

COMMITTEE REPORT

Date: 11 July 2019
Team: Major and Commercial Team
Ward: Osbaldwick And Derwent
Parish: Osbaldwick Parish Council

Reference: 18/01778/FULM
Application at: Land To The North And East Of Grid House Metcalfe Lane Osbaldwick York
For: Erection of 40 dwellings with associated roads, landscaping and public open space
By: Mr Andrew Black
Application Type: Major Full Application (13 weeks)
Target Date: 16 November 2018
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 This application was reported to Planning Committee on 21 February 2019 and recommended for approval subject to conditions and Section 106 obligations. It was deferred by the Committee in order that further clarity could be provided about sustainable energy measures and that a Construction Traffic Management Plan could be submitted for consideration. The scheme layout has been amended since the application was reported in February following further site investigative work by the applicant that has uncovered a high voltage cable running along the Sustrans cycle route and the edge of the site and requires a change to the planned drainage arrangements for the development. The need to provide a foul and surface water pumping station at the northern end of the site has resulted in a change to the layout of the houses, though the road structure remains the same.

PROPOSAL

1.2 The application concerns an area of land approximately 1.49 hectares in size located to the west of Metcalfe Lane and was formerly owned by National Grid. It is part of a larger residential development scheme approved at outline stage by the Secretary of State in 2007 (03/02709/OUT). Reserved matters approval for the four quadrants of the development has subsequently been granted. This proposal relates to an area of land within Phase 3 (sitting between phase 1 to the south and phase 4 to the north) that was granted approval under reserved matters consent 12/01878/REMM for 39 dwellings. The reserved matters approval gave consent for 269 dwellings within Phase 3 with access from Fifth Avenue. The application site lies within flood zone 1.

1.3 The current proposal seeks full planning approval to erect 40 dwellings following a re-design of the layout of this part of phase 3 to accommodate the retention of two electricity pylons and overhead lines that cross the northern section of the

application site and Grid Cottage which is in private ownership and lies to the west of the application site. The power lines were intended to be laid underground, but National Grid are unable to provide this undertaking and a stand off zone distance set by the grid operator, Northern PowerGrid needs to be adhered to if the power lines have to remain overhead. The retention of the cables effectively neutralises the land beneath them and within a safety clearance distance of 11m either side of the power lines.

1.4 Access to Phase 3 would remain unchanged. The number of dwellings would increase by one to 40 through the extension of the built area into a parcel of land that lies to the north of the main National Grid site and was part of it, but previously proposed to be converted to open space as part of Field 9 to the east. The mix of house types is as follows: 1 no. two bedroom houses, 35 no. three bedroom houses and 4 no. four bedroom houses. Of these, 31 would be market housing, 5 social rented housing and 4 shared ownership housing.

1.5 Revised plans have been submitted during the course of the application to address issues raised by consultees, most notably the Council's Ecologist and Highway Engineer.

ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS

1.6 The site area does not exceed 5 hectares and the number of units is less than 150 dwellings and therefore the application falls below the threshold stated in the Town and Country Planning (Environmental Impact Assessment)(Amendment) Regulations 2015. The application, whilst related to an existing approved application that was accompanied by an EIA does not constitute a subsequent application as defined in the EIA regulations.

2.0 POLICY CONTEXT

2.1 Yorkshire and Humber Regional Spatial Strategy - Green Belt policies YH9(C) and Y1 (C1 and C2))

2.2 National Planning Policy Framework (July 2018)

2.3 Draft York Local Plan (4th set of changes)(2005) - relevant policies include:

- CYGP1 – Design
- CYGP3 – Planning against crime
- CYGP4A – Sustainability
- CYGP4B – Air Quality
- CYGP6 – Contaminated Land
- CYGP9 – Landscaping
- CGP15A – Development and Flood Risk

- CYNE1 – Trees, woodland, hedgerows
- CYNE6 – Species protection
- CYNE7 – Habitat protection
- CYGB1 – Development in the Green Belt
- CYT4 – Cycle parking standards
- CYH1 – Housing Allocation
- CYH2A – Affordable Housing
- CYH3B – Managed Release
- CYH3C – Mix of Dwellings
- CYH5A – Residential Density
- CYED4 – Developer Contributions towards Education
- CYL1C – Provision of New Open Space in Development

2.4. Publication Draft Local Plan (2018) – relevant policies include:

- DP2 – Sustainable Development
- DP3 – Sustainable Communities
- SS1 – Delivering Sustainable Growth for York
- SS2 – The Role of York’s Green Belt
- H2 – Density of Residential Development
- H3 – Balancing the Housing Market
- H10 – Affordable Housing
- HW3 – Built Sport Facilities
- HW7 – Healthy Places
- D1 – Landscape and Setting
- D2 – Placemaking
- GI2 – Biodiversity and Access to Nature
- G14 – Trees and Hedgerows
- GI6 – New Open Space Provision
- GB1 – Development in the Green Belt
- CC1 – Renewable and Low Carbon Energy Generation and Storage
- CC2 – Sustainable Design and Construction
- ENV1 – Air Quality
- ENV2 – Managing Environmental Quality
- ENV3 – Land Contamination
- ENV4 – Flood Risk
- ENV5 – Sustainable Drainage
- T1 – Sustainable Access
- DM1 – Infrastructure and Developer Contributions

3.0 CONSULTATIONS

INTERNAL

Design Conservation and Sustainable Development (Ecology)

3.1 The proposal would result in the loss of existing scrub and trees from around the perimeter of the National Grid site, along the land to Grid Cottage and to the east of Phase 4. However, the main part of the scheme, plots 4-20, is not significantly different from that previously approved under 12/01878/REMM. The approved revised Phase 4 layout encroached onto Field 9, but retained the existing vegetation on the western boundary with the land north of Grid Cottage. There is approx. 60m of mature native species hedge line that would be lost to the rear gardens of plots 31-40 and the turning head would result in the loss of part of the northern boundary vegetation. The positioning of the sub-station in the south of the site will also result in the loss of part of the hedgerow/scrub on the western boundary.

