



**Notice of a public meeting of
Executive**

To: Councillors Carr (Chair), Gillies, Lisle, Orrell, Rawlings,
Reid, Runciman and Waller

Date: Thursday 19 October 2017

Time: 5.30 pm

Venue: The George Hudson Board Room - 1st Floor West
Offices (F045)

A G E N D A

Notice to Members – Post Decision Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by **4:00 pm on Monday 23 October 2017**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Corporate and Scrutiny Management Policy and Scrutiny Committee.

1. Declarations of Interest

At this point, Members are asked to declare:

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

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

2. **Exclusion of Press and Public**

To consider the exclusion of the press and public from the meeting during consideration of **Annex 4 to Agenda Item 10** on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). This information is classed as exempt under paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

3. **Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Wednesday 18 October 2017**. Members of the public can speak on agenda items or matters within the remit of the committee.

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

Filming, Recording or Webcasting Meetings

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Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

4. Minutes (Pages 1 - 8)
To approve and sign the minutes of the last Executive meeting held on 28 September 2017.

5. Forward Plan (Pages 9 - 14)
To receive details of those items that are listed on the Forward Plan for the next two Executive meetings.

6. Future Management of Allotments
(Pages 15 - 58)

The Operations Manager (Public Realm) to present a report which seeks an Executive decision to grant a seven year lease to York Allotments Charitable Incorporated Organisation.

7. Upper and Nether Poppleton Neighbourhood Plan – Referendum Result and Adoption
(Pages 59 - 72)

The Assistant Director, Planning & Public Protection, to present a report which considers the results of the Upper and Nether Poppleton Neighbourhood Plan referendum.

8. Minerals and Waste Joint Plan – Submission
(Pages 73 - 166)

The Assistant Director, Planning & Public Protection, to present a report which provides an update on the outcomes of the consultation on the Addendum of Proposed Changes to the Minerals and Waste Joint Plan.

9. Community Stadium Project Report
(Pages 167 - 176)

The Deputy Chief Executive/Director of Customer and Corporate Services to present a report which is a concluding update to the Executive on the progress of the Community Stadium and Leisure Facilities Project (“Project”) since the last Executive report in July 2017.

10. Disposal of Willow House, Walmgate, York (Pages 177 - 194)

The Director of Economy and Place to present a report which seeks an Executive decision to dispose of the former Older Persons Home (OPH) at Willow House to the highest bidder.

Executive Support Officer:

Name: Carol Tague

Contact details:

- Telephone – (01904) 552094
- E-mail – carol.tague@york.gov.uk

11. Urgent Business

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

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

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

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 **(01904) 551550**

City of York Council

Committee Minutes

Meeting	Executive
Date	28 September 2017
Present	Councillors Carr (Chair), Gillies, Lisle, Orrell, Rawlings, Reid, Runciman and Waller
In Attendance	Councillors D'Agorne and Looker

53. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda. No additional interests were declared.

54. Minutes

Resolved: That the minutes of the last Executive meeting, held on 31 August 2017, be approved and then signed by the Chair as a correct record.

55. Public Participation

It was reported that there had been two registrations to speak at the meeting under the Council's Public Participation Scheme and that one Member of Council had also requested to speak.

Richard Briggs spoke on the York Central development and consultation, a matter within the Executive's remit, expressing his opinion, and that of other Holgate residents, that the York Central Partnership had not engaged properly with communities affected by the development. He stressed the important role of the council, as the only democratically accountable member of the partnership, in listening to residents and ensuring transparency.

Brian Watson spoke on the Community Stadium, a matter within the Executive's remit. He stated that no progress had been made on the stadium since the last update in July and

expressed the hope that the next update would be more positive and that the council would give constructive support to the sports clubs.

Cllr Richardson spoke on Agenda Item 6 (Demonstrating Delivery of the Older Persons Accommodation Programme), as Ward Member for Haxby and Wigginton. He welcomed the proposed upgrade of Haxby Hall but identified an issue with parking and asked Members to consider the possibility of a land exchange to establish parking facilities closer to the village centre.

56. Forward Plan

Members received and noted details of the items that were on the Forward Plan for the next two Executive meetings at the time the agenda was published.

57. Tour de France Scrutiny Review Final Report

Cllrs Craghill and Cuthbertson, as members of the Tour de France Scrutiny Review Task Group, presented a report which set out the findings of the Task Group's review of the planning of major events. The review had arisen from York's hosting of the Tour de France Grand Depart in 2014.

Key findings from the Task Group's final report, attached at Annex A, were highlighted. These concerned issues with the peripheral activities around the main Tour de France event, which in itself had been an outstanding achievement for the council. In particular, public engagement regarding the provision of campsites and entertainment hubs, planning and management of the Grand Depart Concert and overall communication with ward members about the activities had been inadequate. The Task Group had initially identified a number of draft recommendations, listed in the table at paragraph 73 of Annex A., which had already been implemented. Approval was now sought for a series of further recommendations, as set out in paragraphs 74-76 of Annex A and paragraphs 2-4 of the cover report.

The Chair thanked the Task Group members for their thorough review, from which lessons must be learned for the future management of events.

Resolved: That the recommendations of the Scrutiny Review Task Group, as detailed in the group's final report at Annex A and set out in paragraphs 2, 3 and 4 of the cover report, be approved.

Reason: To conclude the Scrutiny Review in line with the Council's Scrutiny procedures and protocols.

58. Demonstrating Delivery of the Older Persons' Accommodation Programme

The Programme Director, Older Persons' Accommodation presented a report which set out the progress of the programme towards delivering over 900 units of accommodation with care for older people.

A full update was provided in paragraphs 10 to 24 of the report. Good progress was being made towards new Extra Care, residential care and nursing care provision on a number of sites across the city. The creation of a health and well being campus on the former Burnholme school site was also progressing well, with completion of the health centre expected in 2019. Executive approval would be sought in late 2017 regarding plans for improved sports facilities and pitches on the campus. In respect of existing council-run care homes, Grove House, Oakhaven and Willow House had all closed, with residents moving safely to other homes. On 31 August, the Executive had approved the closure of Woolnough House. Approval was now sought to consult on the potential closure of the two remaining homes, Windsor House and Morrell House.

In response to Cllr Richardson's comments under Public Participation (Minute 55 refers) it was confirmed that, although the focus must remain on care home residents, officers would keep all councillors informed on related parking issues in their wards as work progressed.

Resolved: (i) That the contents of the report, and the progress being made to deliver the Older Persons' Accommodation Programme, be noted.

Reason: So the Executive can be assured that the Programme is delivering its objectives.

(ii) That a six week period of consultation be undertaken this autumn with the residents, families, carers and staff of one of the Council's Older Persons' Homes to explore the option of closing the home, with current residents moving to alternative accommodation, and that a further report on the outcome of this consultation be received by the Executive before a final decision is made.

(iii) That the process outlined in (ii) above be repeated in the first half of 2018 in respect of a further Council operated Older Persons' Home.

Reason: So that the Executive can decide whether and when to proceed with the closure of homes, having been fully informed of the views of, and options available to, existing residents.

59. Community Safety Plan 2017/2020

The Assistant Director for Housing and Community Safety presented a report which summarised the Safer York Partnership's (SYP) Community Safety Strategy for 2017-20 (the Strategy).

The Strategy, attached as Annex 1 to the report, had been approved by the SYP Board on 27 June. It set out actions against SYP's chosen priorities of: river and road safety, keeping the city centre safer, protecting people from harm, tackling anti-social behaviour, tackling serious organised crime, and tackling substance misuse. Building on the 2014-16 strategy, it continued to reflect the potential risks to community safety of high profile events such as terrorism, as well as more 'everyday' crimes. Detailed action plans were being prepared to draw together new and existing activities supporting the Strategy; these would provide a framework against which to monitor performance.

The Executive Member for Housing & Safer Neighbourhoods commented that the themes of the new Strategy were broadly

similar to those of the previous one but with more emphasis on early intervention and prevention. With regard to the perception of York city centre as unsafe due to drunken and anti-social behaviour, it was noted that police statistics showed York to be the safest tourist city in the world, with a 30% reduction in alcohol-related incidents since 2015/16.

Resolved: That the content of the Community Safety Strategy 2017-2020 be noted and that the Executive support the Council in delivering the priorities contained within the Strategy.

Reason: In accordance with the requirement in Section 6 of the Crime and Disorder Act to have a community safety plan for the City.

60. Sale of Land at Bootham Row Car Park

The Assistant Director for Regeneration and Asset Management presented a report which sought approval for the sale of a strip of land at Bootham Row Car Park to Bootham Developments LLP, owners of 27 Bootham.

The land in question was outlined in the plan at Annex 1. It adjoined 27 Bootham, a listed building owned by Bootham Developments LLP. The owners had proposed a scheme for developments at the rear of the building that would involve improvements to the public realm and the conservation area setting, including a new footpath and landscaping.

Due to the narrowness of the site, the land was not capable for development in its own right for any other use than car parking. In response to Members' questions, Officers confirmed that they would not recommend its sale to a third party for that use. A provisional agreement had therefore been negotiated to sell the land to Bootham Developments for £155,000, which reflected its market value. Any consequent loss of parking income was likely to be displaced into the main car park and would be mitigated by the capital receipt from the sale.

Resolved: That the sale of land at Bootham Row car park to Bootham Developments LLP for the sum of £155,000 be approved.

Reason: To achieve a capital receipt and improve the environment and public realm of Bootham Row and the surrounding area.

61. **Asset Management Strategy 2017-2022**

The Assistant Director for Regeneration and Asset Management presented a report which set out a refreshed and updated Asset Management Strategy for the Council, covering the period 2017-2022.

The new Strategy aimed to update the current Asset Management Plan 2011-2016 to make it relevant for the next five years and set out a new context, delivery models and methodologies for engaging customers and communities, all of which had evolved since 2011. To this end three objectives and a set of principles had been developed that would drive future planning, as set out in paragraphs 9 and 10 of the report.

The proposed approach to each separate 'block' of the council's large and varied property estate was detailed in paragraphs 12-35. In respect of **operational and community assets** this involved a significant programme of work, which would require an additional budget of £165k for a project manager, a part-time surveyor and building condition surveys. Approval was sought to fund this from contingency. **Commercial assets** were on track to achieve their income target and it was proposed that opportunities to create further income, whilst enabling the improvement and regeneration of areas of the city, be brought back to Members. With regard to **assets for housing delivery**, detailed work on the approach agreed by the Executive in March was ongoing and a further report would be brought to the Executive meeting in November.

It was recommended that the Strategy also be considered by the Economy and Place Policy Committee, to provide cross-party input before detailed plans were devised.

Resolved: (i) That the principles and approaches set out in the Corporate Asset Strategy be agreed, and that these be used to shape future asset decisions.

(ii) That the Asset Management Strategy be referred to the Economy and Place Policy

Development Committee for them to review and provide input and to bring back a report to Executive in the new year.

(iii) That the approach to developing a Community and Operational Asset Strategy be agreed.

(iv) That the use of contingency funding of £165k to fund the proposals set out in paragraph 22 of the report be approved, with reports on the expenditure of this funding to be brought to future Executive meetings.

Reason: To establish clear principles to guide and shape future use of the Council's assets and set out a programme of work to develop comprehensive plans for all Council assets.

62. Enforcement Policy

The Head of Public Protection presented a report which asked Members to review the formal enforcement action and surveillance activity undertaken in 2016-17 by the Council's Public Protection, Housing, Community Safety and National Trading Standards Regional Investigation and National Trading Standards eCrime teams, and to approve changes to the enforcement policies.

A summary of formal enforcement action and surveillance activity undertaken between 1 March 2016 and 31 March 2017 was provided in Annex A to the report. The proposed amended enforcement policies were attached as Annexes C and E, with responses to consultation at Annex F. It was noted that the changes proposed, as highlighted in paragraph 6 of the report, were mainly for the purpose of clarification and that the response from consultees had been positive.

In response to questions from Members regarding cold calling zones, Officers confirmed that a report on this matter was due to be brought to the Decision Session of the Executive Member for Culture, Leisure and Tourism.

Resolved: That the report, and the changes proposed to the enforcement policies, be approved.

Reason: To provide oversight of the formal enforcement activity undertaken in 2016-17, including surveillance activity, and to introduce updated policies addressing current issues, and other administrative changes.

Cllr D Carr, Chair

[The meeting started at 5.30 pm and finished at 6.58 pm].

Forward Plan: Executive Meeting: 19 October 2017

Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 15 November 2017

Title and Description	Author	Portfolio Holder
<p>Refresh of Housing Revenue Business Account – Business Plan</p> <p>Purpose of Report: This is an annual refresh of the 30 year business plan.</p> <p>Executive will be asked to: Agree the amended plan and finances.</p>	<p>Denis Southall</p>	<p>Executive Member for Housing & Safer Neighbourhoods</p>
<p>York Central – Preferred Access Route and Preparation for Planning</p> <p>Purpose of report: To consider the York Central Partnership recommended access route for inclusion in the master plan, to provide an update on progress and to agree the release of funds to support future work on master planning, consultation and planning application submission.</p> <p>Executive will be asked to: Agree an access route and agree funding for the next stages of work to take the scheme through the planning application stage.</p>	<p>Tracey Carter</p>	<p>Executive Leader (incorporating Finance & Performance)</p>
<p>Q2 Finance & Performance Monitor</p> <p>Purpose of Report: To provide overview of the councils overall finance and performance position at the end of Q2.</p> <p>Executive will be asked to: Note and approve.</p>	<p>Ian Cunningham/ Debbie Mitchell</p>	<p>Executive Leader (incorporating Finance & Performance)</p>

Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 15 November 2017 (continued)

Title and Description	Author	Portfolio Holder
<p>Q2 Capital Programme Monitor</p> <p>Purpose of Report: To provide overview of the councils overall capital programme position at the end of Q2. Members are asked to note and approve.</p> <p>Executive will be asked to: Note and approve.</p>	<p>Emma Audrain</p>	<p>Executive Leader (incorporating Finance & Performance)</p>
<p>Treasury Management & Prudential Indicators Mid Year Review</p> <p>Purpose of Report: To provide Members with an update on the treasury management position.</p> <p>Executive will be asked to: Note the issue and approve any adjustments as required to the prudential indicators or strategy.</p>	<p>Debbie Mitchell</p>	<p>Executive Leader (incorporating Finance & Performance)</p>

Table 2: Items scheduled on the Forward Plan for the Executive Meeting on 7 December 2017

Title and Description	Author	Portfolio Holder
<p>Delivering Health & Wellbeing Facilities for York: Sports Pitches at the Askham Estate and a Health Hub at Burnholme</p> <p>Purpose of Report: This report will seek consent for investment in and preparation and submission of the planning applications to deliver sports pitches and related facilities on land at the Askham Estate and Chesney Fields and seek agreement to dispose of land at Burnholme to facilitate the provision of a health hub on the site.</p> <p>Executive will be asked to: Give consent for investment in and preparation and submission of the planning applications to deliver sports pitches and related facilities on land at the Askham Estate and Chesney Fields and seek agreement to dispose of land at Burnholme to facilitate the provision of a health hub on the site.</p>	Roy Wallington	Executive Member for Adult Social Care & Health
<p>Annual Discretionary Rate Relief</p> <p>Purpose of Report: To approve any new awards of discretionary rate relief for the period 2018-2020.</p> <p>Executive will be asked to: Consider any new applications against budget available and approve any new awards.</p>	David Walker	Executive Leader (incorporating Finance & Performance)

Table 2: Items scheduled on the Forward Plan for the Executive Meeting on 7 December 2017 (continued)

Title and Description	Author	Portfolio Holder
<p>Review of Fees and Charges</p> <p>Purpose of Report: To seek approval to increase a range of the council's fees and charges with effect from 1st January 2018.</p> <p>Executive will be asked to: Approve an option to increase the relevant fees and charges as set out in the report annexes to enable the Council to effectively manage its budget.</p>	Helen Mallam	Executive Leader (incorporating Finance & Performance)
<p>Lord Mayoralty Nomination 2018/19</p> <p>Purpose of Report: To consider and approve the allocation of points for the nomination of the Lord Mayor for 2018/19.</p> <p>Executive will be asked to: Approve the proposed allocation of points.</p>	Dawn Steel	Executive Member for Economic Development & Community Engagement

Table 3: Items Slipped on the Forward Plan

Title & Description	Author	Portfolio Holder	Original Date	Revised Date	Reason for Slippage
<p>York Central – Preferred Access Route and Preparation for Planning</p> <p>For details see Table 1 above</p>	Tracey Carter	Executive Leader (incorporating Finance & Performance)	19/10/17	15/11/17	To give sufficient time for analysis of consultation responses by York Central Partnership.
<p>Delivering Health & Wellbeing Facilities for York: Sports Pitches at the Askham Estate and a Health Hub at Burnholme</p> <p>For details see Table 2 above</p>	Roy Wallington	Executive Member for Adult Social Care & Health	19/10/17	7/12/17	To enable our partners to complete consultation on the health centre proposals for Burnholme and we can progress costed plans for the football pitches at Ashfield estate.
<p>Housing Register and Allocations</p> <p>Purpose of Report: To agree the future direction in respect of access to / allocation of social housing.</p> <p>The Executive Member will be asked to (i) Agree the direction regarding remaining with North Yorkshire Home Choice or introducing a York system; and (ii) Agree allocation policy</p>	Becky Ward	Executive Member for Housing & Safer Neighbourhoods	7/12/17	15/2/18	To allow for the statutory consultation period.

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Executive**19 October 2017**

Report of the Director of Economy and Place
Portfolio of the Executive Member for Culture, Leisure and Tourism

Proposed Lease of Council Allotments to York Allotments Charitable Incorporated Organisation**Summary**

1. This report seeks an Executive decision to grant a seven year lease to York Allotments Charitable Incorporated Organisation.

Recommendations

2. The Executive is asked to:

Agree Option 1 – to grant a lease of the Council-owned allotment sites in York listed at paragraph 5 of this report to York Allotments Charitable Incorporated Organisation (YACIO), for a Term of 7 years, at a peppercorn rent, in accordance with the terms as set out in the Council's Asset Transfer Policy.

Reason: To harness the talents and energies of the community and to allow tenants to have a direct say in the day to day management of the service.

Background

3. The Council has a history of transferring the management of open space to the community, for example.
 - a) St Nicolas Fields Nature Reserve – managed by the Friends of St Nicolas Fields since 1998.
 - b) Rawcliffe Lake – fishing managed by York and District Amalgamation of Anglers since 2002.

- c) Bustardthorpe allotments – managed by Bustardthorpe Allotment Association since 2002.
 - d) Glen Gardens tennis courts managed by Heworth Tennis Club since 2015 and Rowntree Park tennis courts managed by Rowntree Park Tennis Club since 2016.
 - e) Scarcroft Green, West Bank Park and Clarence Gardens bowling greens- full self management of greens by Bowls and Croquet Clubs since January 2017.
4. Greater community involvement in the services creates volunteering opportunities across a range of disciplines, maintenance, administration, fund raising and management for example. Volunteers then have a greater say in how the service is run and developed. Local care and ownership of land can also result in savings to the tax payer and being outside local authority day to day control can attract external investment from local and national funders which are not available to the Council.
 5. As part of this approach it was agreed as part of the 2016/17 budget processes to seek new management arrangements for the Council allotments at: Bootham Stray, Carr, Field View, Fulford Cross, Hospital Fields, Glen Green Lane, Hempland Lane, Hob Moor, Holgate, Hospital Field, Howe Hill, New Lane, Low Moor, Scarcroft, Scrope, Strensall, Wigginton Road and Wigginton Terrace. A plan of each site is provided as Annexes.
 6. This process has been overseen and approved by the Executive Member for Leisure, Culture and Tourism. At the Executive Member meeting on the 16th January 2017 it was resolved: *“That the development of alternative management arrangements for the allotments service is approved, and once these have been developed a further report be received by the Executive Member”*.
 7. Following this decision a volunteer task group drawn from tenants explored different community management structures. Six members of the group then volunteered to become Trustees to form a Charitably Incorporated Organisation to manage the service; in August the Charity Commission approved their application.
 8. In September 2017 the Executive Member Leisure, Culture and Tourism agreed to transfer the management to YACIO and, following Council protocol, requests that the Executive grant a lease to YACIO.

9. The Council's Community Asset Transfer policy states that qualifying community groups should be offered a lease up to 99 years on a nil rent basis. The length of the lease is dealt with on a case-by-case basis, but needs to be long enough to offer security for the tenant to invest time and effort in developing the premises, and at the same time, for the council to have confidence in the organisation. In this case, it is proposed to offer YACIO a lease for a Term of 7 years.
10. Under the terms of the proposed lease a number of residual responsibilities will stay with the Council, including maintenance of brick perimeter walls (e.g. Scarcroft allotments, Green Lane allotments), prominent mature boundary trees (e.g. Hob Moor) and shared metalled surfaces (e.g. Holgate allotments, Low Moor allotments cycle track). These are documented on a site by site basis and will be recorded in the relevant respective lease. The provision and emptying of dog waste bins will also remain the Council's responsibility.
11. Under the terms of the proposed lease YACIO cannot sell or dispose of any land, transfer any of their duties to a third party, or use the land for other than the stated purpose of allotments as defined by the various Allotments Acts. Failure to comply with the above would result in breach and potential forfeiture of the lease.

Consultation

12. YACIO trustees have been consulted on the length of the lease and its contents.
13. There has been an ongoing dialogue between tenants, site associations and the Public Realm Operations Manager (Strategy and Contracts) for the last 18 months. Details of which were reported to the Executive Members at their decision making sessions.
14. The transfer of the service was also subject to Pre Decision Calling In and the points raised by the Economy and Place Scrutiny Committee were considered by the Executive Member for Leisure, Culture and Tourism 26th September 2017.

Options

15. Option 1 – to lease York allotments identified in paragraph 5 to York Allotments Charitable Incorporated Organisation for a Term of 7 years.

16. Option 2 – to lease York allotments identified in paragraph 5 to York Allotments Charitable Incorporated Organisation for a longer or shorter Term than 7 years.

Analysis

17. Both options provide for the service to be transferred to YACIO. By doing so, letting, care and maintenance, promotion and development of allotments will be the responsibility of YACIO. This follows the pattern set out in Paragraph 3 where the management and care of facilities is transferred to the community.
18. A seven year Term is considered advantageous for both parties as it allows for the founding Trustees to plan for medium term and for the authority to see how the new organisation performs. This length of lease allows for tenant participation in the new organisation to develop as this will be the key to its long term success and sustainability. All tenants are members of the Charity and therefore have a say in the setting of rents, the development of sites, future direction of the organisation and selection of Trustees (all Trustees have to seek re-election at the organisations first AGM and then periodically thereafter).
19. A shorter term is not recommended as this does not recognise the amount of effort that is required to set up the new enterprise. A longer lease can be daunting to a new organisation and would prevent the authority from reviewing the success of the organisation for several years.
20. By way of comparison those organisation listed in Paragraph 3 existed for a number of years prior to taking on the full management of the service or facility. During that time the organisation was known to the authority and had a history of involvement in the service or facility. The exception to this being Bustardthorpe Allotment Association who were also offered a trial period in the first instance. For the above reasons Option 1 is recommended.

Council Plan

21. This proposal will support and contribute to Council Plan priorities:
 - A prosperous city for all
 - Everyone who lives in the city can enjoy its unique heritage and range of activities.

- A focus on frontline services
 - All York's residents live and thrive in a city which allows them to contribute fully to their communities and neighbourhoods
 - Residents are encouraged and supported to live healthily

Implications

22. Implications

- **Financial** A peppercorn rent will mean that no inter-service rental will be payable to the Housing Revenue Account, as a result the Account will be short of £3k income.
- **Human Resources (HR)** There are no HR implications.
- **One Planet Council / Equalities** There are no Equalities implications.
- **Legal** It is understood that some of the allotment land in question (Carr Lane, Green Lane and part of New Lane) is currently held within the Housing Revenue Account. Section 32 of the Housing Act 1985 requires that the consent of the Secretary of State (for Communities and Local Government) is obtained before the Council can dispose (including granting a lease) of any HRA property. However paragraph A3.2 of the Housing General Consents Order 2013 gives the Secretary of State's consent to the disposal of 'vacant' (land on which no habitable houses currently stand) HRA land on whatever terms/for whatever consideration the Council considers appropriate.
- It is understood that the remainder of the allotment sites referred to in this report are held within the General Fund. Section 123 of the Local Government Act 1972 authorises the Council to dispose of (including by granting a lease of) non-housing land without the consent of the Secretary of State (for Communities and Local Government) provided that the best consideration reasonably obtainable is being obtained. The Council can still dispose of/grant a lease of non-housing land without the Secretary of State's consent for less than best consideration/full open market value provided that: (i) the difference between the price obtained and full market value does not exceed £2 Million AND (ii) the Council (acting reasonably and properly considers) that the disposal will facilitate the improvement of economic, environmental or social well-being of the area.

- If the land in question is all solely used for allotments and is not accessed by the general public for recreation then it would not be 'open space' land for the purposes of S.336 of the Town and Country Planning Act 1990. (S.123(2A)) of the Local Government Act 1972 requires that any proposed disposal of open space land by a local authority is notified in a local newspaper in two consecutive weeks and due consideration given to any comments/objections received before the proposed disposal is completed).
- **Crime and Disorder** As part of the handover arrangements improvements are being made to boundaries at three sites to improve security.
- **Information Technology (IT)** Allotment administration is supported through the Colony Enterprise IT package which holds data on vacancies and waiting lists, lettings and terminations, and invoicing and payments. Use of the system will be transferred back to the provider who will host the system for YACIO.
- **Property** See main body of the report.
- **Public Health** The provision of allotments contributes to the Public Health agenda – including physical and mental wellbeing, social inclusion and the growing of fresh produce.
- **Planning** There are no Planning implications.

Risk Management

23. The main risks to the Council are reputational and operational. If for some reason YACIO fails the management of the service would fall back to the council at which point a decision would be required to either directly manage the service again or to seek a new body run it. The risk is considered to be low

Contact Details

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Regeneration and Asset
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Tel No. 553419

Chief Officer Responsible for the report:

Neil Ferris
Director of Economy and Place

Report **Date** 17.09.17
Approved

Specialist Implications Officer(s) List information for all

Implication ie Financial
Name
Title
Tel No.

Implication ie Legal
Name
Title
Tel No.

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers:

All relevant background papers must be listed here.

