conservation concern by the IUCN Red List of Threatened Species (although the population trend is decreasing). The requirement for a European Protected Species Licence or Reasonable Avoidance Measures will prevent any direct harm to GCN, and it is considered possible to adequately mitigate on site through the reinstatement and restoration of habitat. Therefore the third test for maintenance of favourable conservation status can be met.

## HIGHWAY NETWORK MANAGEMENT

4.33 NPPF paragraph 108 requires that safe and suitable access to the site can be achieved for all users. Highways officers have no objection to the proposed access. Conditions are proposed in the interests of highway safety, specifically detailing the condition of the highway and routing of construction traffic to avoid the city centre.

## RESIDENTIAL AMENITY

4.34 The anticipated impacts and recommended mitigation as a consequence of the scheme have been detailed in the Environmental Statement produced by the EA for the application for the works at Clifton Ings. Public Protection Officers are content with the proposed works in this respect. Construction management would be subject to a condition of the companion application for the flood defence works. The plan would include the times of works, bearing in mind the proximity of the access road to housing. For this application which relates to removal of vegetation and insertion / removal of an access track and site compound area a construction management plan to minimise noise and dust is not necessary due to the type and scale of works.

## FLOOD RISK

4.35 Part of the access road is in flood zone 2. Drainage details will be required in the interests of managing surface water run-off and can be secured by way of planning condition.

#### WHETHER VERY SPECIAL CIRCUMSTANCES EXIST

4.36 NPPF paragraph 144 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

4.37 The proposed access to allow works at Clifton Ings will have an adverse impact on the Green Belt as a consequence of the loss of a section of hedgerow and installation of a road through the cornfield.

4.38 The other identified harm would be as follows –

- A temporary loss of open space during the construction period.
- A temporary loss of habitat by placing development in the cornfield during construction until site restoration.

4.39 Given the scale of the project and the heavy goods traffic that will be associated with the earth movement required in association re-profiling the barrier bank an access road is necessary to facilitate the works. The site compound would be permitted development should the application for the flood defence works gain permission. An impact on the Green Belt and locally designated open space is unavoidable if the flood defence works are to take place.

4.40 The thrust of national policy regarding flood risk, as set out in section 14 of the NPPF is to mitigating and adopting to climate change and avoiding increased vulnerability to flood risk. The access road will enable works to the flood defences which will enhance protection of a substantial area, including 134 properties, from river flooding. This scheme delivers benefit by improving the level of protection for the area; to the extent that it is defended during the 1 in 100 year flood and, compared to the existing defence, reduces the area, and number of properties that would be at risk, during the AEP 0.1% event / 1 in 1000 year flood.

4.41 Given the identified harm and the means of mitigation, which will be secured through condition; the need to facilitate the flood defence works, and benefits that would occur as a consequence of the project are deemed to constitute very special circumstances that outweighs the identified (temporary) harm to the Green Belt and other harm resulting from the proposed temporary access road and site compound.

## **5.0 CONCLUSION**

5.1 The proposed access to allow works at Clifton Ings will have an adverse impact on the Green Belt, open space and biodiversity. The intention is for site restoration following the works and therefore the harm would not be permanent. The role of the Friends of Rawcliffe in managing the area will be in jeopardy and their funding will be lost; however this cannot be avoided through the planning process (we cannot specify that a certain 3<sup>rd</sup> party be required to manage the site). Officers are content that planning conditions can secure a reasonable level of mitigation over time; the responsibility of which will lie with the applicants/developer; the EA. Conditions are proposed to manage and minimise the effect on biodiversity during the works and for comprehensive long term management. The site will be restored to its previous appearance.

5.2 Other options for the access route have legitimately been ruled out due to the scale and type of construction vehicles involved with the flood defence works.

5.3 With regards the impact on the Green Belt the NPPF states that very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. With regards the natural environment the NPPF advises planning decisions should minimise impacts on, and providing net gains for, biodiversity.

5.4 The current barrier bank has issues with stability which significantly impacts on the operation and effectiveness of the flood defence, particularly for any consecutive flood events. The existing standard of protection of the barrier bank is 2% AEP (2 in 100 year flood events). The scheme would ensure that up to 2039 (taking into account climate change) the barrier would protect during the 1 in 100 year flood event / 1% AEP. The proposals will reduce flood risk for 134 properties, and the local area, which will subsequently be defended against the 1 in 100 year flood (plus climate change).