3.2 In response to the updated landscape masterplan and lighting scheme, requests conditions to secure the landscaping and lighting schemes and makes following comments:

3.3 The substation on the western boundary has been re-located, so protecting hedgerow. The footpath on the north site boundary has been removed, thereby reducing unnecessary light spill onto Field 9. The new native species hedging on the eastern boundary is positive, though requests removal of lighting column 6A to reduce light spill onto adjacent habitat which is shown as being higher than tolerable for common species of bats most likely to be found in this area. Other site lights will be fitted with a shield to help minimise light spill.

3.4 The landscape plan retains and enhances areas of existing scrub around the pylons and on the southern boundary of the site. However there will still be a loss approx 60m of mature nature species hedge line/scrub where there will be the rear gardens of Plots 31-40. The turning head for these houses would also result in the loss of part of the northern boundary vegetation. The approved application for the Phase 4 revised layout encroached onto Field 9 but retained this existing vegetation.

3.5 The loss of mature native species hedge/scrub through the building of Plots 31-40 does not make the scheme unacceptable but is regrettable, particularly in the context that this had been shown as retained in the approved plans for Phase 4 of the development.

3.6 No objections to revised plans. The location of the pumping station will result in the loss of part of the hedgeline along the northern boundary, although it will be possible to retain the hedge line on the western boundary. Whilst disappointing, it is accepted that the standard design and requirements of the pumping station restricts where it can be located. With careful removal of only the minimum vegetation, and due to the height of the vegetation and that of the station (lower), it is considered that the habitat connectivity provided by the hedgeline will be lost. As shown on the revised Landscape Masterplan the loss of vegetation will be mitigated on site with a native shrub mix in the space between the pumping station and existing housing

from the previous phase.

Highway Network Management

3.7 Acceptable in principle. Road access and layout, parking provision and levels, refuse and servicing acceptable. Detailed matters to be resolved, which would be covered through Section 38 agreement, including road materials. Conditions requested.

3.8 In principle, accepts the Construction Traffic Management Plan subject to further detail being provided.

Flood Risk Management

3.9 Surface water disposal proposals – Agreed drainage arrangements in principle including surface water discharge at 3.5lps with the applicant. Request conditions and informative to control detailed design.

3.10 Foul water disposal - As per YWS response dated 11th September 2018 and their recommended conditions.

Public Protection

3.11 Construction Noise and Dust - As there are residential properties close to the site, recommend that controls are put in place by condition to minimise noise, vibration and dust during demolition and construction.

3.12 Air Quality - No objections, but request facilities be incorporated to facilitate electric vehicle charging in line with paragraph 110 of the NPPF.

3.13 Contaminated Land - A site investigation report and contamination report have been submitted. The site investigation report concludes that the preliminary results classify the site as falling within Characteristic Situation 1 although this is dependent on the further three rounds of monitoring that still need to be completed. The contamination report recommends that contaminated soils are removed as part of the development of the site and that all materials used for landscaping in garden/communal areas are tested to ensure suitability. Further, it recommends that following removal of the soils and concrete plinth sampling should be undertaken on exposed soils to checked for contamination. Reports are generally acceptable. Recommends conditions be attached.

Education Facilities

3.14 An education contribution is required for secondary age provision (6 anticipated secondary pupil yield x 17,251 cost multiplier 2018/19 =£103,512).

Public Health

3.15 A financial contribution of £25,986 is requested based on the size of the development and mix of dwellings. The area around the development has a deficit of 3.16ha of sports pitches. The contribution would be split between Osbaldwick Sports Club (£10,986) and Burnholme Sports Pitches (£15,000).

Housing

3.16 The Housing Strategy and Development Team support this application. It complies with the council's submitted Local Plan policy H10 by providing 20% affordable housing on a Brownfield site. The tenure and house type mix have been considered in the context of the wider Derwenthorpe scheme, which has delivered substantially in excess of the policy requirement level of affordable housing for the highest demand social rented family house types. The homes are pepper-potted throughout the site to facilitate a mixed and sustainable community, and the high quality homes will be managed by the developing Registered Provider.

3.17 The affordable housing will be fixed for a period of three years. Should the development have not meaningfully progressed during this period the level of affordable housing will be revised in line with the council's target applicable at that time.

3.18 The Housing Strategy and Development Team welcome this application which will deliver much-needed new quality affordable homes and expand the popular and sustainable Derwenthorpe scheme.

EXTERNAL

Environment Agency

3.19 The proposed development site may have been subject of past activity which poses a risk of pollution to controlled waters. Following recently revised priorities, the EA is unable to provide detailed site-specific advice relating to land contamination issues at this site. Advice reference to EA published 'Guiding Principles for Land Contamination' which outlines the approach to managing risks to the water environment from this site. Advise consultation with Council's Environmental Protection Department. Recommend procedures and good practice regarding land contamination and highlight code of practice for waste on site and taken off site.

Yorkshire Water

3.20 Request conditions to protect the local aquatic environment and YW infrastructure. A water supply can be provided. The Flood Risk Assessment submitted is generally acceptable. In summary it states that foul water will discharge

to unmapped foul system via pumping station. The off site connection point for foul water to the public sewer network and the proposed foul water pumped rate is required before this can be agreed. In terms of surface water disposal, this will discharge to watercourse via existing swale which is acceptable. The landowners consent will be required for the construction of a new outfall structure. As surface water is not proposed to discharge to the public sewer network no assessment of the capacity of the public sewers to receive surface water has been undertaken.

3.21 In response to re-consultation, no observation comments are required. Previous comments still apply.

Natural England

3.22 No comments to make. Natural England has not assessed this application for impacts on protected species. The lack of comment from Natural England does not imply that there are no impacts on the natural environment. Reference made to standing advice and NE guidance.

Foss Internal Drainage Board

3.23 The site sits close to the Drainage Board's District and watercourse Osbaldwick Beck. The Board has no objection to the principle of development, but recommends that the applicant be asked to clarify the drainage strategy and prove any connectivity that they are claiming to enable an evaluation to be undertaken in flood risk terms. Conditions requested.

3.24 In principle, the Board agrees with the drainage approach proposed with the revised plans, but seeks a condition to ensure that it is clear where the watercourse proposed to be used is located, and where it then flows to. Highlights the need for the Board's consent under the Land Drainage Act 1991 and the Board's byelaws for any connection and/or discharge to a Board maintained watercourse either directly or indirectly.