Decision Session - Executive Member for Culture, Leisure & Tourism – 16th
January 2017 – Item 27 Future Management of Allotments

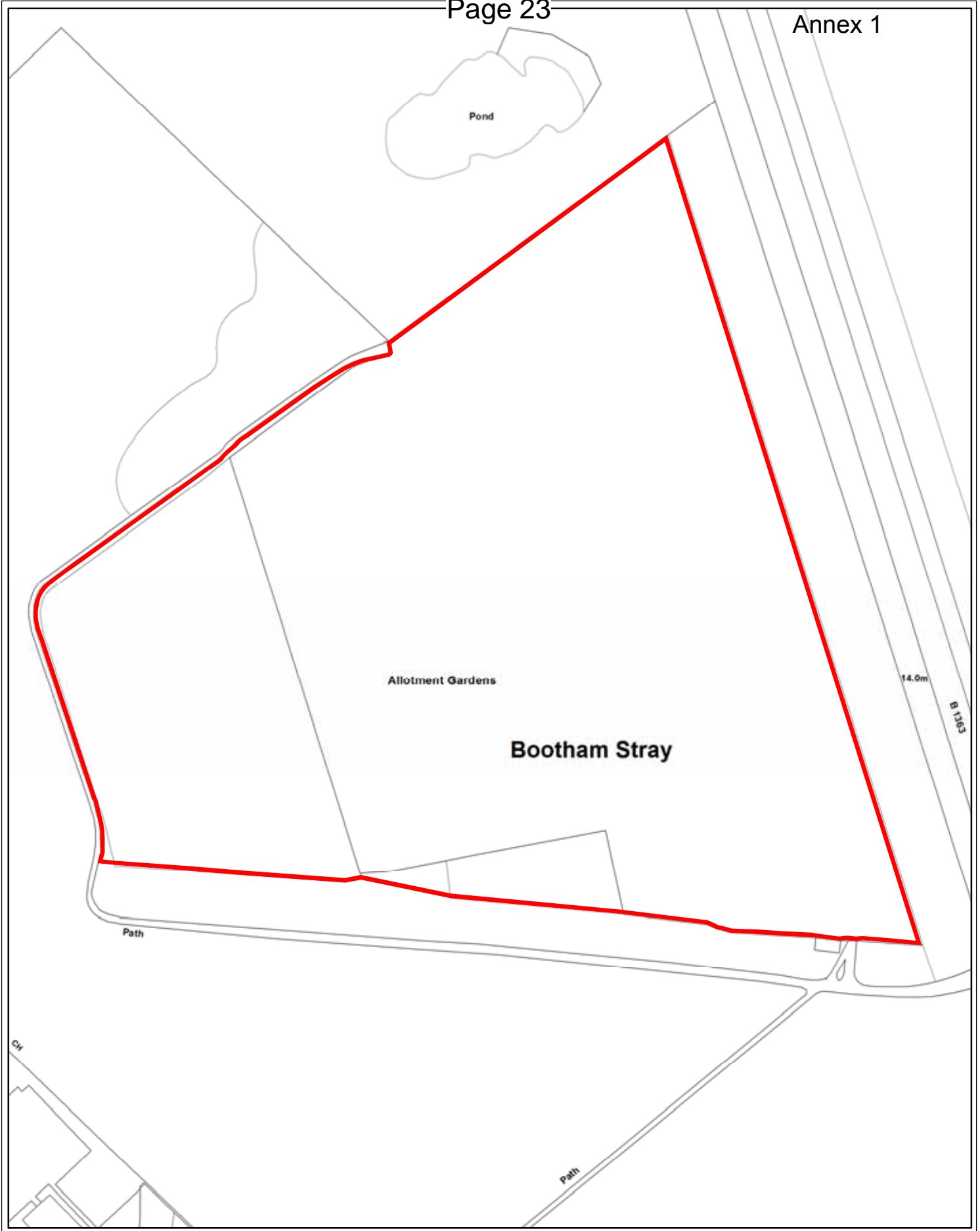
Decision Session - Executive Member for Culture, Leisure & Tourism – 25th
September 2017 – Item 5 Future Management of Allotments Next Steps

Annexes

- Annex 1 Bootham Stray allotments
- Annex 2 Carr allotments
- Annex 3 Field View allotments
- Annex 4 Fulford Cross allotments
- Annex 5 Glen allotments
- Annex 6 Green Lane allotments
- Annex 7 Hempland Lane allotments
- Annex 8 Hob Moor allotments
- Annex 9 Holgate allotments
- Annex 10 Hospital Field allotments
- Annex 11 Howe Hill allotments
- Annex 12 New Lane allotments
- Annex 13 Low Moor allotments
- Annex 14 Scarcroft allotments
- Annex 15 Scrope allotments
- Annex 16 Strensall allotments,
- Annex 17 Wigginton Road allotments
- Annex 18 Wigginton Terrace allotments

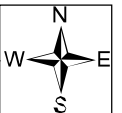
List of Abbreviations Used in this Report

YACIO - York Allotments Charitable Incorporated Organisation



*Asset & Property
Management*

Bootham Stray Allotments



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DATE: 05/10/2017

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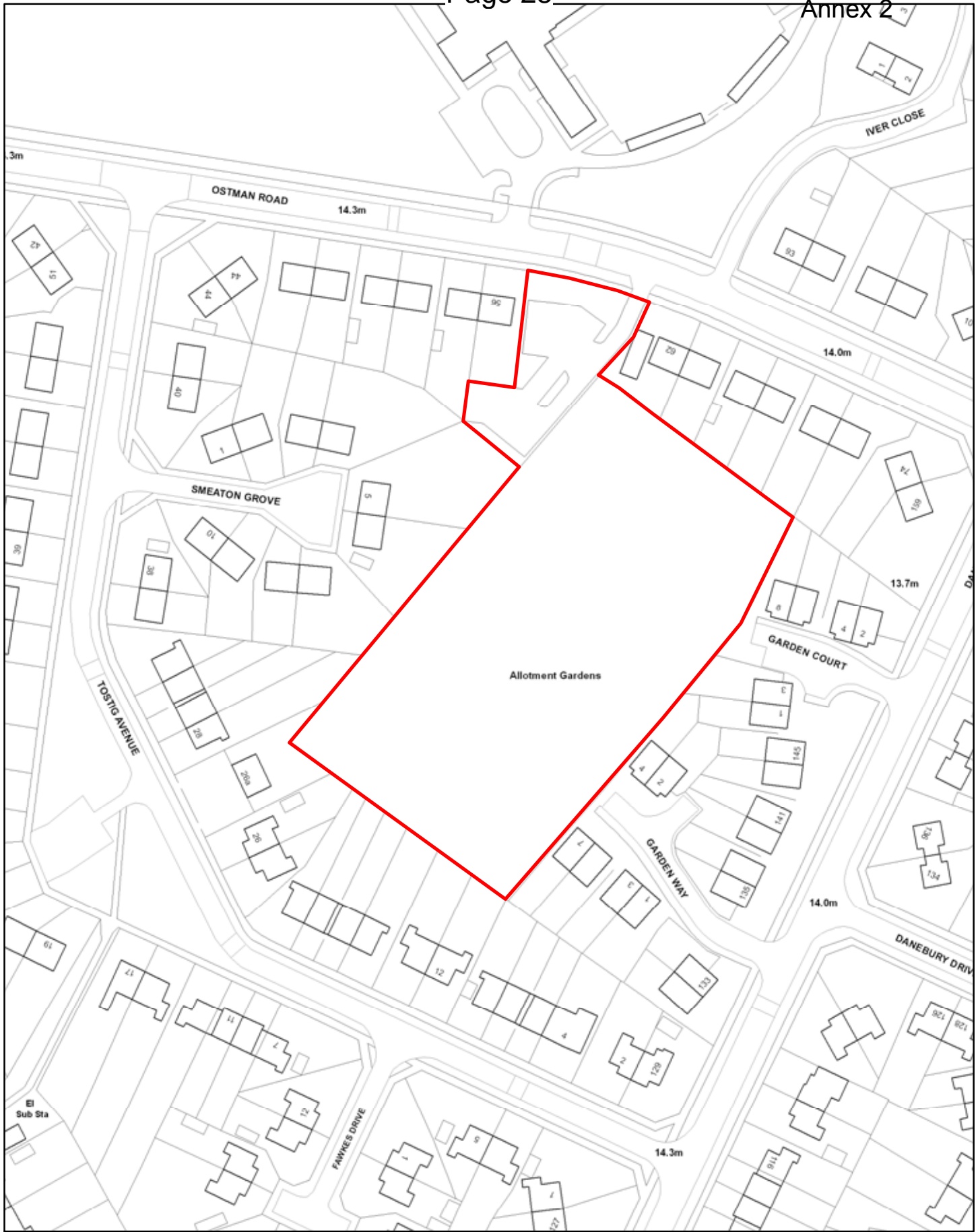
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Carr Allotments

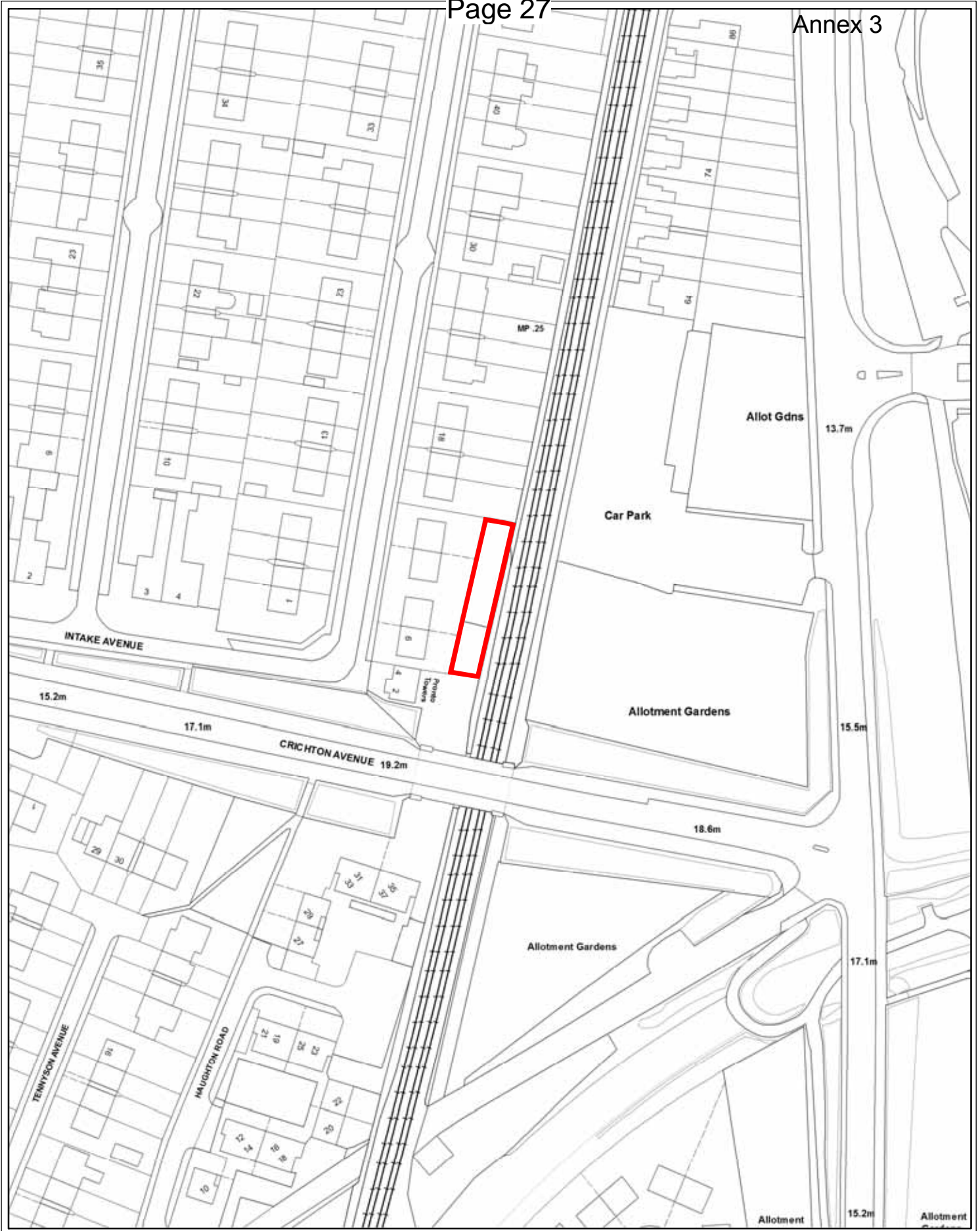


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Field View Allotments

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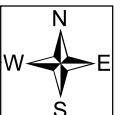
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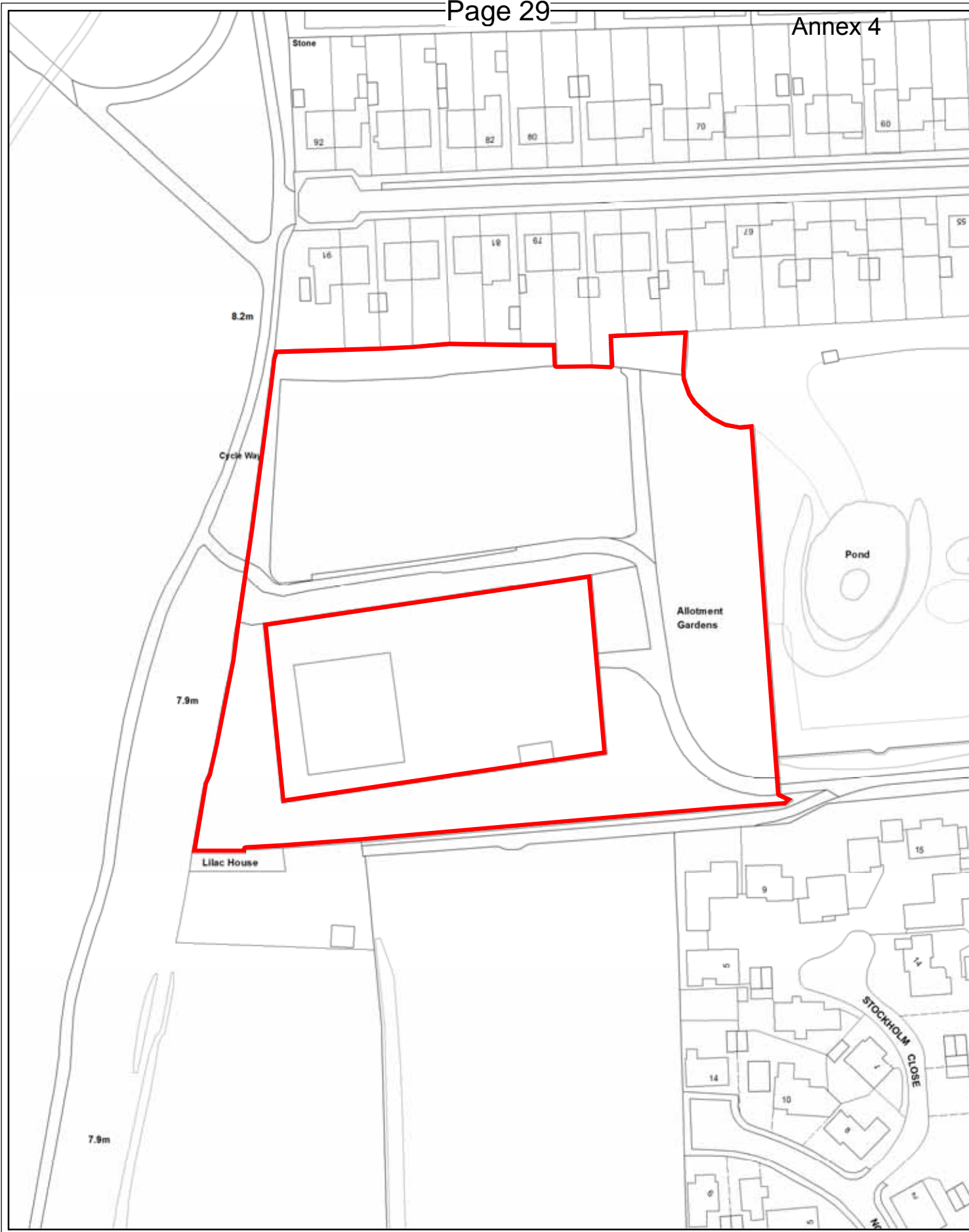
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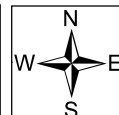


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Fulford Cross Allotments



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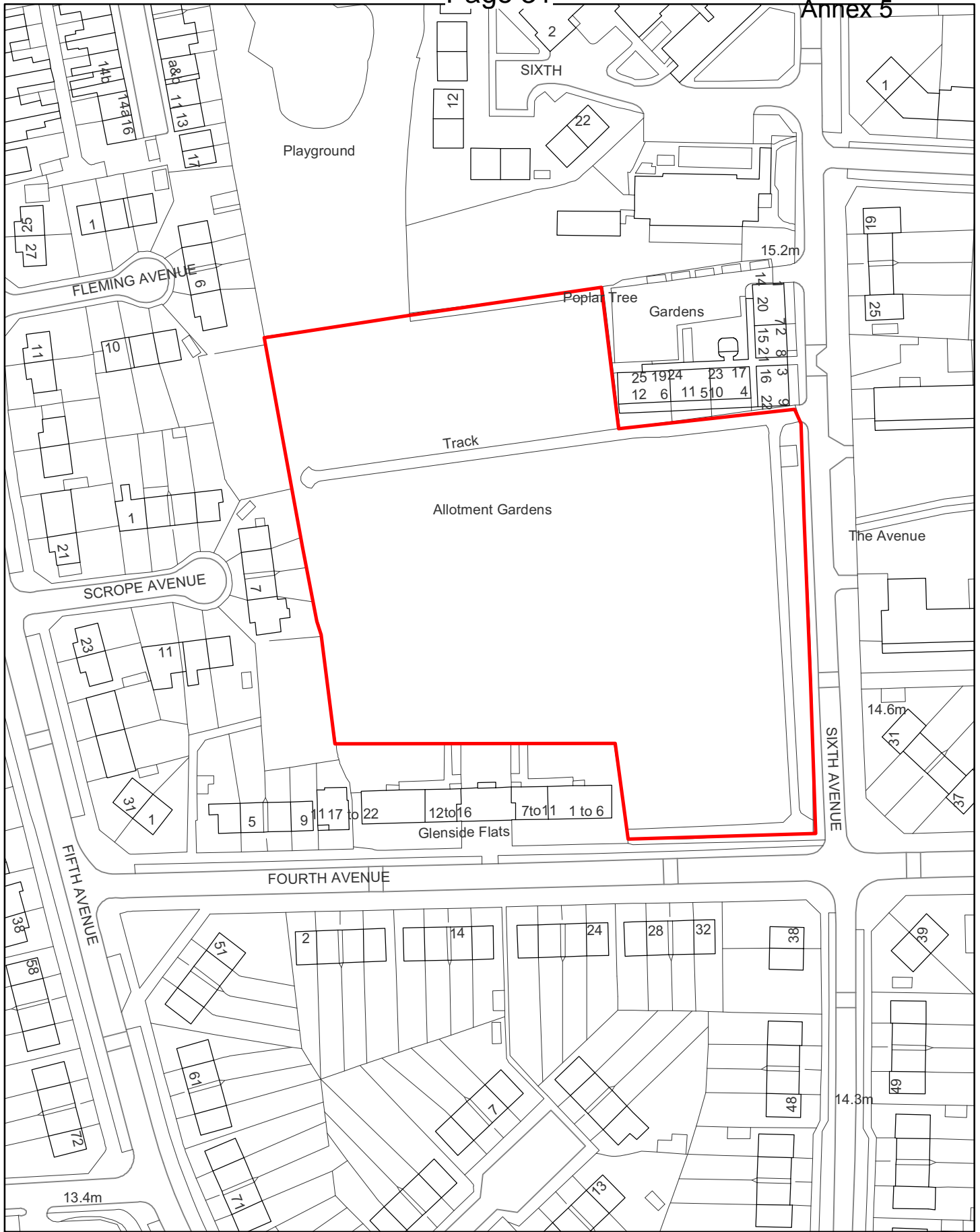
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Glen Lane Allotments

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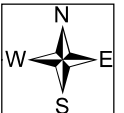
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Green Lane Allotments



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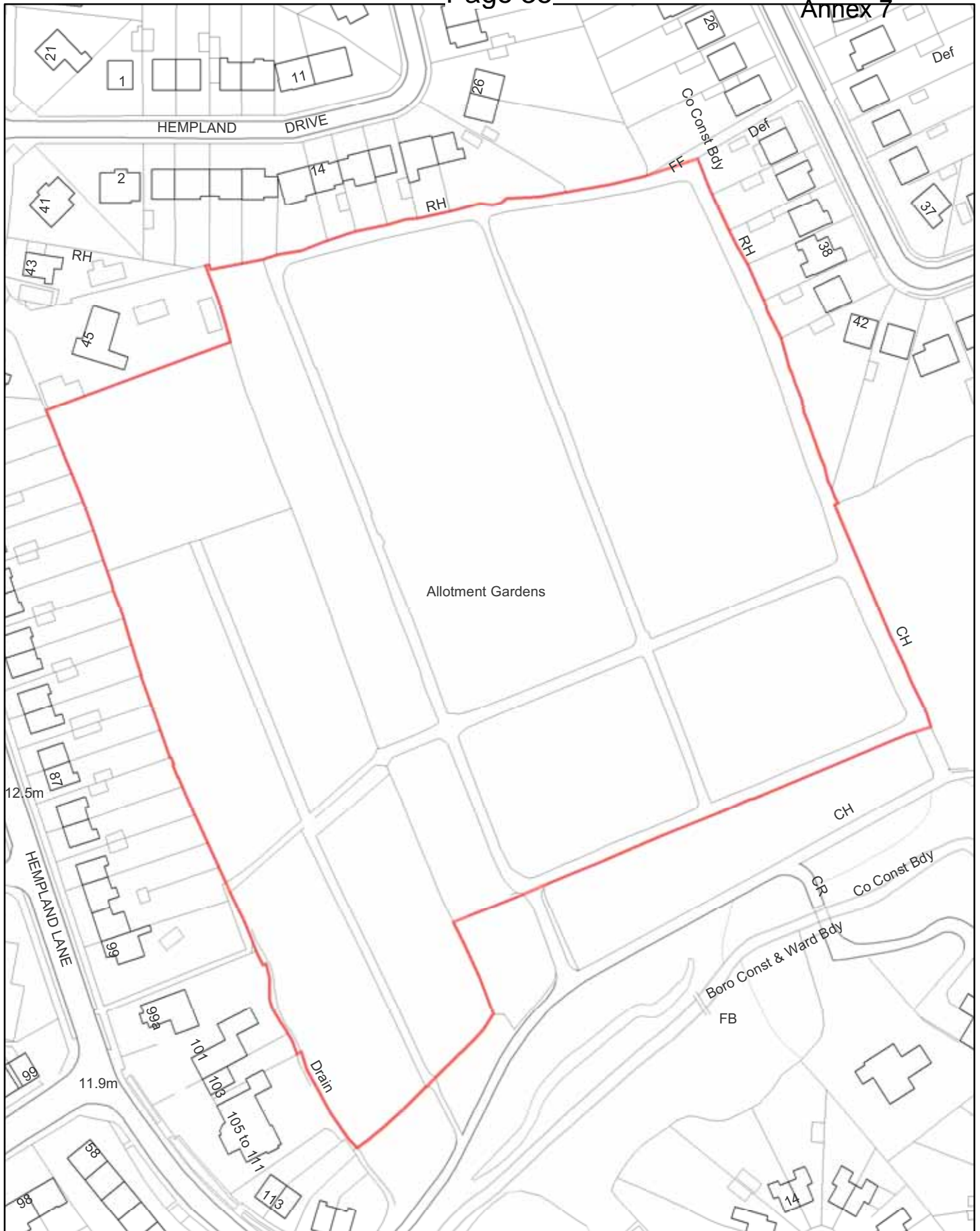
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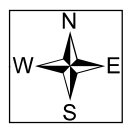
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Resources
Property Services

Hempland Lane Allotments



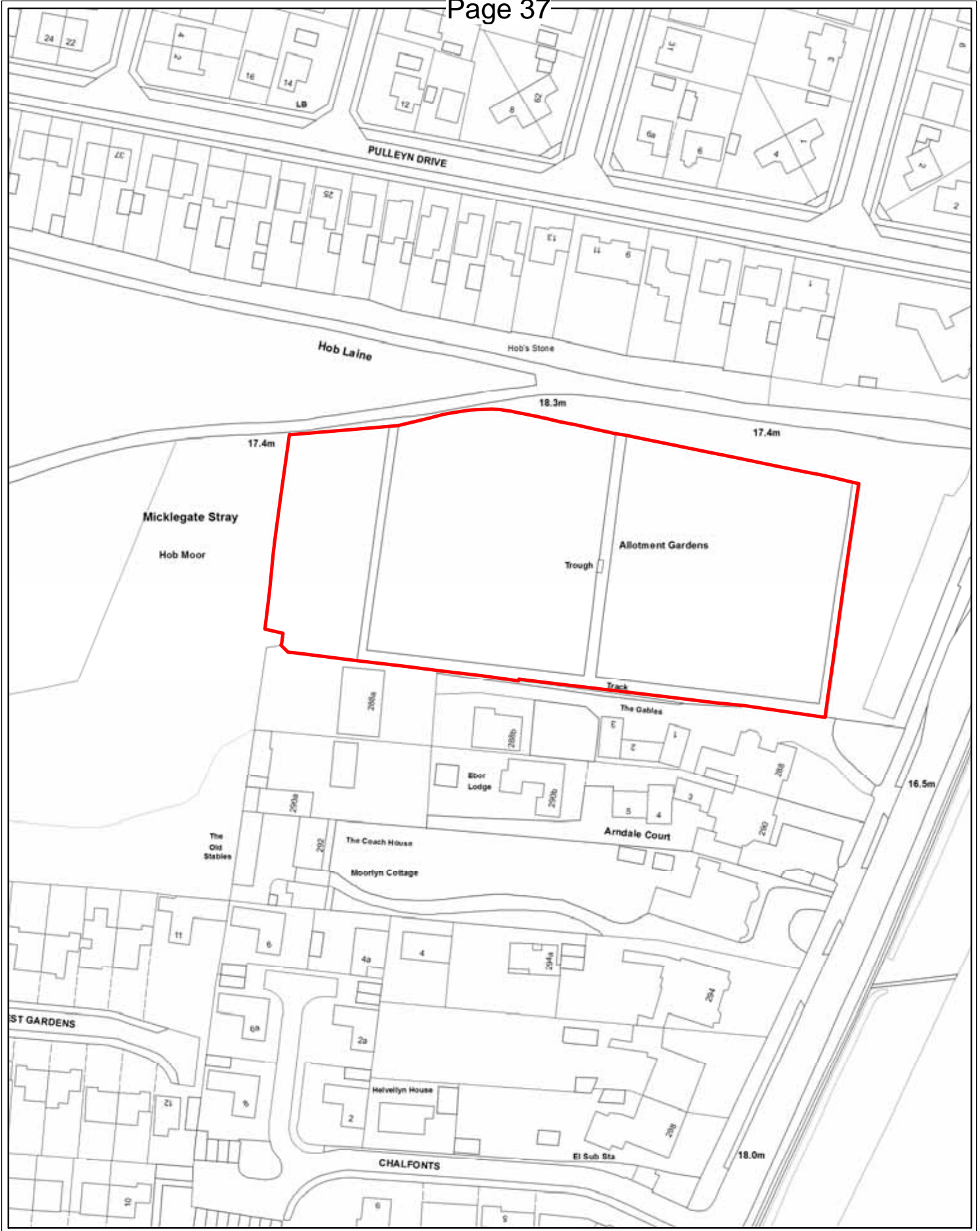
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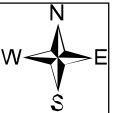
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**Asset & Property
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Hob Moor Allotments