5.5 To facilitate the flood defence works and secure adequate mitigation through conditions are deemed to constitute very special circumstances outweigh the identified harm; the temporary harm to habitats, the openness of the Green Belt and landscape character of the area, and its role as open space which would occur during the period of works.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Approve**

#### **Recommended conditions:**

Application Reference Number: 19/00009/FUL

Item No: 4b

1 TIME2 Development start within three years

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

Site layout plan - 660119-JB-DR-PL-4210

Access junction site layout plan - 660119-JB-DR-PL-4211

Access junction sections - 660119-JB-DR-PL-4220

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

3 Construction Management (highways)

No development shall take place until a construction management plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out thereafter in accordance with the approved plan.

The construction management plan shall include the following details –

- a) A dilapidation survey jointly undertaken with the local highway authority.
- b) Measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway.
- c) The routing of construction traffic, to include strategy for signage / communications with contractors.

Reason: In the interests of highway safety and in accordance with NPPF paragraphs 102 and 108.

4 Construction environmental management plan (Biodiversity)

No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.

- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: This condition is required prior to commencement to avoid and minimise harm to biodiversity resulting from the development, in line with Paragraph 175a) of the NPPF.

#### 5 Habitat and Landscape Mitigation and Management Plan (non-SSSI features)

No development shall take place until a plan for the mitigation and management of ecological features not included in the SSSI designation during construction, and delivery of long term restoration and management has been submitted to and approved in writing by the local planning authority. The management plan shall be in accordance with BS 42020:2013 Biodiversity - Code of practice for Planning and Development and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the management plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details and shall be retained and maintained by the landowner in that manner thereafter.

Reason: To minimise harm to biodiversity resulting from the development, in line with Paragraph 175a) of the NPPF.

#### 6 Great Crested Newt European Protected Species Licence and Mitigation Strategy



Works or activity within 250m of Blue Beck flood storage basin shall not commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) Evidence that the site has been registered on a Natural England Low Impact Class Licence; or
- c) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To prevent harm to a European Protected Species and in accordance with policy GI2: Biodiversity and access to nature of the 2018 DLP.

## 7 Archaeology

A programme of post-determination archaeological mitigation, specifically an archaeological strip, map and record exercise is required on this site.

No groundworks shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI shall conform to standards set by the Chartered Institute for Archaeologists.

A site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. A copy of the report (or publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: In accordance with Section 16 of NPPF as the site is considered to be an area of archaeological interest. Therefore, the development may affect important archaeological deposits which must be recorded prior to destruction.

## 8 Drainage

Development of the access road shall not begin until details of 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.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site; to avoid increased surface water run-off rates arising

from the development and consequently to reduced increased flood risk elsewhere, in accordance with NPPF paragraph 163.

#### 9 Access road to be hard-surfaced

Prior to the development coming into use, all areas used by vehicles shall be surfaced, sealed and positively drained within the site, in accordance with the approved plans.

Reason: To prevent the egress of water and loose material onto the public highway.

#### 10 Site restoration

Following completion of the flood defence works at Clifton Ings (as detailed in application 19/00007/FUL) the site compound and access road shall be removed and the site restored to its previous condition.

Prior to the completion of works the Local Planning Authority shall be notified of the dates for completion of the project and for the removal of the site compound and the access road. The boundary hedge shall be re-instated within a period of six months of the completion of the development. Any associated vegetation 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.

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

Reason: To avoid permanent harm to the character and appearance of the area and biodiversity and the openness of the Green Belt, in accordance with sections 12, 13 and 15 of the NPPF.

#### 11 Access gate not to obstruct the highway

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

Reason: To prevent obstruction to other highway users.

### **7.0 INFORMATIVES:** Notes to Applicant

#### 1. Breeding birds

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

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

## 2. Kyle & Upper Ouse Internal Drainage Board

Any surface water discharge into any watercourses in, on, under or near the site requires CONSENT from the Drainage Board. For further guidance, pre-application advice & consent form visit: [www.shiregroup-idbs.gov.uk](http://www.shiregroup-idbs.gov.uk), and select "Kyle & Upper Ouse IDB. The developer should note the IDB guidelines as noted on their consultation response.

## 3. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: through negotiation and the use of planning conditions to ensure an acceptable impact with regards to biodiversity.

### **Contact details:**

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