Yorkshire Wildlife Trust

3.25 The Trust is happy with the amount of detail provided by the Preliminary Ecological Appraisal by Brooks Ecological. The suggestions for mitigation for any loss of biodiversity and enhancement could be conditioned. There may also be opportunities for connectivity to ecological features provided in previous phases of the development. The Trust has no further comments to make following the submission of revised plans.

National Grid

3.26 No objection to the proposal which is in close proximity to our high voltage transmission underground cable.

Cadent Gas Limited

3.27 As proposed activity is in close proximity to National Grid's Transmission assets, request that work does not commence until hear from Asset Protection Team. Contractor should contact Plant Protection before works are carried out.

North Yorkshire Police

3.28 Having reviewed the documents submitted, it is pleasing to note that recommendations for designing out crime, as part of a pre-planning application consultation have been considered. The design and layout of this proposal is considered acceptable.

Osbaldwick Parish Council

3.29 Previous objections and comments with regard to earlier applications have largely been ignored in the past, many of these comments have related to entirely predictable adverse effects both in terms of design and layout as well as the actual construction process. The PC has no faith in the local planning authority to address any points in the current submission.

3.30 Design and Layout - As with other phases there are too many houses crammed into too small a space with a highway network too small to accommodate traffic levels typically associated with the development. Road width is too narrow and parking provision totally inadequate leading to displaced parking on landscaped areas. Pleased to see that the private access to Grid Cottage is maintained but question how this will operate. Proposals incorporate an excessive amount of street-lighting - adjacent to field 9 wildlife area and adjacent to Green Belt. Object to use of ugly PV panels as proposed on some of the units and would suggest that all be fitted with solar roof tiles.

3.31 Landscape - Object to further loss of any hedgerows despite commitments to mitigate such losses on earlier phases the applicant and contractor have demonstrated a complete indifference to protection of hedgerows in this site. CYC have seemed equally indifferent to enforcing retention or replacement planting and what has occurred has largely been a result of 'robust' correspondence by the Ward Councillor. No faith in JRHT due to ongoing neglect of the retained meadowland on Phase 3.

3.32 Construction process - Deep concerns as to implications of construction in this area. No construction vehicles should be permitted to use Metcalfe Lane for access/egress/parking and the public's enjoyment of these PROWs should not be

compromised in any way. Remain sceptical as to CYC fulfilling its duties with regard to the PROWs adjacent to the site. Construction route should be taken via Phase 3 and out through Fifth Avenue as set down in planning conditions imposed by the plan in inspector following the 2006 public inquiry. Highlight unregulated nature of HGV delivery access and egress arrangements and contempt shown to residents on construction routes. Request construction traffic and working hours are rigorously enforced.

3.33 Planning obligations - Request that unfulfilled planning obligations are addressed before planning permission is granted including:- retained meadowland in phase 3; construction of footpath/cycle link to Burnholme development; diverted Bridleway on phase 4; Derwenthorpe Partnership Advisory Committee to meet.

PUBLICITY AND NEIGHBOUR NOTIFICATION

St Aelred's Primary School

3.34 Comment as follows:

- Raise concerns about highway safety along Fifth Avenue relating to construction traffic, narrow road width, park cars, lack of footpath within Derwent Way, poor road surface along Fifth Avenue, road flooding and pressure for parking due to large school catchment area;
- Construction traffic should not be using Fifth Avenue during and either side of school opening and closing times, which has not been enforced;
- Lack of notification about this application and difficulty finding application online;
- Proposed housing will increase road journeys on Fifth Avenue and perpetuate current highway conditions;
- There is no travel appraisal that takes account of the school;
- Fifth Avenue has experienced a disproportionately high level of adverse effects on amenity as a result of noise and disturbance and pollution - an alternative access and egress measures are considered and implemented for Phase 5 to ameliorate these impacts and restrict further deterioration of the highway;
- Welcome the opportunity to discuss in more detail the influences the scheme has had on the school in terms of numbers of pupils and additional financial obligations.

Derwenthorpe Residents Association

3.35 Request that Construction Environmental Management Plan condition is strengthened by adding:

- particularly noisy activities and movements of large vehicles be prohibited during anti-social hours, at weekends and on public holidays;
- the CEMP must include wheel washing facilities on site;
- heavy vehicle movements be prohibited within 30 minutes before and after school opening and closing times.

Local residents

3.36 Petition with 55 signatories of residents of Fifth Avenue - strongly object:

- Construction traffic has compromised structural integrity of the road and houses and is detrimental to the environment and children's health. Construction traffic does not adhere to agreed restrictions at school entrance and exit hours or start tie in morning.
- Road within the site has no pavements in the perimeters of the development meaning children must walk down the centre of the road. The road is un-adopted and so there is no maintenance causing flooding of the area as the drains are not cleaned and are full of construction waste.
- The houses and school cannot receive fibre and lighting is sparse and unrepaired meaning low visibility. Request an alternative route would be a better solution.
- No signs have been placed in the area of Fifth Avenue.

3.37 Comments from 3 no. residents living within the Derwenthorpe development:

- Strongly object to noise, disruption, damage to road and houses and danger to children from high volumes of traffic.
- Concerned about access during build and when occupied as it is already a very busy route.
- Inspector allowed access along Fifth Avenue 13 years ago and now 70 properties in Derwenthorpe front directly onto the construction traffic road and at a distance of 5m or less.
- Other points of entry/access should be considered both for new residents and construction traffic, such as Meadlands or Metcalfe Way.
- No confidence in applicant or builders to impose or enforce measures to slow down traffic and restrict access times.

3.38 Comment from 2 residents living on Fifth Avenue:

- No objection to the development, but object to continued use of Fifth Avenue as main access and egress to the site.
- Experience is that developers and suppliers rarely comply with restrictions in place causing severe disruption during school drop off and pick up and causing damage to the road and houses.
- Construction traffic route should be from Hull Road through Osbaldwick Village.

3.39 Comment from 1 resident of Burnholme Avenue:

- Concern about access from Fifth Avenue due to parked cars, damage to road surface and accident risk.
- Houses should be for families rather than buy to let.