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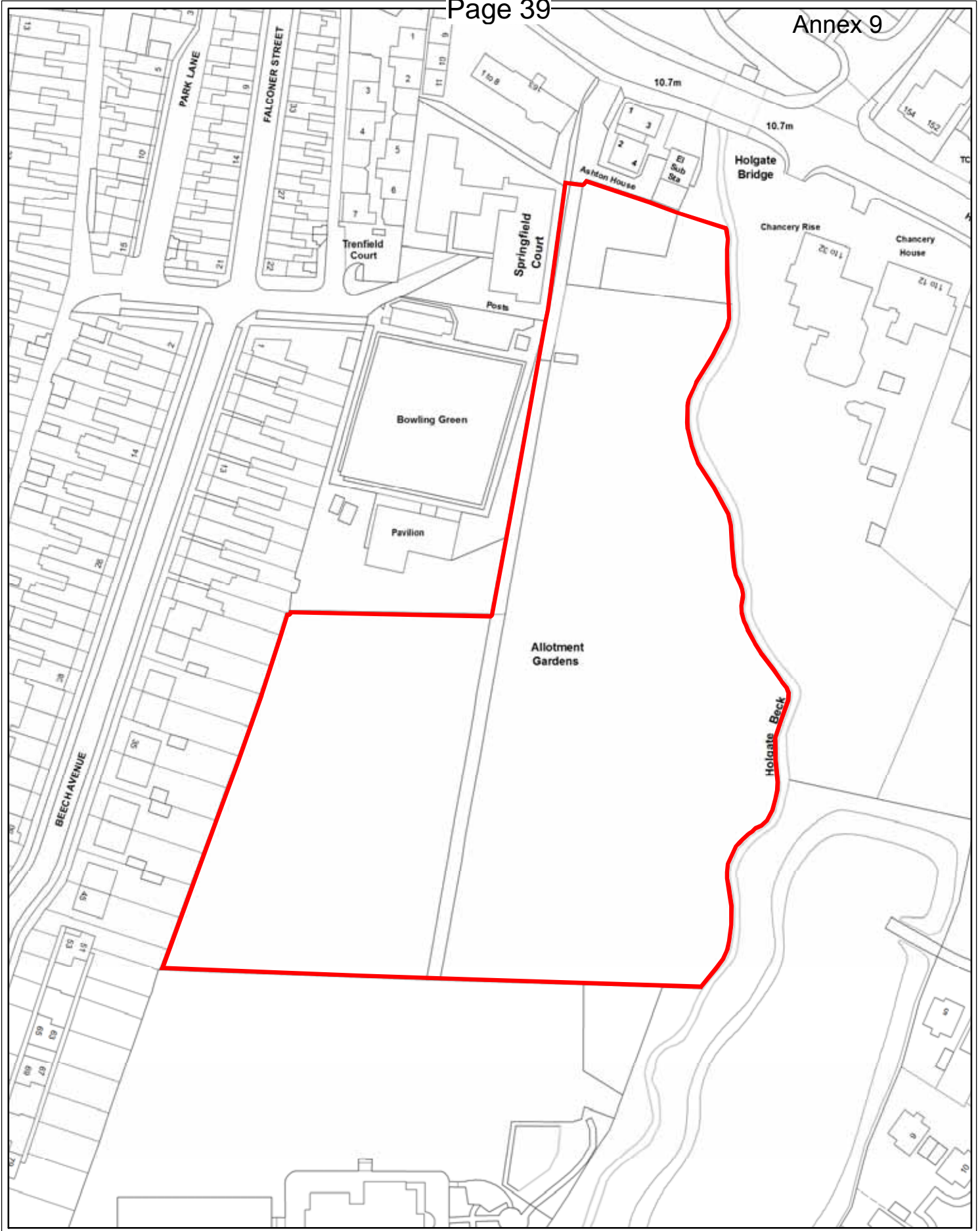
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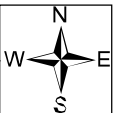
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Holgate Road Allotments



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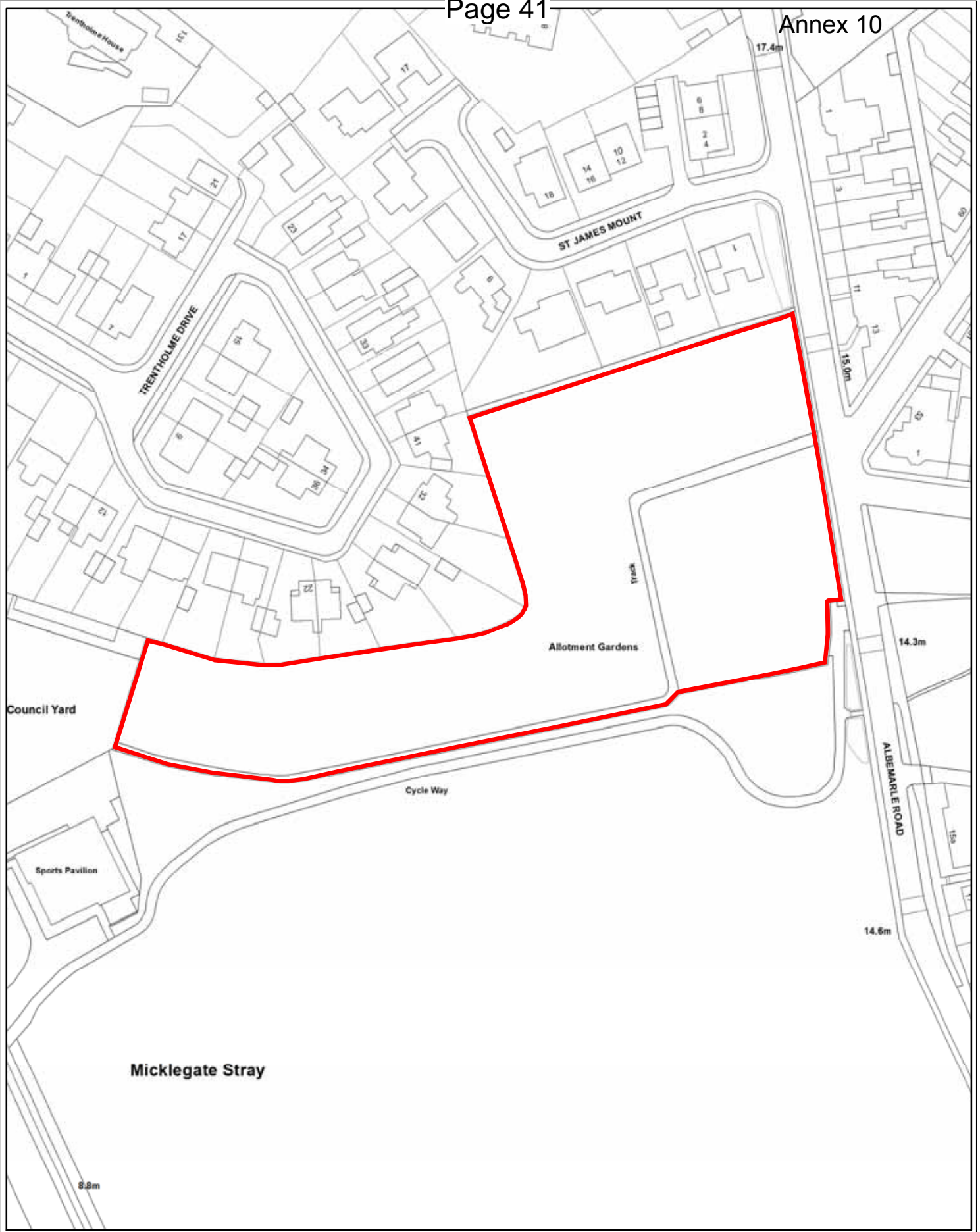
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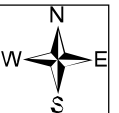
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Hospital Fields Allotments



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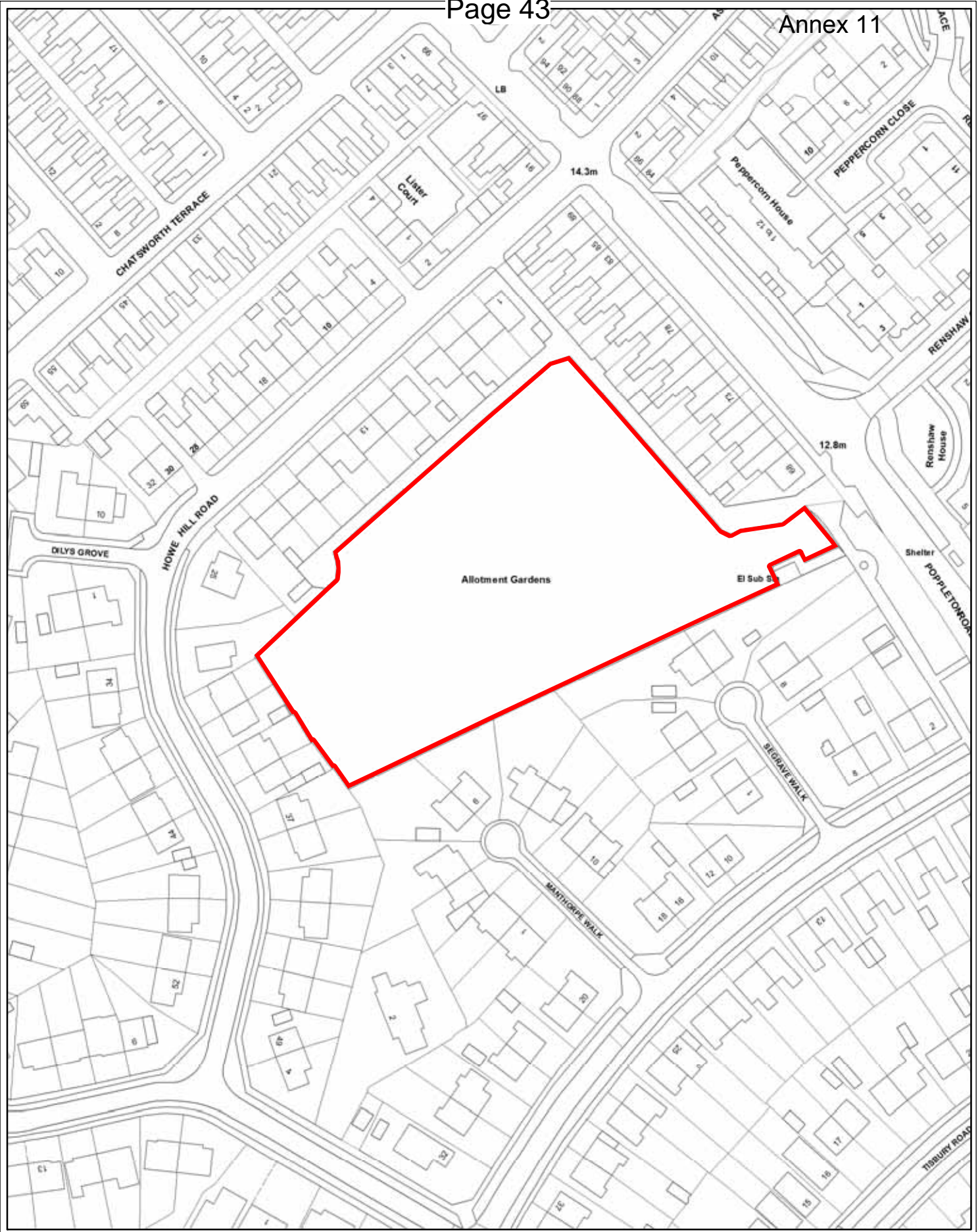
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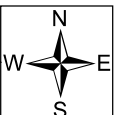
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Howe Hill Allotments



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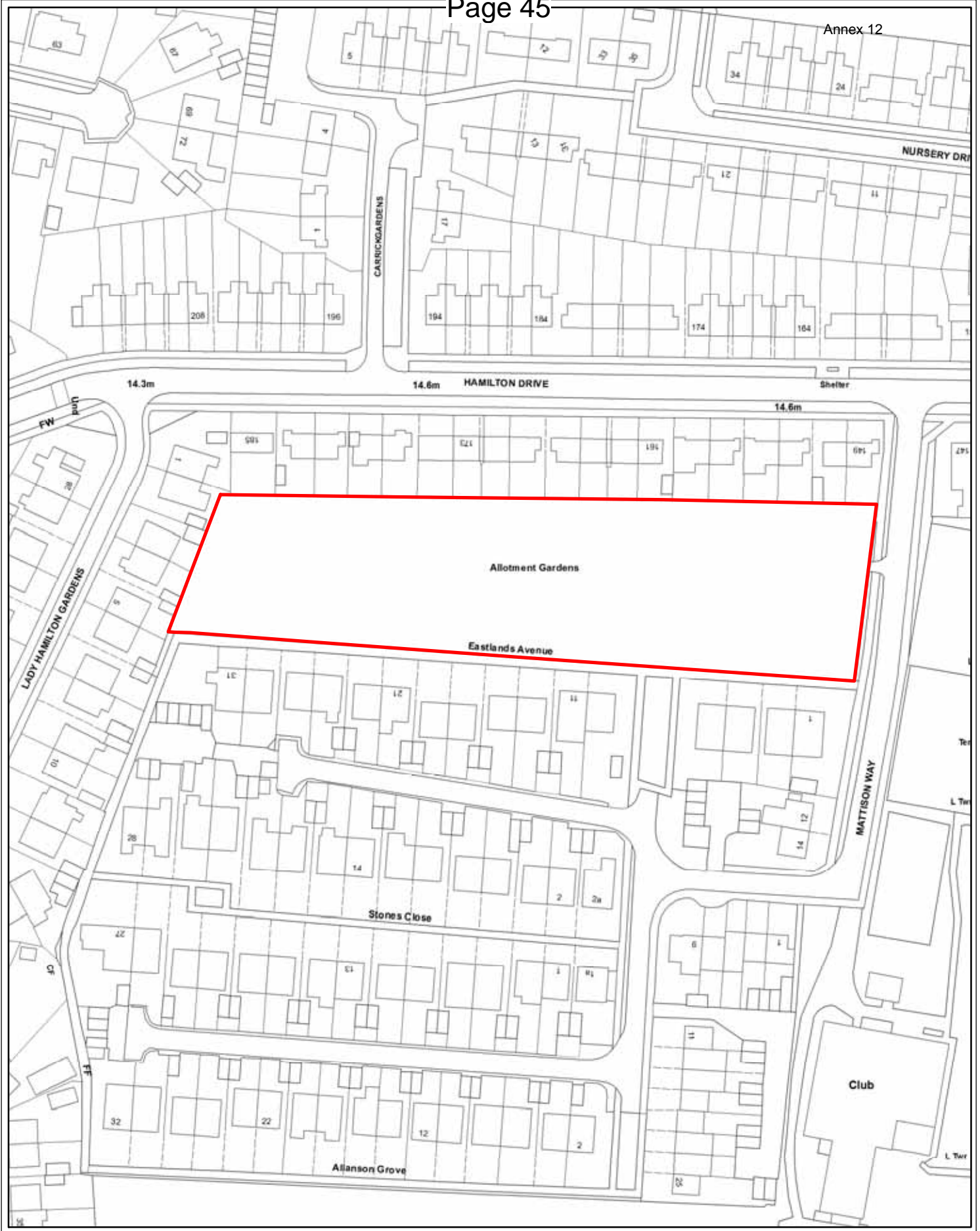
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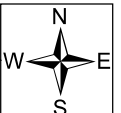
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Asset & Property Management

New Lane Allotments



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Asset & Property Management

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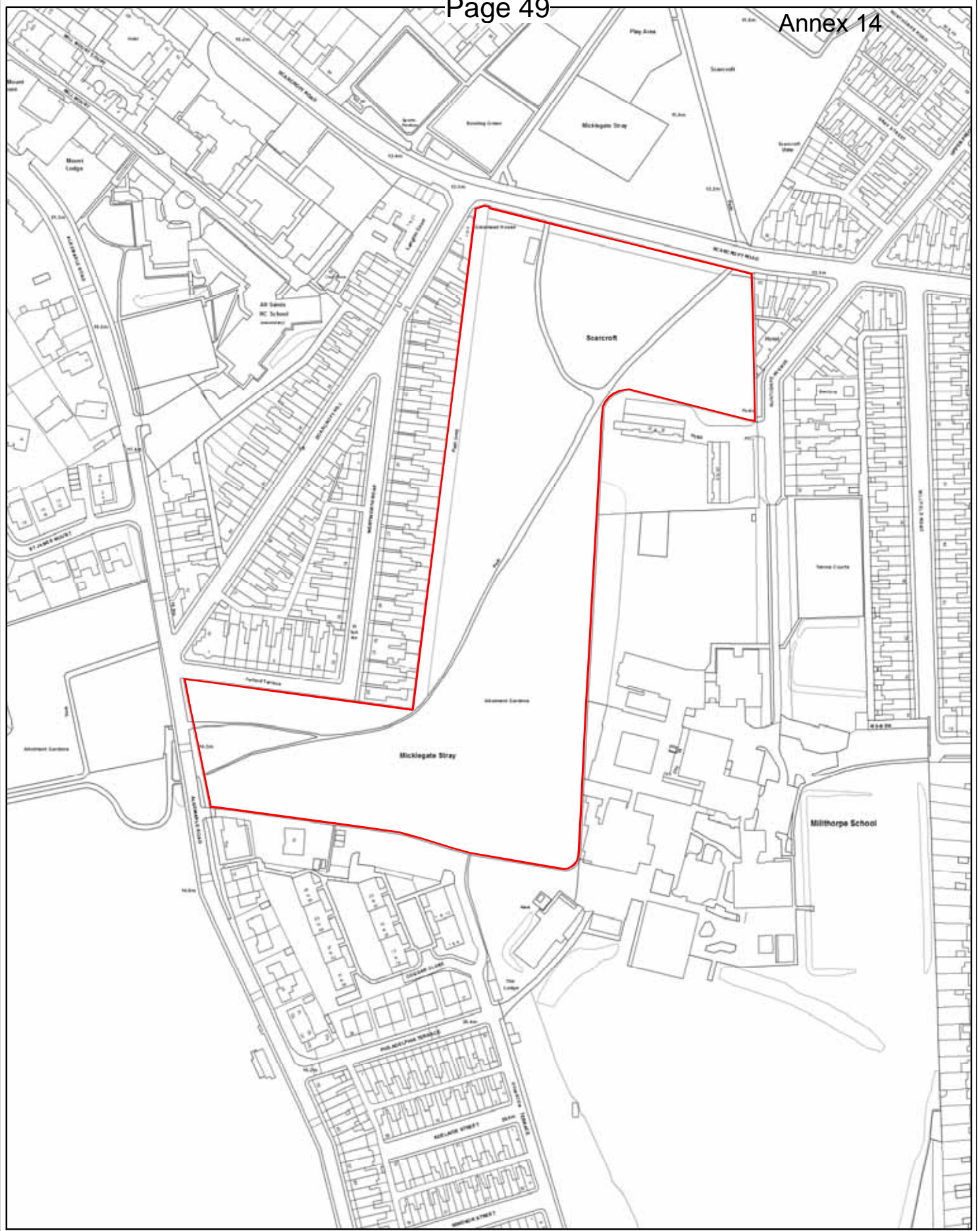
Low Moor Allotments

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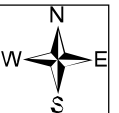


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*Asset & Property
Management*

Scarcroft Allotments



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Originating Group:

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Resources
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Scrope Avenue Allotments



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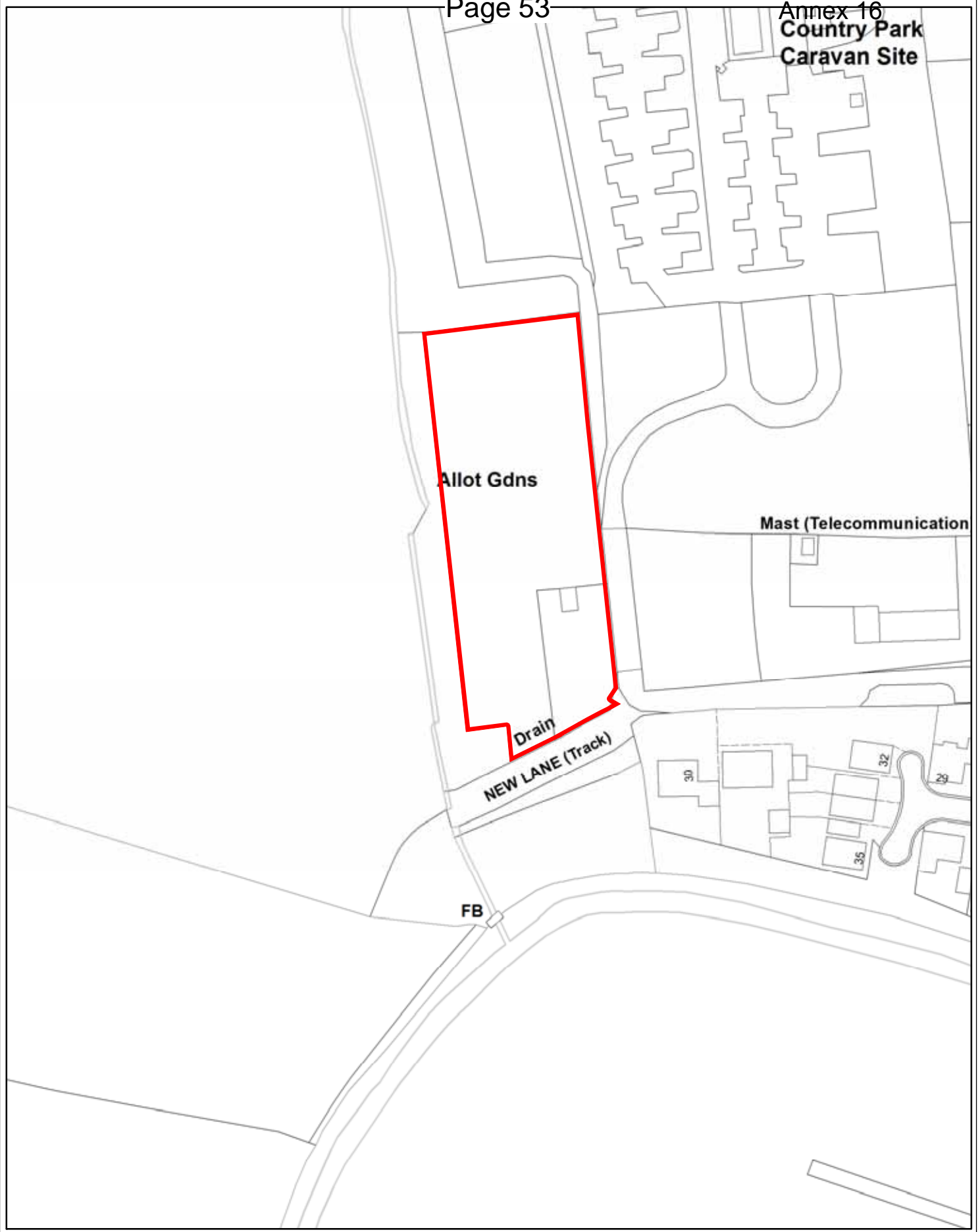
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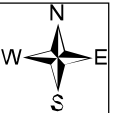
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*Asset & Property
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New Lane Allotments, Strensall



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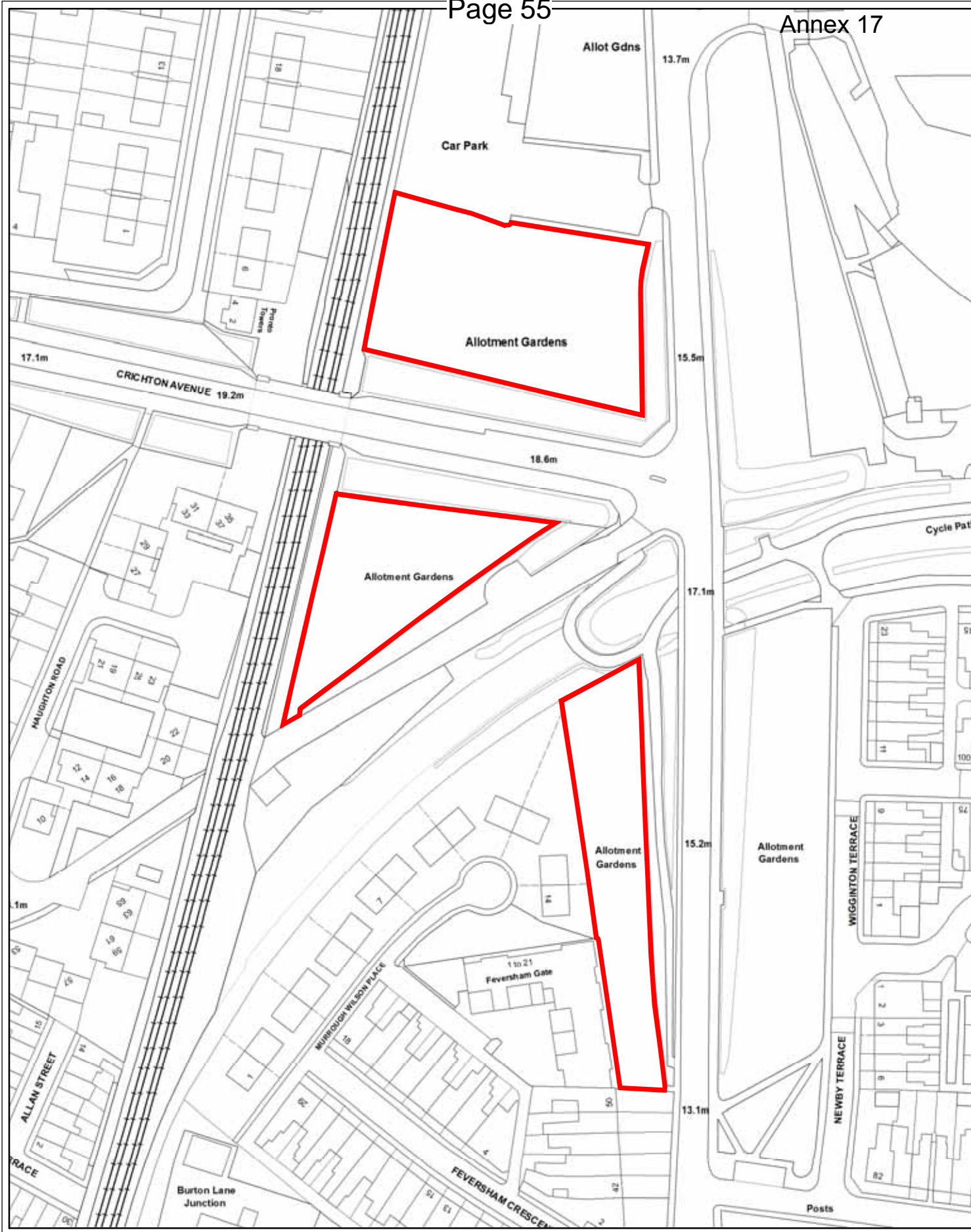
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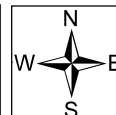
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**Asset & Property
Management**