4.0 APPRAISAL

4.1 The key issues to be considered as part of this application are:

- Principle of development;
- Green Belt policy;
- Access and highway issues;
- Design and visual amenity;
- Residential amenity;
- Contamination;
- Ecology;
- Archaeology;
- Flood risk and drainage;
- Impact on local facilities;
- Housing and affordable housing;
- Other considerations.

POLICY CONTEXT

Development Plan

4.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. For the purposes of section 38(6) the development plan for York comprises the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013 and the neighbourhood plans for Poppleton and Rufforth with Knapton. There are no policies within the neighbourhood plans relevant to the determination of this application. The Saved RSS policies, YH9(C) and Y1(C1 and C2), relate to York's Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

2005 Draft Local Plan

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

Relevant polices are listed in section 2 of this report. The site is identified as a housing site on the Proposals Map accompanying the 2005 Draft Plan.

Emerging Local Plan

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

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

4.5 Relevant policies are set out in section 2 of this report. The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The site lies within the built-up area of the City outside, but adjacent to the Green Belt inner boundary with areas of open space on the Proposals Map that accompanies the 2018 Draft Plan.

Emerging Local Plan evidence base

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

- Green Belt TP1 Addendum and Annex 3 York Green Belt Inner Boundary Section Descriptions and Justifications (2019);
- Strategic Housing Land Availability Assessment (2018).

National Planning Policy Framework

4.6 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", March 2018) places emphasis on achieving sustainable development. The relevant chapters of the Framework include 5 'Delivering a sufficient supply of homes', 11 'Making effective use of land', 12 'Achieving well-designed places', 13 'Protecting Green Belt land', 14 'Meeting the challenge of climate change, flooding and coastal change' and 15 'Conserving and enhancing the natural environment'. The policies in the NPPF are material considerations.

PLANNING BACKGROUND AND HISTORY

4.7 Outline planning permission (ref. 03/02709/OUTM) was granted by the Secretary of State in May 2007 for a residential scheme of approximately 540 dwellings on land to the west of Metcalfe Lane, Osbaldwick. Means of access and the general landscaping structure were approved as part of the outline consent. The scheme involved a sustainable urban extension to the east of the City with a high proportion of affordable homes that would be retained and managed by JRHT. The general layout of the development, its division into four neighbourhoods each with its own individual vehicular access point, the size and shape of these neighbourhoods and the approximate number of dwellings within each one, along with the general location of public open space, were established through an illustrative masterplan and design documents submitted in support of the outline planning application. Reserved matters consent for siting, design, external appearance and detailed landscaping were subsequently approved. Reserved matters for the phase the subject of this application were approved in 2013 (12/01878/REMM).

4.8 Phases 1 and 2 of the development (Neighbourhood D accessed from Osbaldwick Village and Neighbourhood C accessed Temple Avenue respectively) have been built and are now occupied. Phases 3 and 4 (respectively Neighbourhood A accessed from Fifth Avenue and Neighbourhood B accessed from Meadlands) are under construction with a large proportion of the homes completed and occupied.

4.9 Changes were made to Phase 4 of the scheme under a full planning application (ref. 16/00342/FULM), as a result of the retention of overhead electricity lines, which neutralised an area of land previously to be built on. Instead, this area of land was kept as public open space and a section of land to the western end of field 9 (to the south of Phase 4) was proposed to have six houses built on it. The application was approved in November 2016.

PRINCIPLE OF DEVELOPMENT

4.10 Whilst the RSS has otherwise been revoked, its York Green Belt policies have been saved together with the key diagram which illustrates the general extent of the Green Belt around York. These policies comprise the S38 Development Plan for York. The policies in the RSS state that the detailed inner boundaries of the Green Belt around York need to be defined to protect and enhance the nationally significant historical and environmental character of York. Although the 2005 Draft Local Plan proposals map identifies the site for housing development, the Secretary of State in considering the outline application in 2007 concluded that the land was part of the Green Belt. The Secretary of State considered that the site fell outside the categories of development that are considered in policy to be appropriate in the Green Belt and attributed substantial weight to the definitional harm.

4.11 The 2018 emerging Local Plan proposes the removal of the site from the general extent of Green Belt, allocating it for housing and setting the inner boundary of the Green Belt in the 2019 Green Belt TP1 evidence base document along the

eastern edge of the site, along Metcalfe Lane. However, in line with the Secretary of State's 2007 decision and until the emerging Local Plan has been adopted, it is considered that the site falls within the general extent of the Green Belt.

4.12 The Council cannot currently demonstrate an NPPF compliance 5 year supply of deliverable housing sites on land that is outside of the general extent of York's Green Belt. Paragraph 11 of the NPPF establishes the presumption in favour of sustainable development by applying a "tilted balance" to cases where housing supply policies are out-of-date. However, the presumption does not apply if the proposal conflicts with restrictive Green Belt policies.

GREEN BELT POLICY

4.13 The NPPF at paragraph 133 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open with the essential characteristics of Green Belts being their openness and permanence. Paragraph 134 sets out the five purposes of the Green Belt:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from 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.

Inappropriateness

4.14 Paragraph 145 states that a local planning authority should regard the construction of new buildings as inappropriate development in Green Belt. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 says when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

4.15 The proposal involves the redevelopment of the former National Grid site. Paragraph 145(g) of the NPPF includes the complete redevelopment of previously developed land as appropriate development providing that it would have no greater impact on the openness of the Green Belt than the existing development. Certain other forms of development, being related engineering operations, are also not inappropriate under paragraph 146(b) providing they preserve openness and do not conflict with the purposes of including land with the Green Belt.

4.16 The proposal would involve the erection of 40 dwellings and associated roads on land that is currently level and enclosed by a palisade fence and vegetation. The proposal would therefore have a greater impact on the openness of the site and the contribution it makes to the wider openness of the Green Belt than the existing development. It would therefore constitute inappropriate development for the purposes of the Green Belt policy tests. For inappropriate development to be acceptable, very special circumstances must exist, but will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Impact on openness and Green Belt purpose

4.17 The site falls within a larger residential development that has outline planning consent that has been implemented and is being constructed with two phases complete and the remaining two phases part occupied. The current application seeks full planning approval to re-position the properties within part of Phase 3 of the approved outline scheme to take account of the retention of overhead electricity cables and two support pylons within the site along with the required 11m safety clearance distance from the cables and the separate ownership of Grid Cottage.

4.18 The Secretary of State, in granting outline consent, identified that the residential development of the land resulted in limited harm and concluded that the site did not fulfil any purpose of Green Belt, in particular the preservation of York's historic setting and special character. In light of the previous outline consent for residential development of the land and the fact that this full application seeks to re-site houses within the overall extent of the outline development site that are similar in scale, layout and appearance, the proposal would not cause further harm to openness and purposes of the Green Belt. However, although the harm to openness is considered to be limited, it still needs to be given substantial weight by the decision maker in the planning balance.

Very special circumstances

4.19 As stated above, the site has an extant consent for redevelopment as part of the 2007 outline planning permission and subsequently approved reserved matters, which would see housing development extend across the whole area of land to its boundary with Metcalfe Lane. This is the basis of the case for very special circumstances and is assessed from paragraphs 4.58 onwards below.

TRANSPORT AND HIGHWAY ISSUES

4.20 The NPPF encourages sustainable travel and the location of development in sustainable and accessible locations. The proposal relates to an approved sustainably located and accessible residential development that forms an extension to the main urban area of the City. The dwellings would be accessed via Fifth Avenue as previously approved through the outline planning application.

(i) Construction traffic

4.21 Concern has been expressed by residents of the Derwenthorpe development and Fifth Avenue and St Aelred's School about the continued use of Fifth Avenue and Derwent Way (the main spine road from Fifth Avenue to the community hub building) as the access for construction vehicles. The residents and school cite the inappropriate road layout for construction vehicles, lack of compliance with the legal agreement requiring a construction traffic management plan, increased numbers of children living in the scheme and the potential for highway safety problems. There has also been representation from Osbaldwick Parish Council seeking confirmation of the agreement for all construction vehicles to continue to use Fifth Avenue.

4.22 The original outline application approved the site access via Fifth Avenue due to its proximity to the strategic road network and layout of the road. This application relates to part of Phase 3, with the rest of the phase being built as part of the original outline and reserved matters consents. It proposes 40 dwellings in comparison to the 39 approved in the same area under reserved matters consent; therefore, only one additional dwelling. Further, it would be very difficult to determine which construction vehicles ought to be accessing this full planning permission element or the remainder of the land within the phase 3 reserved matters approval. In terms of alternative accesses, it is understood that Metcalfe Lane is privately owned with a right of access for vehicles to access Grid Cottage and operational vehicles serving the former National Grid site. Access through Meadlands would be problematic as it would open up a vehicle route between Phases 3 and 4, which was intended to be pedestrian and cycle access only, or involve the removal of more vegetation. Enforcement of any alternative construction traffic management arrangements would not be practicable, and thus could not be controlled through condition as it would not meet the tests set out in the NPPF (paragraph 55).

4.23 The Local Highway Authority considers it appropriate for the current access arrangements for construction traffic to be continued and points out that the internal highway from Fifth Avenue has been designed to naturally constrain vehicle speeds (to 20 mph or below) through the use of localised pinch points, managed on-street parking and building alignment. The road has been designed to accommodate public transport and is therefore considered suitable as a route for construction traffic.

4.24 The Planning Committee deferred determining the application in February in order that a Construction Traffic Management Plan (CTMP) was submitted for consideration. A CTMP has been submitted by the applicant following public meetings with the local community. The plan is a preliminary statement in advance of a contractor for the development being appointed; a more detailed plan will be produced and submitted once a contractor is in place. The plan includes:

- confirmation that the development will be part of the Considerate Contractors Scheme;
- confirmation that the access would be from Fifth Avenue;
- a commitment to continue dialogue with neighbouring residents, business and schools;
- restrictions on deliveries at school opening and closing times;
- the provision of two banks people on Fifth Avenue/Tang Hall Lane and at the site entrance;
- a restriction on vehicles to under 32 tonnes where possible;
- the provision of contractor parking within the site or at the rear of the SSC;
- the provision of a fixed wheel wash and, if necessary, a road sweeper;
- a record for public inspection of any breaches;
- measures in place at St Aelred's School, for example, a pedestrian crossing point, signage and community engagement events (school safety talks for pupils).

4.25 The CTMP has been considered by the Council's Network Management Engineer, who accepts the plan in principle subject to further detail being provided.

(ii) Post construction traffic

4.26 The main changes that impact on highway considerations relate to the internal road layout and parking provision. The hierarchy of roads within the quadrant remains the same with a circular outer road ("green lane") and internal home zones. The new section of road serving the 5 no. dwellings on Field 9 is accessed by the green lane and has adequate space for vehicles to park and turn. Parking provision is provided on a 1:1 basis, as intended for the development site as a whole with visitor spaces and city car club spaces being distributed across the phase. The revised scheme includes 10 visitor spaces and 2 car club spaces. It includes the retention of the existing public right of way cycle/footpath that runs along the eastern boundary from Meadlands to the north, via Phase 4 to the Sustrans cycle route, diverted onto the internal roadway; this is as originally approved under outline and reserved matters consent. The existing means of access to Grid Cottage from Metcalfe Lane would be maintained via a gate controlled by the owners, details of which would need to be conditioned.

4.27 No objections have been raised in principle by the Local Highway Authority, subject to conditions relating to highway and parking related matters and Section 106 contributions relating to sustainable travel initiatives.

(iii) Sustainable transport

4.28 One of the key principles of the Derwenthorpe housing scheme is its sustainable and accessible location and encouragement of sustainable transport. The development is an urban extension site with four accesses allowing connections to the surrounding built up areas and facilities. Parking is restricted within the

scheme to 1:1, with the exception of some larger properties. A package of sustainable transport measures is required through legal agreement including financial contributions towards the establishment of a site-specific car-club and the provision of a contribution towards a cycle or bus pass for the first occupier. These obligations apply to this revised layout for part of phase 3 and are considered to be:

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

and therefore comply to Regulation 122 of the 2010 CIL Regulations. These contributions would also comply with Regulation 123 as there have not been 5 or more separate obligations which provide funding or provision of that project or type of infrastructure since 2010.

4.29 Overall, it is considered that the access and parking arrangements proposed are acceptable and would not have a detrimental impact on highway safety, subject to conditions and planning obligations. There is no further harm identified as a result.