Wigginton Road Allotments



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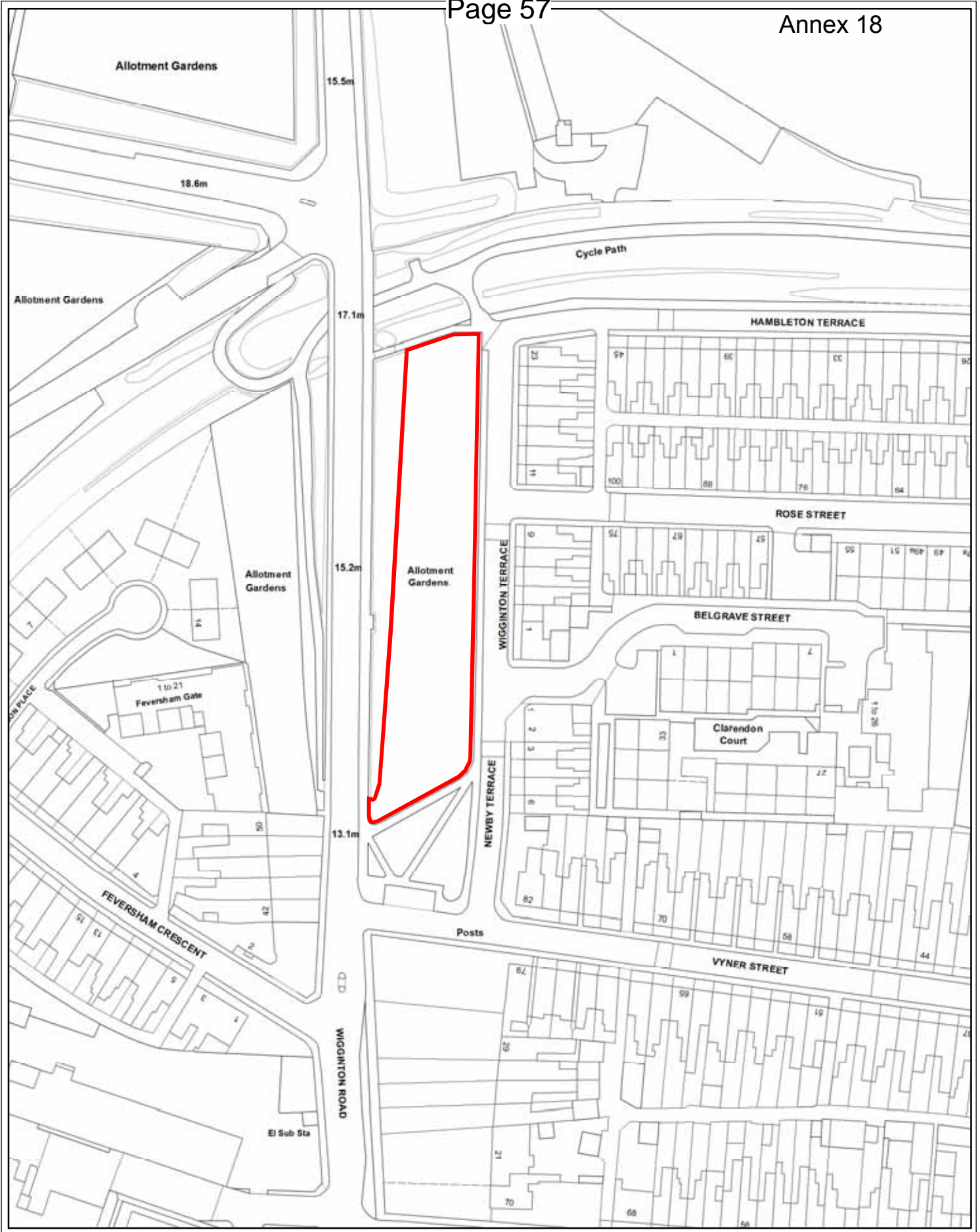
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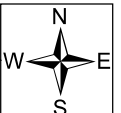
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Asset & Property Management

Wigginton Terrace Allotments



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Executive**19 October 2017**

Report of the Director of Economy and Place

Portfolio of the Executive Member for Transport & Planning

Upper and Nether Poppleton Neighbourhood Plan**Summary**

1. The purpose of the report is to consider the results of the Upper and Nether Poppleton Neighbourhood Plan referendum. It asks Members to formally 'make' the Neighbourhood Plan and bring it into full legal force as part of the Development Plan for York. This will allow the Neighbourhood Plan to progress in line with the relevant Neighbourhood Planning legislation and Regulations. This paper will be considered by Members of Local Plan Working Group on 12th October 2017.

Recommendations

2. The Executive is asked to:
 - i) Consider the results of the referendum and formally 'make' the Upper and Nether Poppleton Neighbourhood Plan.

Reason: To allow the Neighbourhood Plan to progress in line with the Neighbourhood Planning Regulations.

- ii) To approve the Decision Statement attached at Annex B to be published in accordance with Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

Reason: To allow the Neighbourhood Plan to progress in line with neighbourhood planning legislation.

Background

3. The Localism Act 2011 introduced new powers for community groups to prepare neighbourhood plans for their local areas. The Council has a statutory duty to assist communities in the preparation of Neighbourhood Plans and to take plans through a process of Examination and Referendum. The local authority is required to take decisions at key stages in the process within time limits that apply, as set out in the Neighbourhood Planning (General) Regulations 2012 as amended in 2015 and 2016 (“the Regulations”).
4. The Upper and Nether Poppleton Neighbourhood Plan has been prepared jointly by both Upper Poppleton Parish Council and Nether Poppleton Parish Council with on-going engagement with the local community and City of York Council. The Plan has been through the following stages of preparation:
 - Designation as a Neighbourhood Area (October 2014)
 - Consultation on a Pre-Submission version (March 2015)
 - Consultation on a 2nd Pre-submission version (May 2016)
 - Submission to City of York Council (November 2016)
 - Submission consultation (December 2016)
 - Examination (January-May 2017)
 - Further consultation on the Strategic Environmental Assessment (March 2017)
 - Examiner’s Report issued (16th May 2017)
 - Referendum (23rd August 2017)
5. The Examiner’s Report concluded that subject to modifications, the Upper and Nether Poppleton Neighbourhood Plan met the necessary basic conditions (as set out in Schedule 4b (8) of the Town and Country Planning Act 1990, as amended by the Localism Act 2011) and subject to these modifications being made it should proceed to referendum.
6. At Local Plan Working Group on 27th June and Executive on 29th June 2017, Members accepted the Examiner’s recommendations and agreed that the Upper and Nether Poppleton Neighbourhood Plan should proceed to referendum.
7. A referendum was held on 23rd August 2017.

Referendum

8. A referendum on the Upper and Nether Poppleton Neighbourhood Plan was held on 23rd August 2017 and was organised by the City of York Council. As per the Examiner's recommendations, the referendum area was the same as the Neighbourhood Area designated by the Council, which are the parishes of Nether and Upper Poppleton.
9. Polling Stations at All Saints Church (Upper Poppleton) and the Tithe Barn (Nether Poppleton) were open from 7am until 10pm on Wednesday 23rd August.
10. The Declaration of Results of Poll contained at Annex A to this report confirms that 1,207 residents voted in the referendum, out of a potential 3345 on the electoral roll (36.08% turnout). The results on whether to accept the Upper and Nether Poppleton Neighbourhood Plan were:-
 - YES = 1,102 (91.3%)
 - NO = 103 (8.7%)
11. The Neighbourhood Planning Regulations (2012 as amended) requires that where over 50% of those voting in the Neighbourhood Plan referendum, vote in favour of the Neighbourhood Plan, then the Council is obliged to 'make' the plan (i.e. bring it into force as part of the Development Plan). The Council is not subject to this requirement if the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998) or there are unresolved legal challenges.
12. The Planning and Compulsory Purchase Act 2004 also provides that a Neighbourhood Plan for an area becomes part of the development plan for that area after it is approved by an applicable referendum, prior to the plan being 'made' by the Council. In the very limited circumstances where the local planning authority might decide not to 'make' the neighbourhood plan, it will cease to be part of the development plan for the area. Given that the referendum result was 91.30% in favour of the Neighbourhood Plan; the Upper and Nether Poppleton Neighbourhood Plan and the policies within it are now part of the statutory development plan for City of York.

13. The Neighbourhood Plan must be made by the Council within 8 weeks beginning with the day immediately following that on which the referendum is held (unless the Plan is incompatible with EU/HR legislation or there is an unresolved legal challenge). This date is 18th October 2017.

Options

14. Members are asked to formally 'make' the Upper and Nether Poppleton Neighbourhood Plan and bring it into full legal force as part of the Development Plan for York. There are not considered to be any reasons not to 'make' the Plan.

Analysis

15. This report presents to Members the outcome of the Upper and Nether Poppleton Neighbourhood Plan referendum. At 91.30% in favour of using the neighbourhood plan to help determine planning applications in the defined neighbourhood area, this endorsement is demonstrably higher than the required threshold of more than half of those voting. A positive majority at the referendum means that the Council is now obliged to "make" the plan and bring it into full legal force as part of the Development Plan for York.
16. The Neighbourhood Plan is considered to meet the basic conditions and all relevant legal and procedural requirements and this is supported in the Examiner's Report. It is advised that the plan be made by the Council given the positive vote in support of the neighbourhood plan and nothing has changed since the earlier consideration of the Examiner's report and modifications which would suggest that the Plan would breach, or be incompatible with any EU obligation or any of the Convention of Rights. Nor is there any unresolved legal challenge in respect of the Plan. There are no reasons why the Council should not proceed to 'make' the Neighbourhood Plan in accordance with the outcome of the referendum.

Next Steps

17. Once the plan is 'made', it will achieve its full legal status. It forms part of the statutory development plan for the area and will sit alongside the Local Plan (once adopted). The Neighbourhood Plan contains a series of policies that will be used when determining planning applications that are located within the defined Neighbourhood Area. Planning law

requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Financial Implications

18. The responsibility and therefore the costs of the Examination and Referendum stages of the Neighbourhood Plan production lie with the City of York Council. The table below sets out a breakdown of the non-staffing costs of producing the Upper and Nether Poppleton Neighbourhood Plan to date and also sets out the costs associated with the Examination and Referendum.

Stage	Cost
Designation consultation	£500
Submission consultation	£500
NP grant to Parish Councils	£3,000
Examination	£8,600
SEA Consultation	£500
Referendum	£5,875.00
Total	£18,975.00

19. There is also a significant level of officer costs required throughout the process to provide the required support to each of the Neighbourhood Planning Bodies. A significant level of officer input at an appropriate level is needed throughout the process to ensure legal conformity, appropriate plan content, technical advice, including provision of mapping and assistance with Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA).

Council Plan

20. Under the 2015-2019 Council Plan objectives the project will assist in the creation of a Prosperous City for All, and be a Council that listens to residents particularly by ensuring that:
- i. Everyone who lives in the city can enjoy its unique heritage and range of activities.
 - ii. Residents can access affordable homes while the greenbelt and unique character of the city is protected.
 - iii. Visitors, businesses and residents are impressed with the quality of our city.
 - iv. Local businesses can thrive.

- v. Efficient and affordable transport links enable residents and businesses to access key services and opportunities.
- vi. Environmental Sustainability underpins everything we do.
- vii. We are entrepreneurial, by making the most of commercial activities.
- viii. Engage with our communities, listening to their views and taking them into account.

Implications

21. The following implications have been assessed:

- **Financial**– The examination and referendum will be funded by City of York Council. Once a date for the referendum is set the Council can apply for a government grant of £20,000 towards the costs of the Councils involvement in preparing the Plan (including the costs of the Examination and referendum). Any shortfall will need to be accommodated within existing resource.
- **Human Resources (HR)** – None
- **Legal** - The Legal implications are set out within the body of this report.
- **Crime and Disorder**– None
- **Information Technology (IT)** – None
- **Property** – None
- **Other** – None

Risk Management

22. In compliance with the Council's risk management strategy, the main risks associated with the Poppleton Neighbourhood Plan are as follows:

- The decision whether or not to 'make' the Neighbourhood Plan is, like all decisions of a public authority, open to challenge by judicial review. The risk of any such legal challenge being successful has been minimised by the thorough and robust way in which it has been prepared and tested.
- Risks arising from failure to comply with the laws and regulations relating to Planning and the SA and Strategic Environmental Assessment processes and not exercising local control of developments.

Contact Details

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Strategic Planning

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Mike Slater
Assistant Director Planning and Public
Protection
Tel: (01904) 551300

Executive Member Responsible for the Report:

Cllr Ian Gillies

Report **Date** 4/10/17
Approved X

Specialist Implications Officer(s):

Patrick Looker, Finance Manager
Sandra Branigan, Senior Solicitor, Planning

Wards Affected: Rural West

For further information please contact the author of the report

Background Papers: None

Annexes:

Annex A: Declaration of Result of Poll
Annex B: Regulation 19 Decision Statement

Glossary of Abbreviations:

EU	European Union
HR	Human Rights
SEA	Strategic Environmental Assessment
HRA	Habitat Regulation Assessment
NP	Neighbourhood Plan

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Annex A

Declaration of Result of Poll

Referendum on the Upper and Nether Poppleton

Neighbourhood Plan Area

DECLARATION OF RESULT OF POLL

Referendum on the Upper and Nether Poppleton Neighbourhood Plan Area

On Wednesday 23 August 2017

I, Andrew Flecknor, being the Deputy Counting Officer at the above referendum, do hereby give notice of the number of votes recorded for each answer to the question:

Question:		
Do you want City of York Council to use the Neighbourhood Plan for the Upper and Nether Poppleton to help it decide planning applications in the neighbourhood area?		
	Votes Recorded	Percentage
Number cast in favour of a YES	1102	91%
Number cast in favour of a NO	103	9%

The number of ballot papers rejected as follows:	Number of ballot papers
A Want of an Official Mark	
B Voting for more answers than required	
C Writing or mark by which voter could be identified	
D Being unmarked or wholly void for uncertainty	2
TOTAL	2

Electorate: 3345

Ballot Papers Issued: 1207

Turnout : 36.08%

Andrew Flecknor

Dated: Wednesday 23 August 2017

Andrew Flecknor
Deputy Counting Officer

Annex B

Final Decision Statement

Upper and Nether Poppleton Neighbourhood Plan



Upper and Nether Poppleton Neighbourhood Plan

Final Decision Statement published pursuant to Section 38A (9) and (10) Planning and Compulsory Purchase Act 2004 (as amended) and Regulations 19 and 20 of the Neighbourhood Planning (General) Regulations 2012 (as amended)

1. Summary

Following a positive referendum result on the 23rd August 2017, City of York Council is publicising its decision made on 19th October 2017 by the Executive to 'make' the Upper and Nether Poppleton Neighbourhood Plan part of the City of York Development Plan in accordance with Regulation 19 of the Neighbourhood Planning (General) Regulations 2012.

2. Background

Upper Poppleton Parish Council and Nether Poppleton Parish Council, as the qualifying body, successfully applied for the parishes of Upper and Nether Poppleton to be jointly designated as the Upper and Nether Poppleton Neighbourhood Area under the Neighbourhood Planning (General) Regulations (2012). Following the submission of the Upper and Nether Poppleton Neighbourhood Plan to the Council, the plan was publicised and comments were invited from the public and stakeholders. The consultation period closed on 23rd January 2017.

3. Decision and Reasoning

City of York Council appointed an independent Examiner; Mr Andrew Ashcroft BA (Hons) MA, DMS, MRTPI, to review whether the plan met the basic conditions required by legislation and whether the plan should proceed to referendum.

The Examiner's Report concluded that the plan meets the Basic Conditions, and that subject to the modifications proposed in the report and which are set out in the Upper and Nether Poppleton

Neighbourhood Plan Decision Statement (dated 30th June 2017), the plan should proceed to a Referendum.

A referendum was held on 23rd August 2017 and 91.3% of those who voted were in favour of the plan. Paragraph 38A (4)(a) of the Planning and Compulsory Purchase Act 2004 as amended requires that the Council must make the Neighbourhood Plan if more than half of those voting have voted in favour of the plan. City of York Council is not subject to this duty if the making of the plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

The referendum held on 23rd August 2017 met the requirements of the Localism Act 2011; it was held in the Upper and Nether Poppleton Neighbourhood Area and posed the question:

Do you want City of York Council to use the Neighbourhood Plan for the Upper and Nether Poppleton to help it decide planning applications in the neighbourhood area?

The count took place on the 23rd August 2017 and greater than 50% of those who voted were in favour of the plan being used to help decide planning applications in the plan area.

The results of the referendum were:

Response	Votes recorded (percentage)
Yes	91.3%
No	8.7%
Turnout	36.08%

The Council considers that the Upper and Nether Poppleton Neighbourhood Plan meets the basic conditions (set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 as amended), its promotion process was compliant with legal and procedural requirements and it does not breach the legislation (set out in Section 38A(6) of the Compulsory Purchase Act 2004).

4. Inspection of Decision Statement and made Neighbourhood Plan

This decision statement can be viewed on the City of York Council website and the Upper and Nether Poppleton Neighbourhood Plan website:

www.york.gov.uk/neighbourhoodplanning

www.plan4poppleton.co.uk

In accordance with Regulation 20 of the Regulations, the Upper and Nether Poppleton Neighbourhood Plan can be viewed on the Council's website and the Upper and Nether Poppleton Neighbourhood Plan website:

www.york.gov.uk/neighbourhoodplanning

www.plan4poppleton.co.uk

A copy of this decision statement is being sent to:-

- The qualifying body, namely Upper and Nether Poppleton Parish Councils; and
- To any person who asked to be notified of the decision.

Paper copies of this statement and the made Neighbourhood Plan can also be viewed at:

- City of York Council, West Offices, Station Rise, York, YO1 6GA (Mon-Fri 8.30am-5.00pm)
- Poppleton Library, The Village, Upper Poppleton, York, YO26 6JT (Mon, Wed, Fri 10-12.30 and 2-5pm, Thur, Sat 10-12.30pm)

For further information please contact the Neighbourhood Planning team on neighbourhoodplanning@york.gov.uk or 01904 552255

Signed



Mike Slater
Chief Planning Officer

19th October 2017



Executive**19 October 2017**

Report of the Director of Economy and Place
Portfolio of the Executive Member for Transport and Planning

Minerals and Waste Joint Plan - Submission**Summary**

1. To update Members on the outcomes of the consultation on the Addendum of Proposed Changes to the Minerals and Waste Joint Plan and ask Members to recommend that Full Council approve the Submission draft (the Publication Draft) and the accompanying Addendum of Proposed Changes together with representations received thereon for submission for Examination.

Recommendations

2. The Executive is asked to:
 - 1) Consider the representations received on the Addendum of Proposed Changes Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park;

Reason: to consider whether to recommend to full council whether to move forward to Submission.

- 2) Recommend to Full Council that the Submission draft of the Minerals and Waste Joint Plan for York, North Yorkshire and North York Moors National Park (comprising the Publication draft Plan (2016) accompanied by the Addendum of Proposed Changes (2017) be approved for submission for examination

Reason: So that an NPPF compliant Joint Waste and Minerals Plan can be progressed

Background

3. The City of York Council as a unitary authority is also a waste and minerals planning authority and to satisfy the provisions in the National Planning Policy Framework, it must develop the necessary policies for minerals and waste. This statutory responsibility effectively involves identifying all waste arising in the area from all sources, such as, household, commercial, hazardous and agricultural, and demonstrating how this is dealt with spatially. With regard to minerals it is necessary to identify the requirement for minerals including aggregates and how these will be sourced. Both these tasks have to be addressed for the lifetime of any development plan.
4. City of York is currently preparing a Local Plan with strategic policies on minerals and waste and a separate joint minerals and waste development plan document with North Yorkshire County Council and the North York Moors National Park Authority. This is known as the Minerals and Waste Joint Plan.
5. The Joint Plan addresses a range of issues relating to the future supply of minerals and needs for waste infrastructure over the period to 31 December 2030. Key issues include:
 - Planning for the future supply of aggregates minerals such as sand and gravel and crushed rock, as well as other minerals currently worked in the area;
 - Developing policy to respond to newer forms of development such as shale gas;
 - Identifying requirements for additional waste management capacity needed to fill any capacity 'gaps' in the existing network of facilities;
 - Addressing requirements for safeguarding minerals resources and important infrastructure;
 - Developing a range of new development management policies to help determine planning applications for minerals and waste development;
 - Identifying a range of site allocations for minerals and waste development where development would be regarded as acceptable in principle (see Appendix 1 to the Publication draft consultation document).
6. The Minerals and Waste Joint Plan has involved a number of key public consultation stages to ensure there is every opportunity for community involvement. The key stages include:

- First Consultation (completed May/June 2013)
 - Issues and Options Consultation (Completed March/April 2014)
 - Additional or Revised Sites Consultation (Completed January/February 2015)
 - Preferred Options Consultation (Completed November 2015 -January 2016)
 - Publication stage (Completed November - December 2016)
 - Addendum of Proposed Changes Consultation (July-September 2017)
 - **Submission stage (Anticipated November 2017)**
 - Examination in Public (Anticipated early 2018)
 - Adoption (Anticipated Spring 2018)
7. The dates above show some departure from the City of York Council's Local Development Scheme (LDS) published in July 2016. The LDS currently states submission in April 2017, Examination in June/July 2017, Adoption in October/November 2017. The slippage reflects the additional stage of consultation on the Addendum of Proposed Changes ahead of Submission as proposed in this report. A revised York LDS will be submitted alongside the Minerals and Waste Plan.
8. Following approval by Executive on 29th June 2017 and equivalent approval by North Yorkshire County Council and the North York Moors National Park Authority, the Minerals and Waste Joint Plan (Joint Plan) Addendum of Proposed Changes document was published for representations on 12th July 2017.
9. An 8 week period for representations was provided, closing at 5pm on 6th September 2017. Within that period a total of 143 specific comments were received from 36 respondents. The majority of responses relate to the proposed changes regarding the policy approach for hydrocarbons (oil and gas) development. A summary of the responses by responder is attached at Annex A and a summary of the responses by issue together with an officer response is attached at Annex B.
10. In accordance with the Regulations, the purpose of publishing the Joint Plan Addendum of Proposed Changes was to provide an opportunity for those interested in the Plan to make representations on matters of soundness (i.e. whether the Proposed Changes to the Joint Plan meets the tests of soundness for local plans as established in national planning policy) and whether it complies with relevant legislation including the statutory Duty to Cooperate on strategic cross-boundary issues.

11. Representations received on the Publication Joint Plan need to be provided to the Planning Inspectorate alongside the Plan, when it is submitted for independent Examination in Public (EiP). These representations, together with any changes proposed by the Joint Plan authorities (i.e. the Addendum) and any representations thereon, will need to be made available to be considered by the Inspector appointed to conduct the EiP.
12. As stated in the report to Executive on 29th June, following consultation on the Addendum of Proposed Changes, the full Minerals and Waste Joint Plan (MWJP) and representations received will be reported again to Local Plan Working Group (12th October 2017) and Executive (19th October 2017) for information. Subject to the outcome of that consultation, the Executive will be invited to recommend to Full Council on 26th October 2017 (and the equivalents at the joint authorities) that the MWJP be submitted for examination in Public by an independent planning inspector.

Legislation and Guidance

Procedure Legislation and Guidance

13. In considering the proposed approach to submission of the Joint Plan, it is important to have regard to the following legislation and guidance. Section 20 of the Planning and Compulsory Purchase Act 2004 as amended requires that the plan must not be submitted unless relevant regulations have been complied with and the authority considers that the document is ready for examination.
14. National Planning Practice Guidance indicates that the authority should submit a plan with 'any proposed changes it considers appropriate', the documents made available at publication stage, details of who was consulted and how the main issues are addressed, details of representations following publication and a summary of the main issues raised.
15. Procedural Practice in the Examination of Local Plans, published by the Planning Inspectorate in 2016, emphasises that the publication plan should be the plan it intends to submit for examination. It indicates that if the authority wishes to make changes to the publication plan those changes should be prepared as an addendum to the plan and should be subject to further consultation/sustainability appraisal before submission. It highlights that changes post submission are to cater for the unexpected – it is not to allow the authority to complete or finalise

preparation of the plan. Main modifications will only be considered necessary to make the plan sound or compliant with the Regulations.

16. This guidance also states that where an addendum of focussed changes is submitted with the plan the Inspector will need to assess it – whether there is a change to strategy and whether there has been consultation. If satisfied on these points the addendum can be considered as part of the submitted plan. If this is not the case the Inspector may treat these as other main modifications at post submission/pre hearing stage. Authorities can make minor modifications to a plan on adoption and will be accountable for the scope of these.

Oil and Gas Legislation and Guidance

17. National planning policy states that both conventional and unconventional hydrocarbons (oil and gas) are minerals of national and local importance and that minerals plans should include policies for their extraction. Development plans which do not deal with fracking or simply seek to restrain it will, at best, be accorded little weight by the Secretary of State on appeal leaving applications to be judged purely against the general policies of the NPPF.
18. There are different regulatory regimes that are responsible for the different stages of oil and gas development. Mineral Planning Authorities (the Council) only have control over the planning application stage. The Oil and Gas Authority are responsible for issuing PEDL licences. The Environment Agency and Health and Safety Executive also assess and regulate the environment, water and seismic risks before permits for operation are issued.

Options

19. Officers request that Members consider the following options:
 - i) That the Executive recommend that Full Council approve the Submission version of the Minerals and Waste Joint Plan for Submission for Examination;
 - ii) That the Executive recommend that Full Council approve the Submission version of the Minerals and Waste Joint Plan for Submission for Examination subject to modifications agreed at this meeting;
 - iii) That the Executive recommend that Full Council reject the Submission version of the Minerals and Waste Joint Plan and

request that further work is undertaken or an alternative approach is taken ahead of it being submitted for Examination.