DESIGN AND VISUAL AMENITY

4.30 Chapter 12 of the NPPF gives advice on design, placing great importance on the design of the built environment. At paragraph 127 it states that planning decisions should aim to ensure that, amongst other things, developments will function well and add to the overall quality of an area, be visually attractive through good architecture, layout and appropriate landscaping, be sympathetic to local character whilst not stifling innovation, establish a strong sense of place, and create safe and accessible environments. It goes on to say that great weight should be given to outstanding or innovative designs which help raise the standard of design in the area (para.131). At paragraph 130, it advises against poor quality design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. These aims are reflected in draft Local Plan policies GP1 of the 2005 draft Local Plan and D1 and D2 of the 2018 emerging Local Plan.

4.31 The proposal would alter the layout of the larger residential development and reconfigure the open space within this part of the larger scheme by introducing five houses and a pumping station for foul and surface water on the land to the west of Field 9 and west of the six houses approved under the full application to revise the layout for Phase 4. The houses would back onto one another. The area of land under the pylons and cables that cannot now be developed for housing, would be partially landscaped and would read as part of Field 9 to the north of the phase. Overall, the existing structural open space layout would be retained.

4.32 The revised scheme would follow the overall approach and design of the larger residential development, with the emphasis on the creation of a sustainable,

accessible and cohesive community and utilising existing house types with a similar palette of materials and fenestration details. The Design and Access Statement submitted with the application states that the homes are proposed to be environmentally friendly and economical to run and are to be built to Joseph Rowntree Foundation 'Lifetime Homes' standard. The Energy Strategy Statement confirms that the originally proposed photovoltaic panels are to be omitted from the scheme following careful analysis and would be replaced with either connection to the District Heat Network or the provision of Ground Source Heat Pumps for the forty homes. There would be a mix of house types ranging from 2 to 4 bedroom properties arranged in terraces, semi-detached and detached forms, with the majority of houses (88%) being three bedroom family homes. There would be a cohesive character and appearance to the approved housing within the Derwenthorpe development.

4.33 The Police Architectural Liaison Officer raises no concerns or issues with the revised layout with regards to opportunities for crime. A condition covering detailed landscaping for the development is required if the application is approved.

4.34 As such, the proposal is considered to be acceptable in terms of its impact on the character and appearance of the area and there would no further harm to Green Belt.

RESIDENTIAL AMENITY

4.35 Paragraph 127(f) of the NPPF seeks that developments create a high standard of amenity for existing and future users. Paragraph 180 of the NPPF also states that new development should be appropriate for its location taking into account the likely effects on pollution on health and living conditions, including mitigating any impacts from noise and light pollution.

4.36 There are existing established residential properties close to the site including Grid Cottage to the south and west and Langton House on the opposite side of Metcalfe Lane. The occupants of Grid Cottage would experience a significant change in the immediate living situation as the property would be surrounded on three sides by the larger residential development (the cycle path being to the south) with the houses to the north positioned approximately 18m away from it and an internal roadway running along its eastern boundary. However, it would retain its current high boundary enclosure and its private garden area is located to the south of the house, away from the houses proposed within the phase. Grid Cottage would maintain its current right of way through to Metcalfe Lane via a controlled access as well as benefitting from an additional means of access through the estate to Fifth Avenue. Langton House itself is separated from the site by Metcalfe Lane and a range of associated outbuildings and so should not be adversely affected by the proposal. There are houses within phase 3 to the west and 4 to the north that would be in close proximity to the application site, though are in the process of being built.

4.37 As there are residential properties close to the proposed site Public Protection have requested that controls are put in place to minimise noise, vibration and dust during demolition and construction in the form of a Construction Environmental Management Plan (CEMP).

4.38 The proposal would have a similar density to the previously approved layout and would reflect the general housing layout of the other phases of the larger development. The proposed houses would have similar separation distances within the phase to the previously approved scheme and each have an adequate private amenity space to serve them. A Local Area of Play is retained within the phase.

4.39 Therefore, in light of the above, there would be no adverse impact on residential amenity as a result of the revised layout and no further harm is identified.

ECOLOGY

4.40 Paragraph 118 of the NPPF aims to conserve and enhance biodiversity, including the refusal of planning applications where significant harm cannot be avoided or adequately mitigated and where development would adversely affect Sites of Special Scientific Interest, ancient woodland and European protected sites.

4.41 The Ecological Report submitted with the application confirms that the site is sufficiently separated from any designated protected sites. The application site is largely hard-surfaced, though there are areas of existing scrub and hedge line, which are likely to be affected by the development. Field 9, which lies to the north of the application site, was originally retained in its entirety due to the presence of great crested newts in the pond within it and the wet grassland habitat it provided. Part of the field was agreed under Phase 4a to be built upon with 6 no. dwellings following ecological surveys that confirmed that the a population of great crested newts was no longer present. The scheme has been revised following concerns about the loss of mature native species hedge and scrub and the impact of lighting on Field 9. The revised plans include the removal of the substation thereby protecting the western hedgerow, the removal of the northern footpath thereby removing unnecessary light spill onto Field 9, additional native species hedging on the eastern boundary and the retention and enhancement of existing scrub around the pylons and on the southern site boundary. There would remain the loss of approximately 60m of mature native species hedge line where plots 32-40 are proposed, which is regrettable, but does not make the scheme unacceptable. The revisions to the scheme to incorporate the pumping station would lead to loss of some scrub vegetation in the far north of the site, which could be compensated to the east of the pumping station. Conditions are requested to secure the landscaping and lighting schemes.

4.42 Therefore, whilst the loss of vegetation is regrettable, the proposal is considered to be acceptable in terms of ecology and biodiversity, subject to conditions. No further harm is identified.

ARCHAEOLOGY

4.43 Paragraph 197 of the NPPF requires the effect of an application on the significance of a non-designed heritage asset to be taken into account in determining an application. Draft Local Plan Policy HE10 and emerging Local Plan Policy D6 reflects national planning guidance.

4.44 Previous studies and surveys indicated that the site may be the location of a prehistoric settlement and a Roman settlement is known in the vicinity of Osbaldwick. However, this site has been subject to significant ground disturbance from the provision of the hardsurfaced area and erection of electricity pylons. Therefore, it is considered that there would be no harm to non-designated heritage assets and as such there would be no need for further archaeological investigation before determination or through condition.