Analysis

20. It is considered that having taken into consideration the representations made, including those in respect of the Addendum, the appropriate option is to approve the Submission version of the Minerals and Waste Joint Plan (comprising the Publication Draft (2016) and Addendum of Proposed Changes (2017) and allow it to be submitted for Examination as per Option 1.
21. The table contained at Annex B provides a summary of the representations by issue together with an officer response. In summary, the majority of representations relate to the oil and gas policies M16, M17, M18 and supporting text. Several comments relate directly to sites and site boundary changes, and in general, widespread support was received for proposed changes in relation to waste, infrastructure, safeguarding and development management policies.

Representations submitted to the Proposed Changes to the Oil and Gas Section

22. These representations (77 individual comments from 18 organisations/ industry and 7 members of the public) are a combination of supports, objections and comments.
23. Generally, support from activist/environmental groups was received for proposed changes where it is perceived that the change goes further to recognise the implications of shale gas extraction and places greater restrictions on the industry.
24. Objections were received from industry in relation to the same changes, as it is considered that the changes do not fully reflect regulatory roles, contradict policies within adopted Minerals and Waste Plans elsewhere in the UK, and do not add any further value to the Plan. These comments could be interpreted as objections to the level of perceived additional restrictions placed on the industry.
25. A number of representations were received which suggested that the Joint Plan policies should go further in terms of restricting oil and gas development in order to fully protect the communities, environment and economy of the Plan area. Officers consider that as the Plan stands it

(Publication draft and Addendum of Proposed Changes) goes as far as it possibly can in terms of offering protective policies and restricting oil and gas development in certain areas. It is considered that as it stands, the Plan is 'sound' and sits within the national policy framework in relation to this types of development. An attempt to go beyond the restrictions imposed by national policy, could result in the Plan being found 'unsound' in relation to it not being 'Consistent with national policy' (NPPF paragraph 182)

26. Some objections received state that the proposed change will have a negative effect on the policy/supporting text and that the Submission draft of the Joint Plan should revert back to the Publication draft of the Plan (2016). Where this type of objection is raised, the table at Annex B provides a detailed officer response. However, in summary, it is considered that the Proposed Changes made reflect the best position in terms of being in line with national planning policy and guidance which requires a positive approach to planning for development whilst providing robust protection for the communities, environment and economy of the Plan area. For these reasons, the Officers' recommendation is to submit for examination the Publication draft Plan (2016) as the Submission Draft accompanied by the Addendum of Proposed Changes (2017) for an Inspector to consider.

Council Plan

27. Under the 2015-2019 Council Plan objectives the project will assist in the creation of a Prosperous City for All, and be a Council that listens to residents particularly by ensuring that:
- i. Everyone who lives in the city can enjoy its unique heritage and range of activities.
 - ii. Residents can access affordable homes while the greenbelt and unique character of the city is protected.
 - iii. Visitors, businesses and residents are impressed with the quality of our city.
 - iv. Local businesses can thrive.
 - v. Efficient and affordable transport links enable residents and businesses to access key services and opportunities.
 - vi. Environmental Sustainability underpins everything we do.
 - vii. We are entrepreneurial, by making the most of commercial activities.
 - viii. Engage with our communities, listening to their views and taking them into account.

Implications

28. The following implications have been assessed.

- **Financial** – The estimated cost of £20,500 was reported to LPWG and Executive earlier in the year and will be funded through existing budgets. This will be monitored and refined as the process towards examination continues.
- **Human Resources (HR)** – The production of a Minerals and Waste Joint Plan and associated evidence base requires the continued implementation of a comprehensive work programme that will predominantly, although not exclusively, need to be resourced within EAP.
- **Legal** – The statutory process must be followed in preparing and consulting upon the joint plan and decisions must be taken by each of the separate Authorities involved in their own constitutional decision making processes. The statutory duty to co-operate applies (S33A Planning & Compulsory Purchase Act 2004 inserted by S110 Localism Act 2011). If the Minerals and Waste Joint Plan is adopted by all three Councils, it will eventually become part of the statutory development plan for York along with the emerging York Local Plan. The Plans should therefore be in conformity particularly in relation to any site allocations and safeguarded areas proposed within the York area in the Joint Minerals and Waste Plan.
- **Information Technology (IT)** - There are no IT implications
- **Crime and Disorder** – None.
- **Property** – The Plan includes land within Council ownership.
- **Other** – None

Risk Management

29. In compliance with the Council's risk management strategy, the main risks in producing a Minerals and Waste Plan are as follows:

- The need to steer, promote or restrict minerals and waste development across its administrative area:
- The potential damage to the Council's image and reputation if a development plan is not adopted in an appropriate timeframe; and
- Risks arising from failure to comply with the laws and regulations relating to Planning and the SA and Strategic Environmental Assessment processes and not exercising local control of developments.

30. Measured in terms of impact and likelihood, the risks associated with this report have been assessed as requiring frequent monitoring.

Contact Details

Author:

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Strategic Planning

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Chief Officer Responsible for the report:

Mike Slater
Assistant Director Planning and Public
Protection

Report **Date** 4-10-17
Approved

Specialist Implications Officer(s)

Financial Implications
Patrick Looker
Finance Manager

(01904) 551633

Legal Implications
Alison Hartley
Senior Solicitor

(01904) 553487

Wards Affected: List wards or tick box to indicate all **All**

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex A: Summary of representations received during consultation on Addendum of Proposed changes

Annex B: Schedule of representations by issue with officer response

List of Abbreviations Used in this Report

EiP – Examination in Public

MWJP – Minerals and Waste Joint Plan

LDS – Local Development Scheme

AONB – Area of Outstanding Natural Beauty

SA/SEA – Sustainability Appraisal / Strategic Environmental Assessment

CYC – City of York Council

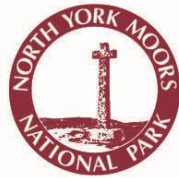
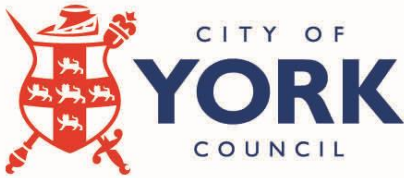
PINS – Planning Inspectorate

SCI – Statement of Community Involvement

NPPF – National Planning Policy Framework

Annex A

**Summary of representations received during
Consultation on the Addendum of Proposed changes**



Minerals and Waste Joint Plan

Minerals and Waste Joint Plan

Addendum of Proposed Changes Responses

September 2017

Minerals and Waste Joint Plan Addendum Proposed Changes July 2017 – September 2017

Addendum Proposed Changes - Summary of responses

This stage was undertaken to provide an opportunity for representations to be made regarding the legal compliance and the 'soundness' of the Addendum of Proposed Changes on the Minerals and Waste Joint Plan before it is submitted for Examination in Public by an independent Planning Inspector.

Consultation

The Addendum of Proposed Changes of the Minerals and Waste Joint Plan was available for comment between the 12th July 2017 and 6th September 2017.

A wide range of consultees and stakeholders were contacted either by email or letter. All consultees were sent details of the consultation along with a statement of representations procedure, response form and guidance notes.

The request for comments on the Addendum of Proposed Changes document was publicised through a range of means consisting of:

- press release issued jointly by the three authorities;
- public notice in papers which provide geographical coverage over the plan area (York Press, Northern Echo, Yorkshire post);
- articles in the Authorities electronic newsletter 'NY NOW' and the Moors Messenger;
- posters displayed in libraries notice boards;
- Information on the North York Moors and City of York website;
- Twitter announcement by the three authorities;

Responses to consultation

A total of 143 comments were received from 36 respondents.

The duly made responses received are summarised in the attached report. Each response has a number allocated to it such as 1234/5678. The first number i.e. 1234 is the respondents unique reference number which was supplied in the acknowledgement email or letter, the second number is the unique reference for that particular comment.

Addendum Proposed Changes in Plan

002: Context

002: Context

Tarmac

0317/0016/PC043/S

Paragraph 2.026
Proposed Change PC043
Policy Number
Site Reference

Comment

The proposed change to para 2.26 is supported in that the para is now consistent with NPPF paragraph 144 and therefore considered to be sound.

CPRE (North Yorkshire Region)

2173/0044/PC044

Paragraph 2.026
Proposed Change PC044
Policy Number
Site Reference

Comment

The inclusion of the revised text in relation to Green Belt is welcomed and has ensured conformity with National Policy and Guidance on the matter, these changes are considered to be sound.

CPRE (North Yorkshire Region)

2173/0045/PC045/S

Paragraph 2.054
Proposed Change PC045
Policy Number
Site Reference

Comment

The reference to conserving the important setting and coastline of the Flamborough Headland Heritage Coast is welcomed and the specific reference to the North East Marine Plan, the Marine Policy Statement is consistent with national policy and proposed change considered sound.

CPRE (North Yorkshire Region)

2173/0046/PC046/S

Paragraph 2.054
Proposed Change PC046
Policy Number
Site Reference

Comment

The reference to conserving the important setting and coastline of the Flamborough Headland Heritage Coast is welcomed and the specific reference to the North East Marine Plan, the Marine Policy Statement is consistent with national policy and proposed change considered sound.

005: Minerals

009: Crushed Rock

Paragraph 5.031p
Proposed Change PC050
Policy Number M06
Site Reference

Comment

Policy M06 is not consistent with national policy and so considered unsound.

The policy is not consistent with the wording in the NPPF Paragraph 145 with regards to the provision of landbanks for crushed rock. The NPPF requires 'the maintenance of at least 10 years' and does not refer to a 'minimum 10 year landbank' as set out in Policy M06.

The policy's requirement to source new reserves from outside the National Park and AONBs is also not consistent with National Policy. NPPF Paragraph 144 states:

'...as far as practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Boards, Areas of Outstanding Natural Beauty, World Heritage Sites, Scheduled Monuments and Conservation Areas.'

As currently drafted the policy seems to imply no future development in the National Park regardless of the circumstances.

Suggested Modification
Reword the Policy to make it consistent with the NPPF

A [minimum overall] landbank of AT LEAST 10 years will be maintained for crushed rock throughout the Plan period. A separate [minimum 10 year] landbank OF AT LEAST 10 YEARS will be identified and maintained for Magnesian Limestone crushed rock throughout the Plan period.

Where new reserves of crushed rock are required in order to maintain [the overall] A landbank [above the 10 year minimum] OF AT LEAST 10 YEARS these will be sourced form outside the National Park and Areas of Outstanding Natural Beauty AS FAR AS PRACTICAL.

Tarmac

0317/0017/PC050/LC.U

Paragraph 5.031p
 Proposed Change PC050
 Policy Number M06
 Site Reference

Comment

Although the wording of the proposed change is supported, Tarmac’s initial representations regarding Policy M06 remain. Policy M06 is not consistent with NPPF on two counts and is therefore considered unsound. The wording of Policy M06 is not consistent with the wording of NPPF para 145 with regards to the provision of landbanks for crushed rock. The NPPF requires “the maintenance of at least 10 years” and does not refer to a “minimum 10 year landbank” as set out in Policy M06. The policy’s requirement to source new reserves from outside the National Park and AONBs is not consistent with NPPF para 144, which states: “... AS FAR AS IS PRACTICABLE [emphasis added], provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty, World Heritage Sites, Scheduled Monuments and Conservations Areas”. Policy M06 seems to imply no future development in the National Park regardless of circumstances.

Suggested Modification

Policy M06 should be reworded as suggested below to make it consistent with the NPPF:
 “A landbank of AT LEAST 10 years will be maintained for crushed rock throughout the Plan period. A separate landbank OF AT LEAST 10 YEARS will be identified and maintained for Magnesian Limestone crushed rock throughout the Plan period.

Where new reserves of crushed rock are required in order to maintain overall A landbank OF AT LEAST 10 YEARS these will be sourced from outside the National Park and Areas of Outstanding Natural Beauty AS FAR AS IS PRACTICABLE.”

010: Maintenance of Primary Aggregate Supply

Historic England

0120/0006/PC098//S

Paragraph 5.035s
Proposed Change PC098
Policy Number M07
Site Reference MJP06

Comment

This Proposed Change is sound.
The application site lies within the Swale/Ure river catchments. This larger area contains the most significant concentration of Neolithic and Bronze Age monuments and related archaeological deposits in the north of England. Within this area are seven henges, two cursus monuments, several barrows, enclosures, pit alignments and the Devil's Arrows standing stones. Many of the features within this landscape are scheduled as nationally important. The three henges on Thornborough Moor are unparalleled in their size, alignment and form, and the degree of preservation. The northern henge, currently under woodland, is probably the best preserved such monument in the country; only the great bank and ditch at Avebury exceeds it in scale.
Historic England was involved in discussions regarding the application for mineral extraction from this site (Langwith House Farm) which is currently awaiting determination. In our response, we commented that we considered that the supporting information had demonstrated that there will not be a direct physical impact on known archaeological deposits associated with the Thornborough Henges or their key visual relationships.
However, we did consider that further mineral extraction in this area would have a harmful cumulative impact on the setting of the heritage assets (designated and undesignated) associated with the Thornborough Henges, the promontory of Thornborough Moor on which they sit and, specifically, the ability to appreciate and experience them in their landscape. However, we considered that the mitigation measures proposed as part of that application offered a clear opportunity to reverse some of the harmful impacts of past quarrying in the landscape and to reconnect the henges with their landscape setting.
Given the potential for nationally-important archaeological remains on at least part of this site, it is essential that any application is informed by a comprehensive archaeological assessment (including an evaluation against the framework set out in Managing Landscape Change project). This Proposed Change reflects the recommendation of the Sustainability Appraisal Heritage Impact Assessment.

Tarmac

0317/0020/PC098/LC.S

Paragraph 5.035s
Proposed Change PC098
Policy Number M07
Site Reference MJP06

Comment

Support the addition of the proposed change under the development requirements criteria for the site allocation MJP06 at Langwith Hall Farm to include a requirement for any application to be supported by an archaeological assessment.

Historic England**0120/0007/PC099/S**

Paragraph 5.035s
 Proposed Change PC099
 Policy Number M07
 Site Reference MJP07

Comment

This Proposed Change is sound.

The application site lies within the Swale/Ure river catchments. This larger area contains the most significant concentration of Neolithic and Bronze Age monuments and related archaeological deposits in the north of England. Within this area are seven henges, two cursus monuments, several barrows, enclosures, pit alignments and the Devil's Arrows standing stones. Many of the features within this landscape are scheduled as nationally important. The three henges on Thornborough Moor are unparalleled in their size, alignment and form, and the degree of preservation. The northern henge, currently under woodland, is probably the best preserved such monument in the country; only the great bank and ditch at Avebury exceeds it in scale.

Archaeological evaluations within the site area have demonstrated the presence of archaeological features in the southern half of this site (identified in the Environmental Statement which accompanied Application No NY/2011/0242/ENV as Area D). These should be considered as having high archaeological value and are part of, and contribute to, our understanding of the significance of the Thornborough landscape.

Given the potential for nationally-important archaeological remains on at least part of this site, it is essential that any application is informed by a comprehensive archaeological assessment (including an evaluation against the framework set out in Managing Landscape Change project). This Proposed Change reflects the recommendation of the Sustainability Appraisal Heritage Impact Assessment.

The Development Requirements for the site East of Well includes one relating to the restoration scheme using opportunities to reconnect the Henges to their landscape setting. In view of the proximity of these two sites, it is wholly appropriate that a similar requirement should be included within its Development Requirements.

Tarmac**0317/0021/PC099/LC.S**

Paragraph 5.035s
 Proposed Change PC099
 Policy Number M07
 Site Reference MJP07

Comment

Support the addition of the proposed change under the development requirements criteria for the preferred area MJP07 at Oaklands to include a requirement for any application to be supported by an archaeological assessment and reconnection of henges to their landscape setting.

Kirkby Fleetham with Fencote Parish Council**0713/0001/PC100/LC.S**

Paragraph 5.035s
 Proposed Change PC100
 Policy Number M07
 Site Reference MJP33

Comment

The Proposed Change is considered Legally Compliant and Sound.

Kirkby Fleetham with Fencote Parish Council

0713/0002/PC101/LC.S

Paragraph 5.035s
Proposed Change PC101
Policy Number M07
Site Reference MJP21

[Comment](#)

The Proposed Change is considered Legally Compliant and Sound.

Natural England

0119/0117/PC101/LC.S

Paragraph 5.035s
Proposed Change PC101
Policy Number M07
Site Reference MJP21

[Comment](#)

Welcomes this clarification.

Tarmac

0317/0022/PC1011/LC.S

Paragraph 5.035s
Proposed Change PC101
Policy Number M07
Site Reference MJP21

[Comment](#)

Support the additional wording “and connectivity” to be added to the last bullet point under the Development requirements criteria for the Killerby site allocation MJP21 which refers to restoration schemes.

Tarmac

0317/0023/PC102/U

Paragraph 5.035s
Proposed Change PC102
Policy Number M07
Site Reference MJP21

Comment

Do not support the proposed revision to the site boundary of the Killerby site allocation MJP21 to exclude land nearest to the Killerby Hall Stable Block listed building. This has been made in response to the representations submitted by Historic England (Ref. 0120/0044/M07/U). This revision is not justified.

Tarmac has previously submitted representations on this subject (Dec 2016 and Jan 2017) and it is considered that these are still valid and should be taken into account. See attached copy of the supporting archaeological assessment submitted on behalf of Tarmac by Wardell Armstrong (Dec 2016).

Disagree that the setting of the listed stable block beside Killerby Hall includes the wider agricultural landscape and consider its setting to be the non registered park and garden. There has been change to the immediate surroundings of the stable block over time, not least a new large building (18x24m and 8.8m tall, granted under PD rights in 2014) and constructed approximately 50m away from it to the north, for the storage of biomass. The area which is to be removed from the allocations under PC102 broadly covers Phases 1A and 2A of the proposed extraction area (see attached figure). Once sand and gravel is extracted, this area would be used as silt lagoons progressively infilled and then restored back to agriculture; thus any change to the character of the land south east and beyond the currently non registered park and garden, from which the stable block could be appreciated, would be temporary and generally reversible.

The revised site boundary for the allocation MJP21 will reduce the reserve by approximately 750,000 tonnes (6.8% of the deposit) and the duration of operations by 2 years. These reserves would thus be sterilised unnecessarily. The land in question is to be used following extraction of sand for silt disposal in formed lagoons. The position of these lagoons for sustainable operations, including water management reasons, needs to be in close proximity to the processing plant. The position of the processing plant has been sited in the most appropriate location following environmental and operational assessment; thus the location of the lagoons and the plant site are interdependent and the proposed site boundary revision to remove the area should not be considered only in terms of an arithmetical reduction of tonnage as referred to above.

MJP21 is currently subject of a planning application with accompanying EIA (App Ref. NY/2010/0356/ENV) which NYCC have resolved to approve. Both NYCC and Historic England (HE) have been carefully consulted as part of the planning application process. A working scheme of investigation (WSI) has been implemented at Killerby and HE has declined the opportunity to make further comment when re-consulted. The application has clearly demonstrated that there would be no significant adverse effect upon the setting of the Killerby Hall Stable Block.

In conclusion, Tarmac strongly believes there is insufficient justification for the proposed site boundary revision to site allocation MJP21 at Killerby.

Suggested Modification

The original site boundary for the MJP21 Killerby site allocation should be reinstated.

Minerals Products Association

0115/0087/PC102/U

Paragraph 5.035s
Proposed Change PC102
Policy Number M07
Site Reference MJP21

Comment

Have no comments on the specific merits or otherwise of this site allocation but concerned that the site boundaries have been changed at this late stage in the Plan process as a matter of principle.
A detailed sustainability appraisal has been undertaken by the mineral planning authority to inform the plan making process and it wrong as a matter of principle to reduce the site extent following the observations from Heritage England without detailed evidence.
The issues of setting, if relevant, would be a matter to be properly tested at the planning application stage. It is not sustainable to sterilise mineral at this stage of the mineral plan process.

Suggested Modification

The original site boundary for the site allocation should be reinstated.

Kirkby Fleetham with Fencote Parish Council

0713/0003/PC102/LC.S

Paragraph 5.035s
Proposed Change PC102
Policy Number M07
Site Reference MJP21

Comment

The Proposed Change is considered Legally Compliant and Sound.

Historic England

0120/0008/PC102/S

Paragraph 5.035s
Proposed Change PC102
Policy Number M07
Site Reference MJP21

Comment

This Proposed Change is sound.

Following the last Consultation, we visited this site with the local planning authority and the Consultants acting for the applicants. This visit confirmed our concerns about the impact which mineral development in this location might have upon the Grade II Listed stable block to Killerby Hall. As a result we maintain our view that the Heritage Impact Assessment (HIA) has under-scored the degree of harm that the development of this area would be likely to cause to this designated heritage asset. Having said that, however, we now are in a position to confirm that, in our opinion, extraction from this area is unlikely to harm the setting of the other designated heritage assets in the vicinity of this site.

In terms of the Stable Block to Killerby Hall, the HIA which accompanied the Sustainability Appraisal considered that this site “forms an important part of the agricultural landscape context of the overall farm/hall complex, which is the primary setting of the building”. Although this could not be said to be true of the whole of this extensive Allocation, certainly this is the case for the field which lies to the south-east of this Listed Building. From the public footpath which runs along the northern boundary of this field the buildings at Killerby Hall and, especially, the stable block are extremely prominent. As such the view from this part of the site enables the Listed stable block to be appreciated in the context of the other historic buildings at Killerby Hall, the parkland surrounding these buildings, and within its wider rural setting. In the words of the NPPF and its definition of setting, we consider these views make a positive contribution to the significance of the stable block.

That being the case, then the loss of this particular field and mineral extraction from it would, according to the scoring system used in the HIA, be likely to have a “Moderate Negative Effect” upon the stable block. Moreover, it does not appear from the Appraisal that this harm is capable of mitigation in a manner which, itself, would not harm the significance of this Listed Building. For example, screening would itself involve the introduction of a feature which is not typical of this particular landscape character and therefore cause harm to the setting of the Listed Building.

When considering the impact of proposals upon the significance of a designated heritage asset, Para. 132 of the NPPF makes it clear that “great weight” should be given to the conservation of those assets. In addition, there is a requirement under S66 of the Planning (Listed Buildings and Conservation Areas) Act that “special regard” should be had to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which they possess.

Therefore, an allocation which would be likely to result in harm to elements which contribute to the significance of a Listed Building would be contrary to both the provisions of the NPPF and to the statutory requirements set out in the 1990 Act unless there were clear public benefits which outweighed that harm.

The proposed amendment to the site’s boundary will reduce the harm to the setting of this building.

Natural England

0119/0118/PC103/LC.S

Paragraph 5.035s
Proposed Change PC103
Policy Number M07
Site Reference MJP17

[Comment](#)

Welcomes this clarification.

Tarmac

0317/0024/PC103/LC.S

Paragraph 5.035s
Proposed Change PC103
Policy Number M07
Site Reference MJP17

[Comment](#)

Support the additional wording “and connectivity” to be added to the last bullet point under the Development requirements criteria for the Land South of Catterick site allocation MJP17 which refers to restoration schemes.

Kirkby Fleetham with Fencote Parish Council

0713/0004/PC103/LC.S

Paragraph 5.035s
Proposed Change PC103
Policy Number M07
Site Reference MJP17

[Comment](#)

The Proposed Change is considered Legally Compliant and Sound.

Kirkby Fleetham with Fencote Parish Council

0713/0005/PC104/LC.S

Paragraph 5.035s
Proposed Change PC104
Policy Number M07
Site Reference MJP17

[Comment](#)

The Proposed Change is considered Legally Compliant and Sound.

Historic England

0120/0009/PC104/S

Paragraph 5.035s
Proposed Change PC104
Policy Number M07
Site Reference MJP17

Comment

This Proposed Change is sound.

Following the last Consultation, we visited this site with the local planning authority and the Consultants acting for the applicants. The site visit confirmed our view that mineral development of this site is likely to harm the setting of both the Grade II Listed Rudd Hall and its neighbour the Grade II Listed Gyll Hall.

Rudd Hall occupies a prominent hill-top site and has clearly been designed to command views across the surrounding landscape. The Heritage Impact Assessment (HIA), which accompanied the Sustainability Appraisal, considered that this site “forms an important part of the agricultural landscape context” of this building. We would concur with this evaluation.

In a similar manner the principal elevation of Gyll Hall commands views in a southerly direction across the land which falls away from the house towards Lords Lane. Once again, the Assessment considered that this area formed part of “the wider agricultural landscape” which is “important to the significance” of Gyll Hall. Again, we would agree with this evaluation.

As a result, the HIA considered that the loss of this site and its subsequent development for minerals extraction would be likely to have a “moderately negative effect” on the significance of the both these Listed Buildings (i.e. the second-highest magnitude of harm). We would endorse this conclusion. Moreover, it does not appear from the Appraisal that this harm is capable of mitigation in a manner which, itself, would not harm the significance of these designated heritage assets.

When considering the impact of proposals upon the significance of a designated heritage asset, Para. 132 of the NPPF makes it clear that “great weight” should be given to the conservation of those assets. In addition, there is a requirement under S66 of the Planning (Listed Buildings and Conservation Areas) Act that “special regard” should be had to the desirability of preserving Listed Buildings or their setting or any features of special architectural or historic interest which they possess.

Therefore, an allocation which would be likely to result in harm to elements which contribute to the significance of two Listed Buildings in its vicinity would be contrary to both the provisions of the NPPF and to the statutory requirements set out in the 1990 Act unless there were clear public benefits which outweighed that harm.

The proposed amendment to the extent of Site MJP17 will help to reduce the harm to the setting of these Listed Buildings.

Minerals Products Association

0115/0088/PC104/U

Paragraph 5.035s
Proposed Change PC104
Policy Number M07
Site Reference MJP17

Comment

Have no comments on the specific merits or otherwise of this site allocation but concerned that the site boundaries have been changed at this late stage in the Plan process as a matter of principle.
A detailed sustainability appraisal has been undertaken by the mineral planning authority to inform the plan making process and it wrong as a matter of principle to reduce the site extent following the observations from Heritage England without detailed evidence.
The issues of setting, if relevant, would be a matter to be properly tested at the planning application stage. It is not sustainable to sterilise mineral at this stage of the mineral plan process.

Suggested Modification

The original site boundary for the site allocation should be reinstated.

Tarmac

0317/0025/PC104/U

Paragraph 5.035s
Proposed Change PC104
Policy Number M07
Site Reference MJP17

Comment

Do not support the proposed revision to the site boundary of the Catterick site allocation MJP17 to exclude land nearest to the Rudd Hall and Ghyll Hall listed buildings. This has been made in response to the representations submitted by Historic England (Ref. 0120/0044/M07/U). This revision is not justified.

Tarmac have previously submitted representations on this subject (Dec 2016 and Jan 2017) and it is considered that these are still valid and should be taken into account. A summary of these representations is set out below.

Given the orientation of the Rudd Hall front façade westwards towards the road that approaches it, and the fact that Rudd Hall farm is immediately east of the Hall at least partially blocking views eastwards, it is considered not proven that development of the allocation would cause the level of harm anticipated by Historic England (HE). Even if the extent of any potential extraction area were to be curtailed, the extent that this should be extended as proposed under PC104 is questionable.

Ghyll Hall clearly faces south and there are a multitude of farm buildings to the east of it. There may be some justification to partially reduce the westward extent of an extraction area south of this Hall, and any boundary redrawn at this stage would require a more detailed assessment.

The removal of the proposed fields from the allocation will reduce the reserve by approximately 1,030,500 tonnes and the duration of operations by just over 2 years assuming 500,000 tonnes per annum production. As a result of the revised site boundary, the area of reserves proposed to be removed from the allocation are substantial, leaving only approximately 1.1m tonnes in a narrow north west corridor, a tonnage that would not be economically viable for a greenfield site.

It has been proposed that, in general terms, landscape planting and temporary screening bunding would be put in place between the site and the listed buildings. Tarmac does not feel that the potential benefits of these measures to mitigate visual effects has been given due consideration and thus the reserves at the site could potentially be sterilised unnecessarily.

The allocation of a site area does not necessarily mean that the whole of the land within the allocation could, would or should be extracted. Extraction boundaries would have to be justified in EIA studies supporting any planning application.

Tarmac strongly believes there is insufficient justification or particular necessity for the proposed site boundary revision to site allocation MJP17 at Catterick at this stage. Instead the text attached to the allocations should require that visibility to and from the setting of listed buildings should be thoroughly investigated, once potential site design has been development, so as not to cause substantial harm to the setting of the listed buildings.

Suggested Modification

The original site boundary for the MJP17 Catterick site allocation should be reinstated.

Paragraph 5.072
 Proposed Change PC053
 Policy Number M12
 Site Reference

Comment

A planning application for Blubberhouses Quarry was submitted in December 2011. In July 2016 the application considered that all outstanding matters had been addressed and the application was in a position to be determined, to date it remains undetermined.

The delay appears to be the potential re-alignment of the A59 which may impact the Blubberhouses site, since no proposals have as yet come forward it is not possible for the applicant to undertake an assessment of the design or cumulative impact of the potential re- alignment as part of the existing application. The applicant considers that the Council should determine the existing planning application, and that it should be for any road re-alignment planning application to consider and justify the design and cumulative impacts taking into consideration Blubberhouses Quarry. In light of this the revised wording of paragraph 5.72 is not considered to be justified, positively prepared or effective and suggest amending the text.

Suggested Modification

A further relevant consideration in respect of Blubberhouses Quarry is that the County Council (within its Local Transport Plan 4: strategy and strategic transport prospectus) and the York and North Yorkshire & East Riding Local Enterprise Partnerships (within its strategic economic plan) have identified the need to realign the A59 road at Kex Gill, near Blubberhouses quarry, as a key strategic priority. The existing alignment of the A59 in the Kex Gill area is subject to poor land stability issues, resulting in several road closures taking place on this regionally important strategic trans Pennine route over the past 15 years.

A definitive proposed realignment is not yet available and there is no safeguarded route. ONCE A DEFINITIVE ROUTE HAS BEEN SAFEGUARDED, THE DESIGN OF THE A59 MAY NEED TO TAKE INTO ACCOUNT BLUBBERHOUSES QUARRY AND THE POTENTIAL FOR CUMULATIVE IMPACTS. [Work is currently on going identifying options, however there is potential for this project to overlap with the Blubberhouses quarry site. In this scenario there would be a need to ensure that the potential for conflict between road realignment and the quarry is reflected in design of both schemes and the potential for any cumulative impact taken into account where necessary.]

013: Clay

Natural England

Paragraph 5.074s
 Proposed Change PC106
 Policy Number M13
 Site Reference MJP55

Comment

Welcomes the addition of the York-Selby Cycle Track SINC in the Key Sensitivities and Development Requirements for allocation MJP55.

CPRE (North Yorkshire Region)

2173/0047/PC106

Paragraph 5.074s
Proposed Change PC106
Policy Number M13
Site Reference MJP55

Comment

Welcome the reference to the York and Selby Cycle Track SINC within the 1st bullet point of key sensitivities within MJP55.
A full archaeological assessment should be required prior to development (in line with those related suggested changes in PC98 and PC99 relating to sand and gravel sites) and alternative sites should be considered prior to any permission being granted.

015: Hydrocarbons

Frack Free Ryedale

3684/0051/PC056/LC.S.DTC

Paragraph 5.107
Proposed Change PC056
Policy Number
Site Reference

Comment

Supportive of the recognition that exploratory activity is intensive and for unconventional hydrocarbons the activity may take considerably longer than conventional sites. A time period of 12 to 25 weeks is given for conventional hydrocarbons but no estimate is given for unconventional hydrocarbons. This suggests that activity will last for a much longer period and any such period may be acceptable.

Much of the Plan area is rural with low levels of background noise. Prolonged activity in the exploration stage will in many cases be unacceptable to local communities.

Supportive of the proposed amendment to state that the production stage may include refracturing of existing wells.

Suggested Modification

Exploratory work should be limited to a defined period otherwise there will be excessive (and open ended) nuisance caused to the local community.

Zetland Group

2145/0012/PC056/U

Paragraph 5.107
Proposed Change PC056
Policy Number
Site Reference

Comment

The Proposed Change to para 5.107 is not effective. Additional text suggested to para 5.107 first bullet point, to clarify that activity will be subsequent to drilling. Our comment at Publication stage on this paragraph still stands.

Suggested Modification:

For unconventional hydrocarbons, exploratory activity, SUBSEQUENT TO DRILLING, may take considerably longer, especially if hydraulic fracturing...

Frack Free Ryedale

3684/0052/PC057/LC.S.DTC

Paragraph 5.107
Proposed Change PC057
Policy Number
Site Reference

Comment

Supportive of the recognition that exploratory activity is intensive and for unconventional hydrocarbons the activity may take considerably longer than conventional sites. A time period of 12 to 25 weeks is given for conventional hydrocarbons but no estimate is given for unconventional hydrocarbons. This suggests that activity will last for a much longer period and any such period may be acceptable.

Much of the Plan area is rural with low levels of background noise. Prolonged activity in the exploration stage will in many cases be unacceptable to local communities.

Supportive of the proposed amendment to state that the production stage may include refracturing of existing wells.

Suggested Modification

Exploratory work should be limited to a defined period otherwise there will be excessive (and open ended) nuisance caused to the local community.

4124/0123/PC057/S

Paragraph 5.107
Proposed Change PC057
Policy Number
Site Reference

Comment

This proposed change is supported and should be included in the final Plan.

Frack Free Ryedale

3684/0061/PC058/LC.U.DTC

Paragraph 5.111
Proposed Change PC058
Policy Number
Site Reference

Comment

The proposed change of words is contradictory when compared to the description of the exploration stage (i.e. early stage of development) given in the summary in para. 5.107 first bullet point. Here the plan text talks about 'temporary and intermittent activity'. The words in 5.107 talk of 'intense activity' and goes on to say that this will be (in case of unconventional hydrocarbons) for a considerably longer period.

Suggested Modification

There cannot be two different descriptions.

The Plan here must state the same as 5.107 that 'there will be intense activity in the early stages of development of a well site, which could extend for 12-25 years for conventional hydrocarbons and potentially considerably longer for unconventional hydrocarbons'

Frack Free Ryedale

3684/0062/PC059/LC.U.DTC

Paragraph 5.112
Proposed Change PC059
Policy Number
Site Reference

Comment

For the sake of clarity and to be consistent with national policy an addition should be made after the proposed amended wording.

Suggested Modification

Suggest the addition of the following in relation to and immediately following the new sentence in para. 5.112 that states ..'ALTHOUGH THE ONSITE STORAGE OF SUCH RETURNED WATER AND THE TRAFFIC MOVEMENTS ASSOCIATED WITH REMOVING THE WATER IS A MATTER FOR THE MPA, AS DIRECTED BY PARAGRAPH 112 OF THE MINERALS PPG.'

Zetland Group

2145/0013/PC059/U

Paragraph 5.112
Proposed Change PC059
Policy Number
Site Reference

Comment

The Proposed Change to para 5.112 is not effective. The proposed change does not fully reflect the regulatory role of the Environment Agency which, for clarity, includes the management of extractive waste, groundwater protection, soil contamination, air pollution and NORM.

Third Energy Limited

2762/0100/PC059/U

Paragraph 5.112
Proposed Change PC059
Policy Number
Site Reference

Comment

Considers the proposed change is not effective as it does not reflect the full established regulatory role of the Environment Agency which includes not just management of returned water and NORM but also air pollution, soil contamination, groundwater protection and the management of extractive waste.

Third Energy Limited

2762/0101/PC061/U

Paragraph 5.118
Proposed Change PC061
Policy Number
Site Reference

Comment

Considers the proposed change is not effective as it reduces the scope of the statement to just pollution control regimes implying that the Mineral Planning Authority reserves the right to focus on other potential impacts that fall outside pollution control, e.g. induced seismicity that is within the remit of the Oil & Gas Authority. This is in contradiction to the statement made at Paragraph 17 of the Addendum (under the heading Explanation of Proposed Changes).

Frack Free Ryedale**3684/0063/PC061/LC.U.DTC**

Paragraph 5.118
 Proposed Change PC061
 Policy Number
 Site Reference

Comment

Suggest additional text to align the Plan more closely with national policy.

Suggested Modification

The following should be added to the final amendment to para. 5.118
 'HOWEVER, THE MPA MUST SATISFY THEMSELVES THAT ISSUES CAN BE AND WILL BE ADEQUATELY ADDRESSED BY THE RELEVANT REGULATORY BODY.'

United Kingdom Onshore Oil and Gas (UKOOG)**3997/0106/PC062/U**

Paragraph 5.119
 Proposed Change PC062
 Policy Number
 Site Reference

Comment

Paragraph 5.119(g) should be removed. The nature of activities required to extract conventional or unconventional hydrocarbons will vary on a site by site basis. UKOOG see no justification for this paragraph, which is therefore considered to be unsound.

Egdon Resources (UK) Limited**0150/0090/PC062/LC.U.DTC**

Paragraph 5.119
 Proposed Change PC062
 Policy Number
 Site Reference

Comment

Disagrees as the text still contradicts Policy M9 of the adopted Lincolnshire M&WLP (2016) that makes clear that there is no difference in planning terms between conventional and unconventional hydrocarbons. Moreover, neither NPPF or Minerals PPG makes any distinction between conventional and unconventional hydrocarbons. The focus should be on exploration, appraisal and production stages. It should be amended to more accurately reflect the great importance the Government attaches to hydrocarbon extraction in national policy and guidance and to enable the delivery of sustainable development. Suggested text change is: IT IS CONSIDERED THAT THERE IS NO JUSTIFIABLE REASON IN PLANNING POLICY TERMS TO SEPARATE SHALE GAS FROM OTHER HYDROCARBON DEVELOPMENT. ALL HYDROCARBON DEVELOPMENT HAS THE POTENTIAL TO DELIVER NATIONAL ENERGY REQUIREMENTS, BUT SHOULD BE SUBJECT TO ENVIRONMENTAL SAFEGUARDS.

Cuadrilla Resources Ltd**3704/0112/PC062/LC.U.DTC**

Paragraph 5.119
 Proposed Change PC062
 Policy Number
 Site Reference

Comment

Para 5.119 g) to be removed as it doesn't add any further value. The nature of activities required to extract conventional or unconventional hydrocarbons would vary on a site by site basis. Such activities would not necessarily be consistent between different sites where conventional (or unconventional) geology was present at both sites.

Proposed Modification

Delete Para 5.119 g)

Paragraph 5.119
 Proposed Change PC062
 Policy Number
 Site Reference

Comment

PC62 makes the distinction between conventional and unconventional hydrocarbons based on the porosity or permeability of the rocks they are produced from, without giving a precise definition of what conventional and unconventional mean. While shale gas and coal bed methane are well known as unconventional hydrocarbons, tight gas can also be regarded as unconventional as it requires fracturing.

The proposed change is not justified as when a planning application is submitted there may be a dispute about whether certain hydrocarbons are conventional or unconventional. The definition of unconventional hydrocarbons before the proposed change is more appropriate. The definition made it clear that that shale gas and coal bed methane are always regarded as unconventional hydrocarbons while other hydrocarbons are also regarded as unconventional if hydraulic fracturing is used.

The proposed change is not in compliance with national policy as the effect would be to remove restrictions on unconventional hydrocarbon development from some development which includes hydraulic fracturing. The restrictions which will be removed would include spatial restrictions in part e) of Policy M16, which apply to sites being re-purposed from conventional to unconventional hydrocarbon development.

Suggested Modification

This change should not be included in the Plan and the definition of conventional and unconventional hydrocarbons should remain as in the Publication document. This will make the plan better justified as it will make the distinction between conventional and unconventional hydrocarbons clearer and the way the policies will be applied will also be clearer.

The removal of the proposed change will also make the plan more consistent with paragraphs 110 and 123 of the NPPF as it will limit the spread of the unconventional gas industry.

CPRE (North Yorkshire Region)

Paragraph 5.119
 Proposed Change PC062
 Policy Number
 Site Reference

Comment

It would be helpful to provide more definitions within this paragraph to explain what is meant by 'short-term' and 'long-term' activities in relation to that set out in the Minerals PPG for greater clarity.

It would also be useful to use the Minerals PPG definition of conventional hydrocarbons setting out that 'higher geology' reservoirs often mean sandstone and limestone.

Fully support the revision to point g) of this paragraph in relation to the fact it is possible to draw distinctions between conventional and unconventional hydrocarbon activity by the details of the proposals.

Frack Free Ryedale

3684/0064/PC062/LC.U.DTC

Paragraph 5.119
Proposed Change PC062
Policy Number
Site Reference

Comment

Suggest an amendment to 5.119 bullet d as below
Support 5.119 bullet f - i.e. fracking is fracking. The definition is outwith the Infrastructure Act 2015 definitions, which although is a statutory document is not a planning document therefore the Joint Plan Team are entitled to apply there own definition for the purposes of the Plan with a suitably justified reason.
Support the proposed amendments to 5.119 bullet g. Associated hydraulic fracturing is defined in section 50 of the Infrastructure Act 2015. Fracking is fracking and therefore whether the volume of any fracturing operation is over or just under the 'defined amount' it should be treated the same for planning purposes. Otherwise there will be applications for hydraulic fracturing which will have the same level of Environmental Impact but be technically under the threshold, as defined in the Infrastructure Act, and so will not gain the same level of scrutiny by the MPA.
5.119 deals with definitions and it would be helpful to define short-term and long-term using the Minerals PPG as a reference. Significant harm would be another term which would benefit from a definition.

Suggested Modification

In relation to 5.119 bullet d suggest this is amended to state 'FOR EXAMPLE WHERE THE RESERVOIR IS SANDSTONE OR LIMESTONE' in line with national policy.

Third Energy Limited

2762/0102/PC062/U

Paragraph 5.119
Proposed Change PC062
Policy Number
Site Reference

Comment

Considers the proposed change is not effective as the section is entitled 'Definitions' but the amended text for g) is not a definition but a conjecture about possible future scenarios. Considers the proposed change is not legally compliant as there is not evidence that the conjecture has been validated through co-operation with Oil & Gas Authority (who approve field development plans) nor with representatives of the industry.

INEOS Upstream Ltd**3703/0137/PC062/LC.U.DTC**

Paragraph 5.119
 Proposed Change PC062
 Policy Number
 Site Reference

Comment

The change implies greater complexity and impact from unconventional gas and the requirement for a greater number of well pads and individual wells. The issue is not the number but the scale and impact. Unconventional gas sites are smaller and may have less impact. Given the principle that all planning decisions are made on their merits on the basis of what the decision maker finds proposed for a site and how to mitigation is proposed to be addressed this is placing a question in the decision maker's mind rather than allowing for objective assessment. Paragraph 5.119 provides definitions of hydrocarbon development for use when implementing the plan. INEOS objects to the definition contained in 5.119 f) as it is contrary to Section 50 of the Infrastructure Act 2015. It states hydraulic fracturing includes the fracturing of rock under pressure regardless of the volume of fracture fluid used. This definition is incorrect and contrary to current legislation. Other concerns with para 5.119 are the use of incorrect or irrelevant terminology in the definitions e.g. conventional drilling, unconventional techniques, more conventional less complex drilling. These technical and non-technical definitions need to be corrected to avoid misinterpretation and misguiding the public on what is hydrocarbon development.

The views of UKOOG on this matter are also supported.

Suggested Modification

Amend the text to address the criticisms above.

Frack Free Ryedale**3684/0065/PC063/LC.U.DTC**

Paragraph 5.122
 Proposed Change PC063
 Policy Number M16
 Site Reference

Comment

Consider that an additional sentence should be included at the end of the amended paragraph 5.122.

Suggested Modification

AS PER PARAGRAPH 5.124 OF THIS PLAN, THE MPA ARE AWARE THAT THE SAME ENVIRONMENTAL IMPACTS CAN OCCUR WHEN HYDRAULIC FRACTURING OR FRACKING OF CONVENTIONAL AND UNCONVENTIONAL HYDROCARBONS AT A THRESHOLD BELOW THE DEFINITION SET BY THE INFRASTRUCTURE ACT AND PETROLEUM ACT, THEREFORE, ALL APPLICATIONS WHICH INVOLVE FRACTURING IN THESE PROTECTED AREAS WILL BE TREATED THE SAME IN POLICY TERMS, IN LINE WITH THE PLAN'S DEFINITION SET OUT IN PARAGRAPH 5.119 F.

Zetland Group**2145/0014/PC063/U**

Paragraph 5.122
 Proposed Change PC063
 Policy Number M16
 Site Reference

Comment

The Proposed Change to para 5.122 is not effective. Section 4B(1) of the Petroleum Act 1998 does not contain the definition of associated hydraulic fracturing, as is stated.

4196/0097/PC063/U

Paragraph 5.122
Proposed Change PC063
Policy Number M16
Site Reference

Comment

Does not consider it could be effective as many of the fracked wells in the USA would not be counted as fracking under the definition of using 1,000 cubic litres or more of fluid. Queries what is to stop companies saying they are using a few litres less and thus avoiding regulation. Considers the plan should apply to all hydraulic fracturing as it would be virtually impossible to monitor and regulate the quantity of fluid used.

4194/0130/PC063/U

Paragraph 5.122
Proposed Change PC063
Policy Number M16
Site Reference

Comment

This change refers to section 4B1 of the Petroleum Act 1998. This amendment brought in with the Infrastructure Act 2015 defines hydraulic fracturing as using more than 1,000 cubic metres of fluid in one stage or more 10,000 cubic metres overall. This is a misleading definition. While the change does not adopt this definition for the Plan the point needs to be clarified as PC62 and PC66 open the door to such a definition. The definition of hydraulic fracturing is an important issue. Government introduced measures to protect National Parks from surface development including hydraulic fracturing, but the protection was undermined by the Infrastructure Act and its definition of hydraulic fracturing. The effect of the Infrastructure Act is to allow hydraulic fracturing with less than 10,000 cubic metres of fluid per well to be used within National Parks and AONBs. If the same definition is used in the Minerals and Waste Joint Plan the protections included in the plan will also be undermined. The proposed change is not justified as it would threaten all of the important protections against the harm that would be caused by hydraulic fracturing. The proposed change loosens controls on hydraulic fracturing and is not compatible with paragraphs 110, 123 or 115 of the NPPF.

Suggested Modification

The proposed change should make clear that the definition of hydraulic fracturing, included in paragraph 5.119 of the Plan will be used and the definition included in the Infrastructure Act will not be used. This will make the Plan sound and better justified and consistent with National Policy as would protect the region from environmental harm and noise hydraulic fracturing will cause.

United Kingdom Onshore Oil and Gas (UKOOG)

3997/0107/PC063/U

Paragraph 5.122
Proposed Change PC063
Policy Number M16
Site Reference

Comment

Considers there is no justification as to why the same planning restrictions under the Act for the specific purpose of controlling development of 'associated hydraulic fracturing' apply to other oil and gas activity, our assertion is that this position is therefore unsound. It is also unnecessarily restrictive.

Howardian Hills AONB**0113/0142/PC063**

Paragraph 5.122
 Proposed Change PC063
 Policy Number M16
 Site Reference

Comment

The points raised in the response made to the Publication Draft in relation to updating references to the Surface Development Restrictions have been fully incorporated into the proposed change.

4192/0089/PC063/U

Paragraph 5.122
 Proposed Change PC063
 Policy Number M16
 Site Reference

Comment

Does not consider it could be effective as many of the fracked wells in the USA would not be counted as fracking under the definition of using 1,000 cubic litres or more of fluid. Queries what is to stop companies saying they are using a few litres less and thus avoiding regulation. Considers the plan should apply to all hydraulic fracturing as it would be virtually impossible to monitor and regulate the quantity of fluid used.

4193/0096/PC063/U

Paragraph 5.122
 Proposed Change PC063
 Policy Number M16
 Site Reference

Comment

Does not consider it is sound as it is not effective and not deliverable. Considers the plan should apply to all hydraulic fracturing irrespective of the quantity of fluid used as it will be virtually impossible to, measure, monitor and regulate (enforce) the quantity of fluid used. Queries what is to stop companies saying they are using a few litres less and thus avoiding regulation. Queries what criteria might be applied to enable an operator to 'persuasively demonstrate why requiring such consent would not be appropriate in their case'. Suggests that such an important issue should be judged on defined robust objective criteria to ensure consistency and fairness in decision making, which is crucial for the wellbeing of communities and citizens and it should be sufficiently defined and detailed within the Plan.

Ryedale Liberal Party**3846/0082/PC063/LC.U.DTC**

Paragraph 5.122
 Proposed Change PC063
 Policy Number M16
 Site Reference

Comment

The paragraph at Publication was incomprehensible and therefore not effective and the proposed changes has not improved this position.

Frack Free Ryedale**3684/0066/PC065/LC.S.DTC**

Paragraph 5.124
 Proposed Change PC065
 Policy Number M16
 Site Reference

Comment

Support the addition at the end of paragraph 5.124 and recognise that sites will need to be treated on a site by site basis.

CPRE (North Yorkshire Region)

2173/0054/PC066

Paragraph 5.124
Proposed Change PC066
Policy Number M16
Site Reference

Comment

Support the inclusion of the last sentence as set out in the addendum. It makes it clear that proposals for the production of conventional gas resources, can generate a similar range of issues and potential impacts to those associated with unconventional gas therefore the same policy approach will apply.

Egdon Resources (UK) Limited

0150/0091/PC066/LC.U.DTC

Paragraph 5.124
Proposed Change PC066
Policy Number M16
Site Reference

Comment

Addendum does not provide clarity and does not address the fundamental problem with Policy M16 which seeks to apply restrictions to hydraulic fracturing for conventional gas resources. It is not for the Plan to change the definition of hydraulic fracturing which has been defined in the Infrastructure Act 2015. It should be amended to more accurately reflect the great importance the Government attaches to hydrocarbon extraction in national policy and guidance and to enable the delivery of sustainable development.

INEOS Upstream Ltd

3703/0138/PC066/LC.U.DTC

Paragraph 5.124
Proposed Change PC066
Policy Number M16
Site Reference

Comment

The revised text states that " However, it is not the intention of the Minerals Planning Authority to unreasonably restrict activity typically associated with production of conventional resources." two issues arise from this. Firstly there is an implication that there will be a restriction on unconventional fracturing operations over and above the Infrastructure Act. Secondly, there is a question about how "unreasonably" is defined. Significant restrictions could be placed on activity before it reaches the point where it is judged unreasonable. This provides the decision maker with the scope to bring into their decision making their own prejudices, real or unintended, and to bow to outside pressure. This would not be objective decision making; it would be outside the scope of what is normally considered 'sound' in plan making; and for these reasons the word unreasonable is not considered acceptable in development plan policy because it replaces objectivity with subjectivity in decision making.

Para 5.124 states that the new regulations and proposed surface protections would only apply to high volume fracturing. However the publication draft states that it is not considered appropriate to distinguish between this and lower levels of activity. This is introducing a control that does not exist in national regulations and guidance. This is contrary to Section 50 of the 2015 Infrastructure Act.

Suggested Modification

Amend the text to address all the criticisms above.

Frack Free Ryedale**3684/0067/PC066/LC.S.DTC**

Paragraph 5.124
 Proposed Change PC066
 Policy Number M16
 Site Reference

Comment

Support the addition at the end of paragraph 5.124 and recognise that sites will need to be treated on a site by site basis.

4194/0131/PC066/U

Paragraph 5.124
 Proposed Change PC066
 Policy Number M16
 Site Reference

Comment

PC66 retreats from the previous version of the Plan, which in paragraph 5.119 says hydraulic fracturing 'includes fracturing of rock under hydraulic pressure regardless of the volume of fluid used.' While PC66 does not delete the existing definition, it does add a caveat which says 'it is not the intention of the Mineral Planning Authorities to unreasonably restrict activity typically associated with conventional resources.' It is not clear what 'typical' means and due to change PC62 it is not clear the term 'conventional resources' means either.

The change is not justified as when a planning application is submitted it will cause confusion as to what constitutes hydraulic fracturing and what constitutes 'activity typically associated with convention resources.' The proposed change is a backwards step when compared with the existing definition in the Publication.

Suggested Modifications

The proposed change should not be included in the Plan and the existing definition of hydraulic fracturing in paragraph 5.119 should be used instead, this would be justified as it would make the plan clearer than it would be with the proposed change and would avoid misinterpretation at planning application stage. The removal of the change would make the Plan more compliant with National Policy as it would offer protection against environmental harm.

Cuadrilla Resources Ltd**3704/0111/PC066/LC.U**

Paragraph 5.124
 Proposed Change PC066
 Policy Number M16
 Site Reference

Comment

Clarification has been provided (PC63) regarding the thresholds of 1,000 cubic metres of fluid defined as 'associated hydraulic fracturing' for a single stage by The Infrastructure Act 2015; this unnecessarily leads into discussions (PC66) in Para 5.124 on lower volume well treatments of conventional wells resulting in 'similar issues' and those under The Infrastructure Act 2015 definitions. There is no justification as to why the same planning restrictions established under the Infrastructure Act 2015 for the specific purpose of controlling development of 'associated hydraulic fracturing' apply to all other oil and gas activity; therefore our assertion is that this position is unsound and unnecessarily restrictive.

Suggested Modification

Para 5.124 should be amended to ensure consistency with Section 50 of the Infrastructure Act 2015.

Paragraph 5.127
 Proposed Change PC067
 Policy Number M16
 Site Reference

[Comment](#)

This proposed change is supported and should be included in the final Plan.

Frack Free Ryedale

Paragraph 5.127
 Proposed Change PC067
 Policy Number M16
 Site Reference

[Comment](#)

Support the additional sentence in Para 5.127 as recognise that equipment will be on site for the long term which is understood to be the reality.