FLOOD RISK AND DRAINAGE

4.45 Paragraph 155 of the NPPF states that development should be directed to the areas of low flood risk and that development should be made safe for its lifetime without increasing flood risk elsewhere. Policies GP15a of the 2005 Draft Local Plan and ENV4 and ENV5 of the 2018 emerging Local Plan reflect the advice of the NPPF.

4.46 The application is supported by a Flood Risk Assessment and Drainage Impact Assessment. These confirm that the site and its access lie within low risk flood zone 1 and should not suffer from river flooding. Foul sewage is proposed to be discharged to the existing mains drainage sewerage system. Surface water is proposed to be disposed of via the main sewer to an existing water course. A pumping station is proposed in the northern section of the site to facilitate adequate drainage discharge. The development of this part of Phase 3 is proposed to be drained separately to the rest of the Derwenthorpe development. The Environment Agency raises no objection. Yorkshire Water and the Internal Drainage Board request conditions are attached to any approval. The Council's Flood Risk Management Engineer is satisfied with the drainage arrangements in principle, but seeks further details through condition.

4.47 As a result, the development is considered to be acceptable in planning terms, subject to conditions to cover the detail of the drainage proposals. There is no further harm identified.

CONTAMINATION

4.48 Paragraph 180 of the NPPF requires planning decisions to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the

potential sensitivity of the site or the wider area to impacts that could arise from the development. Local planning policies reflect this advice. Paragraph 181 encourages planning decisions to contribute towards compliance with relevant limit values or national objectives for pollutants and improve air quality through, inter alia, green infrastructure provision and enhancement. Further, paragraph 110 states that applications for development should be designed to enable charging of plug-in and other ultra low-emission vehicles in safe, accessible and convenient locations. The national policy is reflected in local planning policies GP6 of the 2005 draft Local Plan and ENV1 and ENV3 of the 2018 Publication draft Local Plan.

4.49 The application is supported by a contamination report and site investigation report, which confirm the previous use as an electricity substation operated by National Grid and identify potential sources of contamination at the site from the presence of made ground associated with the former substation, the operation of the site as a substation and its operation for agriculture. The report recommends the removal of the contaminated soils, including the upper 0.5m of soil from 1.0m around the concrete plinth and that all materials used for landscaping of gardens and amenity spaces are tested to ensure suitability. Whilst Public Protection are generally satisfied with the reports, further information, including further sampling of soils and three further rounds of monitoring, is required before a remediation strategy can be agreed. This can be covered by the imposition of conditions.

4.50 Public Protection also seek a condition to ensure that facilities for charging plug-in and other ultra low emission vehicles are incorporated in the scheme to encourage the uptake of low emission vehicles in York, in accordance with paragraph 110(e) of the NPPF and the Council's adopted Low Emission Strategy.

IMPACT ON LOCAL FACILITIES

4.51 Paragraph 54 of the NPPF advises that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations and that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 ('2010 CIL Regulations'), sets out the statutory tests that any planning obligation must satisfy. These tests are: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and, (c) fairly and reasonably related in scale and kind to the development. These tests are reiterated in paragraph 204 of the NPPF. Provision 123 of the 2010 CIL Regulations places further limitations on the use of planning obligations including that where more than five separate planning obligations have been entered into since April 2010 that provide for the funding or provision of that project or type of infrastructure, it would be unlawful to take into account in the granting to planning permission any further planning obligation relating to that project or type of infrastructure.

4.52 The application seeks full planning permission and therefore is considered as a stand alone application, with any contributions required being directly related to the development.

(i) Education

4.53 The development would generate the need for six additional secondary school places at Archbishop Holgate's Secondary Academy. The aforementioned school is currently at capacity. Financial contributions totalling £103,512 would therefore be required under Policies ED4 of the 2005 Draft Local Plan and ED6 of the 2018 emerging Local Plan.

(ii) Public Open Space

4.54 The development would generate the need for off site sports provision in lieu of provision on site. The site lies within an area where there is a deficit of 3.16ha of sports pitches. The contribution would be spent in accordance with the City's playing pitch strategy on the provision of pitches, outdoor sport and ancillary facilities at Burnholme Sports Centre site. A financial contribution of £25,986 is requested based on the size of the development and mix of dwellings.

4.55 These contributions are considered to be:

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

and therefore comply with Regulation 122 of the 2010 CIL Regulations. These contributions would also comply with Regulation 123 as there have not been 5 or more separate obligations which provide funding or provision of that project or type of infrastructure since 2010.

HOUSING AND AFFORDABLE HOUSING

4.56 The proposal would deliver much needed housing for the City, with the majority (35 dwellings) being 3 bedroom properties. The remaining dwellings would include 1 no. two bedroom houses and 4 no. four bedroom properties.

4.57 The NPPF states that local planning authorities should set policies for meeting identified need for affordable housing on site. To that end the Council seeks to ensure that new housing development of 15 dwellings or more in the urban area will include affordable housing. The site lies within the general extent of York's Green Belt, but as the 2005 Local Plan and 2018 emerging Local Plan exclude the site from Green Belt and include it as a housing site within the urban area, it is considered appropriate to treat it as an urban site for the purposes of the affordable housing provision. The original outline planning approval was subject to a Section

106 Legal Agreement that required the provision of 40% affordable housing across the entire site in accordance with an affordable housing plan to be agreed. The pepper-potting of housing has been revised so that more affordable housing is proposed within the western half of Phase 3. However, the application proposes 9 of the 40 dwellings be affordable homes, which equates to 22.5% and exceeds the current threshold of 20% for brownfield sites over 15 dwellings contained in Policy H10 of the emerging Local Plan. Of the nine, 5 are proposed to be social rent and 4 shared ownership. The Council's Housing Strategy and Development Team welcome the proposals for much needed, high quality, affordable homes in a sustainable and accessible location and are in agreement about the tenure, house type mix and location of the affordable homes. Thus, it is reasonable to accept the nine affordable homes as part of this full application for part of phase 3.

OTHER CONSIDERATIONS

4.58 As previously mentioned, the Council cannot demonstrate a five year supply of housing land outside the general extent of its Green Belt. However, whilst the NPPF 'tilted balance' in favour of the presumption in favour of sustainable development would normally be engaged (paragraph 11(d) and footnote 7 of the NPPF 2019) this is not the case in relation to this application. The NPPFs 'tilted balance' toward the presumption in favour of sustainable development is not engaged in this case because the proposed development is deemed inappropriate development in the Green Belt, which, in accordance with paragraph 11(d)(i) of NPPF 2019, is one of the policies in the NPPF that protect areas or assets of particular importance. As such, the lack of a five year supply of housing land is not considered to engage the 'tilted balance' in favour of the presumption in favour of sustainable development.

4.59 Paragraphs 143-144 of the NPPF advice that permission should be refused for inappropriate development, unless other considerations exist that clearly outweigh harm to the Green Belt by reason of inappropriateness and any other harm, which would amount to very special circumstances. In addition to harm due to inappropriateness, the proposed development would lead to further harm to the Green Belt in respect to openness. No further harm is identified that could not be mitigated by the imposition of conditions or obligations..

4.60 Whilst the Secretary of State considered when determining the outline application that the land falls within the Green Belt, she concluded that the site did not fulfil any of the Green Belt purposes and that harm to openness was limited. The following very special circumstances were identified by the Secretary of State as clearly outweighing the harm to the Green Belt from inappropriate development:

- the nature of the development as a highly sustainable and accessible housing scheme;
- the intended long term management role of JRHT;
- the need for an improved mix and for affordable housing in York; and,
- the absence of harm to any purposes of Green Belt.

The outline consent has been implemented and the development is part constructed. This application seeks approval to amend the layout of houses that fall within the extent of the previous development site and consequently the number of houses has reduced.

4.61 It is officers' opinion that the previous considerations identified by the Secretary of State in granting outline consent are still relevant and apply to this application and the fact that the land could be developed in part by virtue of this outline consent is a material consideration. Taken together, these are considered to be compelling reasons to justify development in the Green Belt and, therefore, very special circumstances exist to clearly outweigh the identified harm to the Green Belt.

5.0 CONCLUSION

5.1 The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 144 of the NPPF and by definition causes harm to the Green Belt. This harm, and other limited harm to openness of the Green Belt, must be afforded substantial weight and very special circumstances will not exist to justify the development unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

5.2 It is considered that the other considerations set out in paragraph 4.60 above together with mitigation of other harm through planning conditions and obligations, clearly outweigh the potential harm to the Green Belt, even when affording this harm substantial weight. This, therefore, amounts to the very special circumstances necessary to justify the development.

5.3 Any approval is subject to the signing of a Section 106 Agreement to cover the following matters, to include any necessary consequential variations being made to the original Section 106 obligation. The applicant has confirmed agreement to these heads of terms:

(i) Affordable housing provision:- Provision of 9 no. affordable dwellings, being 5 no. social rented units and 4 no. shared ownership;

(ii) Education:- £103,512 towards the cost of additional school places at Archbishop Holgate's Secondary Academy. An education contribution is required for secondary age provision (6 anticipated secondary pupil yield x 17,251 cost multiplier 2018/19 =£103,512).

(iii) Off-site sports provision:- Financial contribution of £25,986, of which £15,000 would be allocated to outdoor sport and ancillary facilities at Burnholme Sports Pitches and £10,986 would be allocated to Osbaldwick Sports Club;

(iv) Construction Traffic Management Plan:- Provision of a detailed Construction Traffic Management Plan that would be based on and incorporating the submitted preliminary statement submitted 7.6.19;

(v) Sustainable Travel:- Payment to the occupier upon first occupation of each residential unit either: £150 per dwelling towards the provision of a travel pass to permit one adult to travel free of charge on buses operated within the Council's area, or a non-transferable voucher to the value of £150 to be used to purchase a bicycle;

5.4 In light of the above, the proposal, subject to conditions and planning obligations, is considered to be acceptable in planning terms and complies with national and local planning policy. The application is, therefore, recommended for approval subject to the completion of a section 106 agreement and the following conditions.

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 (Development start within three years)

2 PLANS1 (Approved plans)

3 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

NOTE: For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations.

Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses: public.protection@york.gov.uk and planning.enforcement@york.gov.uk

Reason: To protect the amenity of the locality.

4 Prior to commencement of development, gas monitoring and/or a risk assessment shall be carried out by a competent person to assess gas generation and migration. Based on the results of the gas monitoring and/or risk assessment, the detailed design of a gas protection system shall be submitted to and approved by the local planning authority.

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

5 Prior to development commencing, 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 approved 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 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. 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.

6 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.

7 In the event that unexpected contamination is found at any time when carrying out the approved development, 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 and approved in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

8 All demolition, excavation and construction works and ancillary operations, including deliveries and dispatch from the site shall be confined to the following hours: 0800 to 1800 hours Mondays to Fridays, 0900 to 1300 hours Saturdays, and no working on Sundays and Bank Holidays.

Reason: To safeguard the amenities of adjoining occupants.

9 The site shall be developed with separate systems of drainage for foul and surface water on site.

Reason: In the interest of satisfactory and sustainable drainage.

10 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved in writing by the Local Planning Authority. The information shall include site specific details of:

- i) the means by which the surface water discharge rate shall be restricted to a maximum rate of 3.5 litres per second;
- ii) the means by which the surface water attenuation up to the 1 in 100 year event with a 30% climate change allowance shall be achieved, and;
- iii) the future management and maintenance of the proposed drainage systems.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

11 Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

12 LAND1 (Landscaping scheme)

13 Lighting details to be submitted

14 HWAY19 (Car and cycle parking)

15 HWAY1 (Road details)

16 HWAY33 (Highway constructed before occupation)

7.0 INFORMATIVES:

1 STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

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

- Pre-application discussion;
- Request for further information and revised plans to address issues raised;

- Imposition of conditions to mitigate harm.

2 Informative: Drainage

i) The applicant should be advised that the Internal Drainage Board's prior consent is required for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge to the watercourse will also require the Board's prior consent.

ii) Suitability of the surface water outfall shall be proven.

iii) The Council's Flood Risk Management Team require two weeks notice prior to drainage works starting in order to oversee the installation of the flow control device and associated attenuation measures.

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