INEOS Upstream Ltd

Paragraph 5.127
 Proposed Change PC067
 Policy Number M16
 Site Reference

[Comment](#)

This addition is not relevant. If a planning application is made it follows that there will need to be equipment and activity on site for the length of the development. The relevant question is the impact of a proposal. Once that is deemed acceptable it follows that all activity and equipment are acceptable in that location under the description of the development that has been approved. Again, the proposed wording is creating uncertainty for the decision maker rather than allowing for objective assessment.

[Suggested Modification](#)

Amend the text to address the criticisms above.

Paragraph 5.130
 Proposed Change PC068
 Policy Number M16
 Site Reference

Comment

Support the proposed change as the Yorkshire Wolds and the Vale of Pickering have both been identified in the Ryedale Plan under Policy SP13 as areas of locally important landscapes.
 The change has been included in the explanatory text but not in Policy M16 itself, and it is not clear what the term 'regard will be had' means.
 Concerned that in the future large scale fracking applications will be determined by a National Infrastructure Planning body in London who have no local accountability. It is therefore important that firm and robust guidance should be provided by the MWJP and the proposed change should be given proper consideration.
 In any other planning context surface development for fracking would be classed as employment or economic development. Therefore to make the proposed change robust applications for surface development for fracking in areas of locally important landscapes identified in District or Borough local plans should be determined in accordance with policies in the local plan which apply to employment or economic development.

Suggested modification

- a) The proposed change in PC68 should be repeated in the main policy text of either M16 or M17
- b) and reworded 'In some parts of the affected by PEDLs, areas of locally important landscapes have been identified in District and Borough Local Plans. Where these continue to form part of the statutory development plan, and are relevant to the proposal which falls to be determined by THE APPROPRIATE BODY RESPONSIBLE FOR DETERMINING THE APPLICATION, THE PROPOSAL SHALL BE DETERMINED IN ACCORDANCE WITH THE POLICIES OF THE LOCAL PLAN WHICH RELATE TO EMPLOYMENT, ECONOMIC OR EQUIVALENT DEVELOPMENT, AND SUCH OTHER LOCAL PLAN POLICIES AS MAY BE APPLICABLE [North Yorkshire County Council as Minerals and Waste Planning Authority, regard will be had to the requirements of any associated local plan policy] '

Paragraph 5.130
 Proposed Change PC068
 Policy Number M16
 Site Reference

Comment

This proposed change is supported and should be included in the final Plan.

South Hambleton Shale Advisory Group

4158/0029/PC068

Paragraph 5.130
Proposed Change PC068
Policy Number M16
Site Reference

Comment

This Proposed Change should also state that NYCC will have regard to the Landscape Character Assessments (LCA) where produced by these authorities and in particular the statements which relate to landscape sensitivity as identified for each landscape area e.g. Hambleton LCA (2016). Where LCAs exist and as more are produced by LPAs they form supplementary planning documents and are therefore part of the development plan process.

4152/0098/PC068/U

Paragraph 5.130
Proposed Change PC068
Policy Number M16
Site Reference

Comment

There is no mention of the adopted Ryedale Plan and it is considered the Plan would be unsound if it failed to take proper account of Policy SP13 of the Ryedale Plan. The Ryedale Plan aims to encourage new development to "reinforce distinctive elements of landscape character' in areas including the Vale of Pickering and the Yorkshire Wolds and it is considered that these areas high in landscape value should be protected by solid wording in the Plan. Considers that the phrase 'regard will be had to the requirements of any associated local plan policy' needs clarifying and more robust phrasing and that the proposed text addition to paragraph 5.130 should be included Policy M16.

Paragraph 5.130
 Proposed Change PC068
 Policy Number M16
 Site Reference

Comment

The proposed amendment is welcomed as the Yorkshire Wolds and the Vale of Pickering have both been identified in the Ryedale Plan under SP13 as areas of locally important landscapes. However, there is concern that the amendment has been included in the explanatory text and not in Policy 16 itself. It is considered that it is not clear what 'regard will be had' means. There are concerns that, following on from the 2017 General Elections, 'large scale planning applications' for fracking will be referred for determination by a National Infrastructure Planning body in London and there would be no local accountability and so it is important that robust guidance should be provided in the MWJP. Fracking comes with the construction of complex surface structures, including plant and machinery such as compressors, drilling rigs, offices, etc. that would, in any other planning context, be classed as employment or economic development. Therefore, in order to make the amendment robust when fracking applications are situated in areas of locally important landscapes identified in a District or Borough Plan, they should be determined in accordance with the policies in that plan applying to employment or economic development.

Suggested Modification

It is considered that the amendment should be repeated the main policy text of either Policy M16 or M17 and reworded as following:

"In some parts of the Plan area affected by PEDLs, areas of locally important landscapes have been identified in District and Borough Local Plans. Where these continue to form part of the statutory development plan, and are relevant to a proposal which falls to be determined by [North Yorkshire County Council as Mineral and Waste Planning Authority regard will be had to the requirements of any associated local plan policy] THE APPROPRIATE BODY RESPONSIBLE FOR DETERMINING THE APPLICATION, THE PROPOSAL WILL BE DETERMINED IN ACCORDANCE WITH THE POLICIES OF THE LOCAL PLAN WHICH RELATE TO EMPLOYMENT, ECONOMIC OR EQUIVALENT DEVELOPMENT AND SUCH OTHER LOCAL PLAN POLICIES AS MAY BE APPLICABLE".

Habton Parish Council

0589/0027/PC068/LC.U

Paragraph 5.130
Proposed Change PC068
Policy Number M16
Site Reference

Comment

Support the proposed change as the Yorkshire Wolds and the Vale of Pickering have both been identified in the Ryedale Plan under Policy SP13 as areas of locally important landscapes.
The change has been included in the explanatory text but not in Policy M16 itself, and it is not clear what the term 'regard will be had' means.
Concerned that in the future large scale fracking applications will be determined by a National Infrastructure Planning body in London who have no local accountability. It is therefore important that firm and robust guidance should be provided by the MWJP and the proposed change should be given proper consideration.
In any other planning context surface development for fracking would be classed as employment or economic development. Therefore to make the proposed change robust applications for surface development for fracking in areas of locally important landscapes identified in District or Borough local plans should be determined in accordance with policies in the local plan which apply to employment or economic development.

Suggested Modification

- a) The proposed change in PC68 should be repeated in the main policy text of either M16 or M17
- b) and reworded 'In some parts of the affected by PEDLs, areas of locally important landscapes have been identified in District and Borough Local Plans. Where these continue to form part of the statutory development plan, and are relevant to the proposal which falls to be determined by THE APPROPRIATE BODY RESPONSIBLE FOR DETERMINING THE APPLICATION, THE PROPOSAL SHALL BE DETERMINED IN ACCORDANCE WITH THE POLICIES OF THE LOCAL PLAN WHICH RELATE TO EMPLOYMENT, ECONOMIC OR EQUIVALENT DEVELOPMENT, AND SUCH OTHER LOCAL PLAN POLICIES AS MAY BE APPLICABLE [North Yorkshire County Council as Minerals and Waste Planning Authority, regard will be had to the requirements of any associated local plan policy] '

Ryedale District Council

0116/0083/PC068/LC.S.DTC

Paragraph 5.130
Proposed Change PC068
Policy Number M16
Site Reference

Comment

Supports the proposed change although it does not alter the representations that were previously made in respect of the draft hydrocarbon policies

Paragraph 5.130
 Proposed Change PC068
 Policy Number M16
 Site Reference

Comment

Support the proposed change as the Yorkshire Wolds and the Vale of Pickering have both been identified in the Ryedale Plan under Policy SP13 as areas of locally important landscapes.
 The change has been included in the explanatory text but not in Policy M16 itself, and it is not clear what the term 'regard will be had' means.
 Concerned that in the future large scale fracking applications will be determined by a National Infrastructure Planning body in London who have no local accountability. It is therefore important that firm and robust guidance should be provided by the MWJP and the proposed change should be given proper consideration.
 In any other planning context surface development for fracking would be classed as employment or economic development. Therefore to make the proposed change robust applications for surface development for fracking in areas of locally important landscapes identified in District or Borough local plans should be determined in accordance with policies in the local plan which apply to employment or economic development.

Suggested modification

- a) The proposed change in PC68 should be repeated in the main policy text of either M16 or M17
- b) and reworded 'In some parts of the affected by PEDLs, areas of locally important landscapes have been identified in District and Borough Local Plans. Where these continue to form part of the statutory development plan, and are relevant to the proposal which falls to be determined by THE APPROPRIATE BODY RESPONSIBLE FOR DETERMINING THE APPLICATION, THE PROPOSAL SHALL BE DETERMINED IN ACCORDANCE WITH THE POLICIES OF THE LOCAL PLAN WHICH RELATE TO EMPLOYMENT, ECONOMIC OR EQUIVALENT DEVELOPMENT, AND SUCH OTHER LOCAL PLAN POLICIES AS MAY BE APPLICABLE [North Yorkshire County Council as Minerals and Waste Planning Authority, regard will be had to the requirements of any associated local plan policy] '

Frack Free Malton & Norton**3869/0122/PC068/U**

Paragraph 5.130
 Proposed Change PC068
 Policy Number M16
 Site Reference

Comment

It is considered that the Plan would be unsound in not taking full account of Policy SP13 of the Ryedale Plan. The proposed amendment gives some recognition to local plans but lacks strength by only appearing in the explanatory text and not actually forming part of Policy M16. The phrase 'regard will be had' lacks clarity. A National Infrastructure Planning body in London may be determining "large scale planning applications" for fracking in the future so it is of the utmost importance that the MWJP consists of firm guidance. In order to make the amendment robust when fracking applications situated in areas of locally important landscapes identified in a District Plan area made, they should be determined in accordance with the policies in that plan applying to employment or economic development. This is because the expansive concrete fracking pads, workshops, offices, pipes, storage facilities, etc. would, in any other planning context, be classed as employment or economic development.

Suggested Modification

It is considered that the amendment should be repeated the main policy text of either Policy M16 or M17 and reworded as following:

In some parts of the Plan area affected by PEDLs, areas of locally important landscapes have been identified in District and Borough Local Plans. Where these continue to form part of the statutory development plan, and are relevant to a proposal which falls to be determined by [North Yorkshire County Council as Mineral and Waste Planning Authority regard will be had to the requirements of any associated local plan policy] THE APPROPRIATE BODY RESPONSIBLE FOR DETERMINING THE APPLICATION, THE PROPOSAL WILL BE DETERMINED IN ACCORDANCE WITH THE POLICIES OF THE LOCAL PLAN WHICH REALTE TO EMPLOYMENT, ECONOMIC OR EQUIVALENT DEVELOPMENT AND SUCH OTHER LOCAL PLAN POLICIES AS MAY BE APPLICABLE.

Natural England**0119/0114/PC068/LC.S**

Paragraph 5.130
 Proposed Change PC068
 Policy Number M16
 Site Reference

Comment

Welcomes the consideration of locally important landscapes in this context.

Frack Free Ryedale

3684/0069/PC068/LC.S.DTC

Paragraph 5.130
Proposed Change PC068
Policy Number M16
Site Reference

Comment

Support the proposed amendments. However there is a judgement to be made on a case by case basis relating to the 'regard will be had' in respect of the policies and strategies in place within adopted local plans. Minerals can only be worked where they are found and are a finite resource the 'need' for the mineral should not necessarily outweigh any detrimental impacts when locating a well pad in such an area. The NPPF, whilst stating that a great weight should be attributed to the benefits of mineral extraction, does not suggest anywhere in the document, that this should therefore be given primacy over any other consideration when determining planning applications.

The Yorkshire Wolds and Vale of Pickering have both been identified in the Ryedale Plan under Policy SP13 as areas of locally important landscapes. However, this amendment has been included in the explanatory text and not in Policy M16 itself, and it is not clear what 'regard will be had' means. It is likely this situation will occur in other districts within the plan area.

It is noted that the conservative manifesto published for the 2017 General Election states that 'large scale planning applications' for fracking will be referred for determination by a National Infrastructure Planning body in London which has no local accountability. It is critical that robust guidance should be provided in the MWJP to ensure that, in order to make the Plan effective, the purpose of the above amendment is given full and proper consideration should this happen.

Suggested Modification

Consider that more clarity should be contained in Policy M16 itself to reflect the commentary of this paragraph. It is noted that no amendment is proposed to Policy M16 however if this is to be a robust policy this should be contained within the policy wording itself.

PC68 should be reworded and added into the main text of Policy M16

'In some parts of the plan area affected by PEDLs, areas of locally important landscapes have been identified in District and Borough Local Plans. Where these form part of the statutory development plan, and are relevant to the proposal to be determined THE APPROPRIATE BODY RESPONSIBLE FOR DETERMINING THE APPLICATION, THE PROPOSAL SHALL BE DETERMINED IN ACCORDANCE WITH THE POLICIES OF THE LOCAL PLAN WHICH RELATE TO EMPLOYMENT, ECONOMIC OR EQUIVALENT DEVELOPMENT, AND SUCH OTHER LOCAL PLAN POLICIES AS MAY BE ACCEPTABLE.'

[North Yorkshire County Council as Minerals and Waste Planning Authority, regard will be had to the requirements of any associated local plan policy]

It could be incorporated into Policy M17 as an alternative

4194/0132/PC070/U

Paragraph 5.130p
Proposed Change PC070
Policy Number M17
Site Reference

Comment

This change removes from Policy M17 the need to consider the proximity of other planned well pads and replaces it with a need to consider only permitted well pads. This undermines the policy's requirement for information on how proposals for unconventional hydrocarbons fit within the overall plan for the area. Information about operators intended sites in the future should be considered and used to determine whether the cumulative effect of all planned developments in the area, not just the ones already permitted, would result in unacceptable impacts. The change is not compliant with national policy as it would make planning consent for unconventional hydrocarbon development easier to win without taking into account the cumulative effect of such development. Widespread an intensive unconventional hydrocarbon development can result in environmental harm and so is not compatible with paragraph 110 and 123 of the NPPF.

Suggested Modification

This change should not be accepted and the previous wording, which includes consideration of planned well pads should be included in the Plan, this will make the plan more justified as will allow for the full consideration of the cumulative impact of unconventional hydrocarbon development during planning decisions. It will also make the plan more compliant with national policy as it will tend to limit the environmental harm caused by unconventional hydrocarbon development.

4152/0099/PC070/U

Paragraph 5.130p
Proposed Change PC070
Policy Number M17
Site Reference

Comment

Considers the wording of Policy M17 2) ii) is currently very weak and needs to be more robust as it does not seem to have considered the unacceptable impact that the density of fracking industry development (production sites) would have on the character of the rural community of Burythorpe and its economy of tourism, agriculture and the various equestrian businesses, depending as it does on the character and rural landscapes of the Vale of Pickering and the Yorkshire Wolds.

Egdon Resources (UK) Limited

0150/0092/PC070/LC.U.DTC

Paragraph 5.130p
Proposed Change PC070
Policy Number M17
Site Reference

Comment

The addendum to Policy M17 2) ii) a) fails to address the fundamental issue that there is no justification for setting a wellpad density or arbitrary limit to the number of individual wells within a PEDL area. Cumulative impacts are already taken into account when planning applications are determined. It should be amended, to more accurately reflect the great importance the Government attaches to hydrocarbon extraction in national policy and guidance and to enable the delivery of sustainable development, by deletion and replacement with a more sensible and proportionate requirement to locate a proposal where the development would not have a material adverse impact, subject to appropriate mitigation.

4124/0126/PC071/S

Paragraph 5.131
 Proposed Change PC071
 Policy Number M17
 Site Reference

Comment

This proposed change is supported and should be included in the final Plan.

INEOS Upstream Ltd**3703/0141/PC071/LC.U.DTC**

Paragraph 5.131
 Proposed Change PC071
 Policy Number M17
 Site Reference

Comment

This simply repeats and restates controls that are already contained in a wide range of planning policies and within the remit of other regulators. If the MPA considers it necessary to explain how these policies will be applied specifically to onshore hydrocarbon development this should be done through Supplementary Planning Guidance.

Frack Free Ryedale**3684/0071/PC071/LC.S.DTC**

Paragraph 5.131
 Proposed Change PC071
 Policy Number M17
 Site Reference

Comment

Generally supportive of the amendment. It is noted that there is an AQMA located in Ryedale in Malton.

Friends of the Earth - Yorkshire & Humber and the North East/ FOE England, Wales and N.I**2753/0136/PC071**

Paragraph 5.131
 Proposed Change PC071
 Policy Number M17
 Site Reference

Comment

This change includes some amendments/ concessions on issues that were identified in our previous response. However these have only been included in the supporting justification, rather than the policy themselves, which therefore carry less 'weight' than it would if it were included in the policy text.

Third Energy Limited**2762/0103/PC072/U**

Paragraph 5.137
 Proposed Change PC072
 Policy Number M17
 Site Reference

Comment

Considers the proposed change is not effective as regardless of the size of the licence area, this is an arbitrary limit of 10 well pads per 100km2 that is unnecessarily restrictive and without justification. Future well sites may vary both in their size and number of wells hosted on site so this arbitrary limit could potentially be either too low or too high. The existing controls in the planning regime cover the development of hydrocarbon sites effectively without such limits.

INEOS Upstream Ltd**3703/0140/PC072/LC.U.DTC**

Paragraph 5.137
 Proposed Change PC072
 Policy Number M17
 Site Reference

Comment

Para 5.137 deals with a proposed well pad development density. The geographical spacing, scale, and type of development in addition to the topographical and surface characteristics of an area should be considered in the assessment of a proposal and the density of development in a particular area. It should not be based on a PEDL boundary or arbitrary figure for well density that does not reflect the nature of an applicant's proposals or their ability of the environment to accommodate it appropriately.

Suggested Modification

Amend the text to address the comments above.

Egdon Resources (UK) Limited**0150/0093/PC072/LC.U.DTC**

Paragraph 5.137
 Proposed Change PC072
 Policy Number M17
 Site Reference

Comment

The addendum fails to address the fundamental issue that there is no justification for setting a wellpad density or arbitrary limit to the number of individual wells within a PEDL area. Cumulative impacts are already taken into account when planning applications are determined. It should be amended, to more accurately reflect the great importance the Government attaches to hydrocarbon extraction in national policy and guidance and to enable the delivery of sustainable development.

Cuadrilla Resources Ltd**3704/0113/PC072/LC.U.DTC**

Paragraph 5.137
 Proposed Change PC072
 Policy Number M17
 Site Reference

Comment

Applying arbitrary thresholds on pad density is unnecessarily restrictive. The key consideration is to ensure that effects of hydrocarbon development can either be removed or appropriately managed through the variety of existing institutional arrangements already in place through the Environment Agency, Natural England, Health and Safety Executive, Oil and Gas Authority, BEIS, DCLG and other bodies plus the proper implementation of the processes such as EIA and ERA. The process by which the pad density had been calculated is unknown and appears to result in arbitrary thresholds. Limits should not be considered until relevant applications are submitted, assessed and concluded in a transparent manner.

Suggested Modification

reference to the application of 10 well pads per 100km² PEDL area (and its pro-rata application being applied where the area is less or more than 100km) to be removed from Para 5.137.

United Kingdom Onshore Oil and Gas (UKOOG)**3997/0108/PC072/U**

Paragraph 5.137
 Proposed Change PC072
 Policy Number M17
 Site Reference

Comment

Does not consider it is justified to apply arbitrary thresholds on the density placement of well sites as this is unnecessary restrictive and unsound.

Zetland Group**2145/0015/PC072/U**

Paragraph 5.137
 Proposed Change PC072
 Policy Number M17
 Site Reference

Comment

The Proposed Change to para 5.137 is not effective.
 It is not appropriate to set pad density limits. The para is over complicated and unnecessary – hydrocarbon developments are often temporary, low impact developments – some areas may well have capacity to accommodate numerically more than others. In the context of unconventional oil and gas, where the geology is not targeting specific geological structures such as structural or stratigraphic traps, consideration may well be given to pad density, however in order to consider pad density, a further understanding of the unconventional resource must be obtained through initial exploratory works. The ‘Plan’ can be revised once the potential resource is better understood.

4124/0127/PC073/S

Paragraph 5.137
 Proposed Change PC073
 Policy Number M17
 Site Reference

Comment

This proposed change is supported and should be included in the final Plan.

Egdon Resources (UK) Limited**0150/0094/PC073/LC.U.DTC**

Paragraph 5.137
 Proposed Change PC073
 Policy Number M17
 Site Reference

Comment

The addendum fails to address the fundamental issue that there is no justification for setting a wellpad density or arbitrary limit to the number of individual wells within a PEDL area. Cumulative impacts are already taken into account when planning applications are determined. It should be amended, to more accurately reflect the great importance the Government attaches to hydrocarbon extraction in national policy and guidance and to enable the delivery of sustainable development.

Frack Free Ryedale**3684/0072/PC073/LC.S.DTC**

Paragraph 5.137
 Proposed Change PC073
 Policy Number M17
 Site Reference

Comment

Generally support the proposed amendment but consider that it should apply to areas of local landscape importance which are of similar importance to the Green Belt.
 Consider locally designated landscapes of importance are just as important to both the local community and the wider visitor economy of North Yorkshire. These areas are recognised in the local plans, such as in the Ryedale Plan Policy SP13 Landscapes. This will be reflected in other district local plans.

Suggested Modification

Suggest that in addition to the text incorporate the following in the sentence immediately after the amended sentence to read
 'For PEDLs located WITHin the Green Belt OR AREAS OF LOCAL LANDSCAPE IMPORTANCE[,] or where a relatively high concentration of other land use constraints exist, including significant access constraints, a lower density and/or number may appropriate.'

4124/0124/PC075/S

Paragraph 5.147
 Proposed Change PC075
 Policy Number M17
 Site Reference

Comment

This proposed change is supported and should be included in the final Plan.

CPRE (North Yorkshire Region)**2173/0056/PC075**

Paragraph 5.147
 Proposed Change PC075
 Policy Number M17
 Site Reference

Comment

This paragraph is not in conformity with the guidance as set out in the NPPF and PPG Minerals therefore cannot be considered sound at present. This needs to be reworded to reflect the fact that developers should aim to reduce noise levels at a site to a minimum level, below the absolute thresholds set out in the Minerals PPG, not meet them as set out in the text. The emphasis is on the developer proving to the MPA that the noise produced as a result of development cannot be reduced any further without causing onerous burden. Any planning condition should then reflect the minimum level - not automatically be set at the threshold which is the incorrect interpretation of policy and in rural parts of North Yorkshire that threshold is well above the normal baseline conditions.
 This approach was discussed in great detail between the Appellant (Cuadrilla) and Lancashire County Council at the recent enquiries for the fracking appeals in Lancashire, and were agreed with by the Inspector in her report.

Frack Free Ryedale

3684/0075/PC075/LC.U.DTC

Paragraph 5.147
Proposed Change PC075
Policy Number M17
Site Reference

Comment

Consider that the paragraph requires rewording. Site lighting is mentioned however flaring is generally treated as outside the jurisdiction of planning in most general terms. Consider that once multiple well sites start to appear (particularly during the exploration and appraisal stages) there would be potential for multiple flares at the same well site and/or different well sites undergoing exploration and appraisal at the same time. This has potential to cause negative visual impact across the area particularly when it is dark. There will also be associated air quality impacts from the emissions and noise from the flaring, these are not covered in the proposed plan. Much of the Plan area is sparsely populated and subject to extremely low levels of background noise, the matter could be dealt with by the requirement that all well completions are green completions. There should be a text amendment to paragraph 5.147 to reflect the requirements of national policy which seek to ensure that local amenity is protected by reducing noise levels to a minimum, below the absolute threshold set out in the PPG, at night. The onus is on the developer to prove they cannot reduce the levels below a certain level without onerous burden, which also needs to be proved to the MPA. The MPA should set any noise condition at that minimum level.

Suggested Modification

New wording should be added to the paragraph to set out

'In considering appropriate noise limits at sensitive receptors, operators WILL BE EXPECTED TO REDUCE TO MINIMUM, ACTIVITIES WHICH GENERATE NOISE, BELOW ABSOLUTE THRESHOLDS AS SET OUT IN THE MINERALS PPG AND NPPF. WHEN THE APPLICANT CAN NOT REDUCE NOISE LEVELS ANY FURTHER WITHOUT ONEROUS BURDEN, THE APPLICANT WILL BE EXPECTED TO PROVIDE EVIDENCE OF THIS BURDEN, IN LINE WITH GUIDANCE IN THE MINERALS PPG AT PARAGRAPH 21, WITH THE OBJECTIVE OF ENSURING A HIGH STANDARD OF PROTECTION FOR LOCAL AMENITY. IN ORDER TO ACHIEVE THIS, THE APPLICANT WILL BE EXPECTED TO UNDERTAKE A SERIES OF ACCURATE NOISE LEVEL MONITORING TO CAPTURE BASE LINE CONDITIONS IN THE VICINITY OF THE SITE LOCATION.'

'ALL WELL COMPLETIONS WILL BE GREEN COMPLETIONS WHICH MEANS NO FLARING WILL BE ALLOWED'

The final sentence could alternatively be incorporated into Policy M18 1)i).

INEOS Upstream Ltd

3703/0135/PC076/LC.U.DTC

Paragraph 5.148
Proposed Change PC076
Policy Number M17
Site Reference

Comment

The reference to 'induced seismic activity' should be deleted as it not the responsibility of the MPA but falls under the regulatory remit of the Oil and Gas Authority.

Egdon Resources (UK) Limited**0150/0095/PC076/LC.U.DTC**

Paragraph 5.148
Proposed Change PC076
Policy Number M17
Site Reference

Comment

The addendum fails to address the fundamental issue that induced seismicity is primarily a consideration of other regulators and is not within the remit of the MPA. It should be amended, to more accurately reflect the great importance the Government attaches to hydrocarbon extraction in national policy and guidance and to enable the delivery of sustainable development.

Third Energy Limited**2762/0104/PC076/U**

Paragraph 5.148
Proposed Change PC076
Policy Number M17
Site Reference

Comment

Considers the proposed change is not effective as any development will be located in areas where the technical study of the geology demonstrates 'suitability' in that there is an effective hydrocarbon system in existence with the potential for commercial production. The potential for inducing seismicity and any impacts at surface are very clearly the remit of the Oil & Gas Authority.

United Kingdom Onshore Oil and Gas (UKOOG)**3997/0109/PC076/U**

Paragraph 5.148
Proposed Change PC076
Policy Number M17
Site Reference

Comment

Consider that this is not the responsibility of the MPA, but falls under the regulatory remit of the Oil & Gas Authority. The statement should be removed, it is not justified and is considered to be unsound.

Frack Free Ryedale

3684/0070/PC079/LC.U.DTC

Paragraph 5.152p
Proposed Change PC079
Policy Number M18
Site Reference

Comment

Flaring is used to burn waste gas that cannot be pipelined/stored for commercial use and so must be considered waste and dealt with under part 1)i) of this policy. This is a waste stream which has not been taken into account in the Plan, it could be dealt with by not allowing flaring and having a requirement for 'green completions'.

The plan amendments do not fully deal with the potential issues relating to reinjection. The plan talks of a high standard of protection but does not mention the requirement relating to reinjection having to be currently proven to be BAT. The high standard approach seems at odds with the statement relating to induced seismicity which can be 'mitigated to an acceptable level.' There is no recognition in the supporting text of the chain of responsibility should issues arise using such techniques.

Concerned that the amendment to para 2)i) may lead to a situation that many wells may remain suspended in the hope of becoming commercially viable. This may be used as a reason to extend the term of an existing permission in a speculative way. Suspending wells should not become the norm and the MPA should assess each application on its own merits prior to agreeing to this at the site restoration and aftercare stage only if sufficient evidence is provided to justify any such suspension. This could lead to a large number of suspended wells.

Suggested Modification

Flaring must be considered an onsite waste operation and should be dealt with under this policy by not allowing flaring and requiring only 'green completions'

Support the original version of section 2)i) of policy M18 without the amendment.

Paragraph 5.152p
 Proposed Change PC079
 Policy Number M18
 Site Reference

Comment

This change removes the need to decommission wells that have reached the end of their operational phase and allows wells to be suspended pending further hydrocarbon development. This allows operators to suspend wells for long periods without permanent decommissioning. This leads to uncertainty amongst the public and lengthens the time during which groundwater is put at risk by the possibility of well casing failure. The wording in the Plan is not clear so a change to the wording is necessary. However the proposed change is not clear enough that lengthy periods of suspension will not be permitted. The change is not compliant with paragraph 143 of the NPPF.

Ground water is at risk of contamination from non decommissioned wells so the proposed change should be altered to make clear that hydrocarbon wells that have completed their initial operational phase should be decommissioned promptly with suspension during periods when the operator considers their options are not being permitted.

Suggested Modification

The proposed change should have the following text added to the relevant part of Policy M18

FOLLOWING THE COMPLETION OF OPERATIONS INCLUDED IN ANY EXISTING PLANNING CONSENT HYDROCARBON WELLS MUST NOT BE SUSPENDED PENDING FURTHER PLANNING APPLICATIONS. HYDROCARBON WELLS MUST ALSO NOT BE LEFT SUSPENDED FOR UNNECESSARILY LONG PERIODS BETWEEN OPERATIONS INCLUDED IN THE PLANNING CONSENT. HYDROCARBON WELLS MUST BE DECOMMISSIONED PROMPTLY FOLLOWING THE COMPLETION OF THEIR OPERATIONAL PHASE.'

The addition of the text would make the plan better justified as it would avoid the current situation where hydrocarbon wells are left suspended for lengthy periods of time. It would also make it more compliant with national policy as it would reduce the risk of contamination from well casing failures.

Third Energy Limited

Paragraph 5.152p
 Proposed Change PC079
 Policy Number M18
 Site Reference

Comment

Considers the proposed change is not effective as the decommissioning of a well is common oil field operational practice and must be undertaken in line with regulatory requirements from the Health and Safety Executive, Environment Agency and Oil & Gas Authority and this is how the risk of any contamination is managed. The remit of the Mineral Planning Authority is the management of surface effects, i.e. site restoration in line with the planning consent.

Paragraph 5.153
Proposed Change PC080
Policy Number M18
Site Reference

Comment

This change deletes the word waste from the paragraph regarding water returned to the surface from the borehole at hydrocarbon wells. This water is typically contaminated with high levels of salt, hydrocarbons, heavy metals and naturally occurring radioactive materials. Because of this contamination the water must be handled and disposed of responsibly. The deletion of the word waste implies that the water returned via the borehole will not always be regarded as waste and therefore might be reused instead of disposed of. This change is not justified as it is important to be clear that contaminated water from the hydrocarbon industry will be disposed of in the appropriate manner. The change is also not consistent with paragraphs 110 and 143 of the NPPF, as the reuse of contaminated water from hydrocarbon wells presents a danger to the environment.

Suggested Modification

The change should not be accepted in the Plan and the reference to waste water should remain in the Plan. This will make the plan better justified as it will prevent contaminated water from hydrocarbon wells being reused in a irresponsible manner. It will also make the plan more consistent with national policy as it will protect the environment from harm.

Frack Free Ryedale

3684/0076/PC080/LC.S.DTC

Paragraph 5.153
 Proposed Change PC080
 Policy Number M18
 Site Reference

Comment

This propose change has not dealt with the suggestion that all waste water from site operations can be treated. This is not the case as the treatment process for the water containing NORM is essentially dilution, and must be taken to a large treatment works able to carry out the process before releasing it into the river system. The paragraph describes the water as being disposed of, it is actually removed from site for further processing. There are no suitable treatment sites within the plan area.

This paragraph is misleading as far as reinjection of waste water into substrata. It is unlikely waste water will be disposed of by reinjection as it will not meet the requirements of assessment of the best available technique (BAT). There is evidence from other parts of the world that links reinjection with increased seismicity in excess of the trigger point in the 'traffic light' warning system used in respect of actually carrying out the fracturing itself. This potential is recognised by the amendment.

Concerned the Plan does not recognise the additional impacts related to noise which can occur should reinjection of water into wells be permitted, this should be taken account of in the plan.

Suggested Modification

Where the word 'waste' is deleted it should say after water 'REQUIRING TREATMENT OR PROCESSING.'

An additional sentence should also be added at the end of this paragraph relating to the potential increase in noise should this practice be permitted on sites.

Some clear definitions around the various water descriptors would assist.

Frack Free Ryedale

3684/0077/PC081/LC.S.DTC

Paragraph 5.156
 Proposed Change PC081
 Policy Number M18
 Site Reference

Comment

Concerned that the amendment to paragraph 5.156 or 5.153 does not reference in anyway the additional impacts to noise levels which can occur as a result of site operations relating specifically to pumping water (waste water), let alone pressurising it should reinjection be allowed on site.

017: Potash Polyhalite & Salt

CPRE (North Yorkshire Region)

2173/0037/PC007

Paragraph 5.171
 Proposed Change PC007
 Policy Number M22
 Site Reference

Comment

Support the PCs and additional proposed text in relation to potash mines in the North York Moors. The explanation of the differing types of potash (polyhalite and sylvinitite) and salt that can be extracted from the different mines and what exact permissions are in relation to the separate mines provides clarity and is welcomed.

CPRE (North Yorkshire Region)**2173/0038/PC008**

Paragraph 5.171
 Proposed Change PC008
 Policy Number M22
 Site Reference

[Comment](#)

Support the PCs and additional proposed text in relation to potash mines in the North York Moors. The explanation of the differing types of potash (polyhalite and sylvinitite) and salt that can be extracted from the different mines and what exact permissions are in relation to the separate mines provides clarity and is welcomed.

CPRE (North Yorkshire Region)**2173/0039/PC009**

Paragraph 5.171p
 Proposed Change PC009
 Policy Number M22
 Site Reference

[Comment](#)

Support the PCs and additional proposed text in relation to potash mines in the North York Moors. The explanation of the differing types of potash (polyhalite and sylvinitite) and salt that can be extracted from the different mines and what exact permissions are in relation to the separate mines provides clarity and is welcomed.

CPRE (North Yorkshire Region)**2173/0040/PC010**

Paragraph 5.171p
 Proposed Change PC010
 Policy Number M22
 Site Reference

[Comment](#)

Support the PCs and additional proposed text in relation to potash mines in the North York Moors. The explanation of the differing types of potash (polyhalite and sylvinitite) and salt that can be extracted from the different mines and what exact permissions are in relation to the separate mines provides clarity and is welcomed.

CPRE (North Yorkshire Region)**2173/0057/PC082**

Paragraph 5.171p
 Proposed Change PC082
 Policy Number M22
 Site Reference

[Comment](#)

Support the new sentence in relation to the Major Development Test in Policy M22.

CPRE (North Yorkshire Region)**2173/0041/PC011**

Paragraph 5.172
 Proposed Change PC011
 Policy Number M22
 Site Reference

[Comment](#)

Support the PCs and additional proposed text in relation to potash mines in the North York Moors. The explanation of the differing types of potash (polyhalite and sylvinitite) and salt that can be extracted from the different mines and what exact permissions are in relation to the separate mines provides clarity and is welcomed.

006: Waste**023: Meeting Future Waste Management Needs**

Natural England**0119/0119/PC105LC.S**

Paragraph 6.060s
 Proposed Change PC105
 Policy Number W04
 Site Reference WJP15

Comment

Welcomes this clarification.

Natural England**0119/0121/PC107/LC.S**

Paragraph 6.073s
 Proposed Change PC107
 Policy Number W05
 Site Reference WJP06

Comment

Welcomes the addition of the York-Selby Cycle Track SINC in the Key Sensitivities and Development Requirements for allocation MJP55.

CPRE (North Yorkshire Region)**2173/0048/PC107**

Paragraph 6.073s
 Proposed Change PC107
 Policy Number W05
 Site Reference WJP06

Comment

Welcome the reference to the York and Selby Cycle Track SINC within the 1st bullet point of key sensitivities within WJP06.
 A full archaeological assessment should be required prior to development (in line with those related suggested changes in PC98 and PC99 relating to sand and gravel sites) and alternative sites should be considered prior to any permission being granted.

025: Site Identification Principles for new Waste Management Capacity**CPRE (North Yorkshire Region)****2173/0058/PC083**

Paragraph 6.112p
 Proposed Change PC083
 Policy Number W11
 Site Reference

Comment

The proposed change refers to the addition of text within Policy W11 'or adjacent to' in Part 1), and makes equivalent changes to parts 2), 3), and 5). This improves consistency with Policy W10 and has regard to the fact siting facilities adjacent to existing waste management sites can be beneficial in terms of shared infrastructure networks and landscape screening opportunities amongst others, rather than siting new facilities in an isolated open countryside location.

Tetragen (UK) Ltd**4103/0080/PC083/LC.S.DTC**

Paragraph 6.112p
 Proposed Change PC083
 Policy Number W11
 Site Reference

[Comment](#)

Supports inclusion of the text in the Policy as it supports the extension of existing waste management sites as well as appropriate waste proposals within the footprint of an existing site. It aligns with Policy W10 2) and is more consistent. The MWJP is now considered to be sound, and no further modification is proposed.

FD Todd & Sons Ltd**1133/0083/PC083/LC.S.DTC**

Paragraph 6.112p
 Proposed Change PC083
 Policy Number W11
 Site Reference

[Comment](#)

Supports inclusion of the text in the Policy as it supports the extension of existing waste management sites as well as appropriate waste proposals within the footprint of an existing site. It aligns with Policy W10 2) and is more consistent. The MWJP is now considered to be sound, and no further modification is proposed.

008: Minerals and Waste Safeguarding**028: Safeguarding Mineral Resources****CPRE (North Yorkshire Region)****2173/0042/PC017**

Paragraph 8.007p
 Proposed Change PC017
 Policy Number S01
 Site Reference

[Comment](#)

Support the PCs and additional proposed text in relation to potash mines in the North York Moors. The explanation of the differing types of potash (polyhalite and sylvinitite) and salt that can be extracted from the different mines and what exact permissions are in relation to the separate mines provides clarity and is welcomed.

CPRE (North Yorkshire Region)**2173/0043/PC018**

Paragraph 8.017
 Proposed Change PC018
 Policy Number S01
 Site Reference

[Comment](#)

Support the PCs and additional proposed text in relation to potash mines in the North York Moors. The explanation of the differing types of potash (polyhalite and sylvinitite) and salt that can be extracted from the different mines and what exact permissions are in relation to the separate mines provides clarity and is welcomed.

030: Waste Management Facility Safeguarding**Tetragen (UK) Ltd****4103/0081/PC084/LC.S.DTC**

Paragraph 8.027p
 Proposed Change PC084
 Policy Number S03
 Site Reference

[Comment](#)

Supports inclusion of W10 in key links of Policy S03 as now links to overall locational principles for provision of waste capacity as well as the W11 waste site identification principles and so is now sound. No further modification is proposed.

FD Todd & Sons Ltd**1133/0078/PC084/LC.S.DTC**

Paragraph 8.027p
 Proposed Change PC084
 Policy Number S03
 Site Reference

Comment

Supports inclusion of W10 in key links of Policy S03 as now links to overall locational principles for provision of waste capacity as well as the W11 waste site identification principles and so is now sound. No further modification is proposed.

Harworth Estates (UK Coal Operations Ltd)**0127/0032/PC084/LC.DTC.U**

Paragraph 8.027p
 Proposed Change PC084
 Policy Number S03
 Site Reference

Comment

Policy S03 and its supporting text is too restrictive and does not take adequate account of the fact that waste uses may prove unviable. Likewise, a waste proposal use may not fully reflect the aspirations for other uses at a local level where there is a two-tier authority, such as Selby District Council. It is considered that Policy S03, and its supporting text, remains to be fully justified and is not flexible enough to deal with rapidly changing circumstances i.e. changes in the waste market which could affect viability. Policy S03 is therefore unsound. Our Client therefore objects to the current wording contained within the Pre-submission Draft.

Suggested Modification

To address these concerns and provide greater clarity, it is suggested that the supporting text at paragraph 8.29 is to be amended to include the following text before the final sentence:

'WHERE A SITE IS NOT IN USE, VIABILITY ISSUES WILL BE RELEVANT TO CONSIDERING WHETHER THERE IS A REASONABLE PROSPECT OF THE SITE STILL BEING USED FOR WASTE MANAGEMENT IN THE FORSEEABLE FUTURE.'

This will be particularly important in the two-tier parts of the Plan area, where many development decisions are not taken by the waste planning authority. This will ensure that there is an element of flexibility in the event sites safeguarded under Policy S03 can be brought forward for alternative uses in the event that a waste use would be unviable.

Tetragen (UK) Ltd**4103/0079/PC027/LC.S.DTC**

Paragraph 8.027s
 Proposed Change PC027
 Policy Number S03
 Site Reference

Comment

Supports inclusion of the text within the Knapton Quarry waste facility type description. The amended description support the site's existing and future operations as a transfer, treatment and recycling facility, as well as a composting facility, and assists in securing the waste handling infrastructure of the region. The MWJP is now considered to be sound, and no further modification is proposed.

FD Todd & Sons Ltd**1133/0073/PC027/LC.S.DTC**

Paragraph 8.027s
 Proposed Change PC027
 Policy Number S03
 Site Reference

Comment

Supports inclusion of the text within the Knapton Quarry waste facility type description. The amended description support the site's existing and future operations as a transfer, treatment and recycling facility, as well as a composting facility, and assists in securing the waste handling infrastructure of the region. The MWJP is now considered to be sound, and no further modification is proposed.

Ryedale District Council**0116/0084/PC113/LC.S.DTC**

Paragraph 8.027s
 Proposed Change PC113
 Policy Number S03
 Site Reference

Comment

The proposed change (additional site) is in response to a previous representation and is welcomed.

Highways England**0112/0026/PC113/S**

Paragraph 8.027s
 Proposed Change PC113
 Policy Number S03
 Site Reference

Comment

Highways England have considered this additional safeguarded waste site and have no concerns at this time as the proposed change only safeguards the existing site and will not generate additional traffic.

We do not feel that the proposed changes materially alter the overall policy approach of the plan and we therefore remain generally supportive of the policies set out. Highways England considers that the Joint Plan is sound when considered against the tests of being positively prepared, justified, effective, and consistent with national policy.

Harworth Estates (UK Coal Operations Ltd)**0127/0033PC085/LC.DTC,U**

Paragraph 8.030
 Proposed Change PC085
 Policy Number S03
 Site Reference

Comment

Policy S03: Waste Management Facility Safeguarding proposes to impose a 250m buffer around all allocated waste management facilities to protect and prevent any conflicting uses. However, Policy S03 and its supporting text do not fully acknowledge that such facilities are often sited on sites where other uses are existing or proposed which would require them to sit within close proximity to each other. In particular, we have previously highlighted the example of the proposals for the employment park at the former Kellingley Colliery Site. As such, our Client welcomes the addition of the suggested additional paragraph proposed via amendment PC85.

We would however highlight that Amendment PC85 will only address situations where proposals for a site are already subject to a planning consent. This still does not adequately address situations where new proposals are either proposed via a planning application, or within an emerging development plan. This proposed amendment fails to be effective and our Client therefore continues to object.

Suggested Modification

To ensure policy PC85 and its supporting text is “sound”, the word 'extant' should be deleted from the first sentence, resulting in the following:

“It is acknowledged that in some cases, including at the former mine sites in the Plan area, there are other proposals for redevelopment which are matters for determination by the relevant local planning authority and that such proposals could overlap with land proposed for safeguarding in the Joint Plan...”

Selby District Council**0074/0010/PC085/S**

Paragraph 8.030
 Proposed Change PC085
 Policy Number S03
 Site Reference

Comment

We support proposed amendment PC85. The inclusion of this text at revised paragraphs 8.30 should ensure a pragmatic approach is taken when implementing safeguarding requirements, where an overlap of other types of proposed development occurs. We welcome the fact that the Minerals and Waste Planning Authority will seek to work constructively, in these circumstances, with the relevant LPA and developers to ensure that a proportionate approach is taken.

031: Minerals and Waste Transport infrastructure Safeguarding

Selby District Council

0074/0011/PC086/S

Paragraph 8.033
Proposed Change PC086
Policy Number S04
Site Reference

Comment

We support proposed amendment PC86. The inclusion of this text at revised paragraph 8.33 should ensure a pragmatic approach is taken when implementing safeguarding requirements, where an overlap of other types of proposed development occurs. We welcome the fact that the Minerals and Waste Planning Authority will seek to work constructively, in these circumstances, with the relevant LPA and developers to ensure that a proportionate approach is taken.

Harworth Estates (UK Coal Operations Ltd)

0127/0034/PC087/LC.DTC.U

Paragraph 8.034
Proposed Change PC087
Policy Number S04
Site Reference

Comment

We have also previously raised concerns that Policy S04 fails to take account of situations whereby existing waste management facilities are no longer viable and therefore alternative uses may need to be sought. As such, it is considered that Policy S04 does not currently meet the tests of national policy and is therefore 'unsound'.

Suggested Modification

It was agreed that the following text would be added to the end of paragraph 8.34:

'WHERE A SITE IS NOT IN USE, VIABILITY ISSUES WILL BE RELEVANT TO CONSIDERING WHETHER THERE IS A REASONABLE PROSPECT OF THE SITE BEING USED FOR MINERALS OR WASTE TRANSPORT IN THE FORSEEABLE FUTURE.'

034: Safeguarding Exempt Criteria

CPRE (North Yorkshire Region)

2173/0049/PC088

Paragraph 8.047
Proposed Change PC088
Policy Number
Site Reference

Comment

With specific regard to transport matters, support the inclusion of this change which references the fact that minerals and waste transport infrastructure is also safeguarded within the plan.

Harworth Estates (UK Coal Operations Ltd)

0127/0035PC088//LC.DTC.U

Paragraph 8.047
Proposed Change PC088
Policy Number
Site Reference

[Comment](#)

Our Client has also previously raised concerns that the Joint Plan fails to fully acknowledge the aspirations, both short and longer term, of district authorities, in particular Selby District Council, which is currently progressing its emerging Local Plan, including site allocations. This omission means that policy S04, is not effective and is therefore in direct conflict with the clear tests outlined in national policy. Our Client therefore continues to object. It was therefore agreed to add the following amendment to the exemption criteria listed at paragraph 8.47 (bullet point 12):

Suggested Modification

“Applications for development on land which is already allocated in an adopted local plan where the plan took account of minerals, and waste AND MINERALS AND WASTE TRANSPORT INFRASTRUCTURE safeguarding requirements, OR, IN THE CASE OF AN EMERGING LOCAL PLAN ALLOCATION, WHERE THE MINERALS AND WASTE PLANNING AUTHORITY HAS RAISED NO SAFEGUARDING CONCERNS DURING CONSULTATION ON THE EMERGING PLAN ALLOCATION”.

CPRE (North Yorkshire Region)

2173/0055/PC088

Paragraph 8.047
Proposed Change PC088
Policy Number
Site Reference

[Comment](#)

Welcome the reference to relevant designation in terms of locally important landscape designations identified in District and Borough Local Plans and that the MPA will need to have regard to them in determining applications within those areas.

009: Development Management

037: Development Management Criteria

CPRE (North Yorkshire Region)

2173/0050/PC089

Paragraph 9.016
Proposed Change PC089
Policy Number D03
Site Reference

[Comment](#)

The reference to Air Quality Management Areas is welcomed in this change. It is important to note that that air quality is linked to and often impacted detrimentally by vehicular emissions. We are aware that the Government is placing great weight on the protection and enhancement of air quality, therefore, opportunities to enhance air quality within North Yorkshire should be encouraged.

Howardian Hills AONB**0113/0143/PC090/S**

Paragraph 9.021
 Proposed Change PC090
 Policy Number D03
 Site Reference

[Comment](#)

The points raised in the response made to the Publication Draft in relation to inserting the full Purposes of AONB Designation have been fully incorporated into the proposed change.

South Hambleton Shale Advisory Group**4158/0030/PC090**

Paragraph 9.021
 Proposed Change PC090
 Policy Number D04
 Site Reference

[Comment](#)

The Proposed Change states that within AONBs 'particular regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment'. We would expect this more rigorous test also to apply within the AONB buffer zone ref. Policy M16 (d) i).

038: Protection of Important Assets**South Hambleton Shale Advisory Group****4158/0031/PC091**

Paragraph 9.042
 Proposed Change PC091
 Policy Number D06
 Site Reference

[Comment](#)

We note this Proposed Change but remain concerned that this does not provide consistent or comprehensive scrutiny, particular in relation to cumulative impact.
 We suggest that for each PEDL area, the Councils, in conjunction with District Councils, undertake or adapt existing Landscape Character Assessments (LCA) to include a 'sensitivity assessment which considers the potential impact of each additional drilling site and advises what number could be accommodated without detriment'.
 Alternatively, whenever more than two drilling sites are approved in any PEDL area, no further planning application for additional shale gas wells on an existing or new site within the PEDL area should be considered until a LCA and sensitivity study has been undertaken to determine the total capacity (number) of drilling sites in that PEDL area that can be accommodated without detriment. This is necessary to avoid adverse cumulative impact.

Natural England**0119/0115/PC091/LC.S**

Paragraph 9.042
 Proposed Change PC091
 Policy Number D06
 Site Reference

[Comment](#)

Welcomes the consideration of locally important landscapes in this context.

040: Reclamation and Afteruse

Tarmac

0317/0018/PC095/LC.S

Paragraph 9.084p
Proposed Change PC095
Policy Number D10
Site Reference

Comment

The rewording of Policy D10 1) i) is supported in that the proposed change is now consistent with para 189 of the NPPF.

4191/0060/PC095/LC.U.DTC

Paragraph 9.084p
Proposed Change PC095
Policy Number D10
Site Reference

Comment

This change is not fully justified as it does not go far enough in terms of consultation with communities and proof of reasonable low impacts on those affected communities and the environment. Also believe within this context that proof of viability compared to other energy sourcing processes such as micro-renewables and larger scale renewable energy infrastructure is not being clearly demonstrated and as such is subjecting nearby affected communities to unacceptable risk of pollution(s).

Suggested modification

Consider the following addition necessary to PC95

AN APPLICANT FOR PLANNING PERMISSION FOR FRACKING OR SHALE GAS OPERATIONS (INCLUDING TEST DRILLING AND EXTRACTION) MUST DEMONSTRATE BY APPROPRIATE EVIDENCE AND ASSESSMENT THAT REASONABLE SCIENTIFIC DOUBT CAN BE EXCLUDED TO ADVERSE IMPACTS OF THE PROPOSED DEVELOPMENT ALONE OR IN COMBINATION WITH OTHER DEVELOPMENTS:

- ON THE QUALITY AND QUANTITY OF WATER RESOURCES
- ON AIR QUALITY (INCLUDING THROUGH EMISSIONS OF METHANE AND SULPHUR)
- ON SEISMIC ACTIVITY
- ON LOCAL COMMUNITIES

Tarmac

0317/0019/PC096/LC.U

Paragraph 9.084p
Proposed Change PC096
Policy Number D10
Site Reference

Comment

Acknowledge the changes made to Part 2 (viii) of Policy D10. Nevertheless, these changes do not address the representations previously made in response to this policy.
The 'landscape scale benefits' which are sought through Part 2 (viii) of the policy can often only be delivered with large areas of land which may not be under the control of the developer. As such, expectations may be created that cannot be delivered. The policy is therefore considered to be unsound.

Suggested Modification

Delete the following words from Part 2(viii) of Policy D10:
".. Seeking to deliver benefits at a landscape scale."

Minerals Products Association

0115/0086/PC096/LC.U

Paragraph 9.084p
Proposed Change PC096
Policy Number D10
Site Reference

Comment

The 'landscape scale benefits' which are sought through Part 2 (viii) of the policy can often be delivered with large areas of land not under the control of the developer. As such, this policy cannot be effectively achieved and the policy is therefore considered unsound.

Suggested Modification

Suggest some words are deleted from Part 2 (viii)

'Achieving significant net gains for biodiversity which help create coherent and resilient ecological networks. Where practicable, proposals should contribute significantly to the creation of habitats of particular importance in the local landscape [seeking to deliver benefits at a landscape scale]. This includes wet grasslands and fen in the Swale and Ure valleys and species-rich grassland on the Magnesian limestone ridge.'

Natural England

0119/0116/PC096/LC.S

Paragraph 9.084p
Proposed Change PC096
Policy Number D10
Site Reference

Comment

Welcomes the clarity provided by this modification.

011: Any Other Comments

050: Any Other Comments

East Riding of Yorkshire Council

0118/0149

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

No further comments to make in respect of the proposed changes and there are no outstanding issues to be resolved.

Ministry of Defence / Defence Infrastructure Organisation

0114/0148

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

No comments in regards to the proposed changes consultation document.

Burton Salmon Parish Council

0457/0155

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

No comments to make.

Lancaster City Council

0054/0145

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

No comments to make on the proposed changes

Durham County Council

0092/0146

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

Do not have any further comments over and above what was submitted in relation to the Publication Draft in December 2016.

Doncaster Metropolitan Borough Council

0095/0147

Paragraph NC

[Comment](#)

[Proposed Change](#)

No comments to make regarding the proposed changes.

[Policy Number](#)

[Site Reference](#)

Hambleton District Council

0053/0144

Paragraph NC

[Comment](#)

[Proposed Change](#)

No comments to make of proposed changes.

[Policy Number](#)

[Site Reference](#)

CEG

4198/162

Paragraph NC

[Comment](#)

[Proposed Change](#)

No comments to make.

[Policy Number](#)

[Site Reference](#)

Scarborough Borough Council

0286/0152

Paragraph NC

[Comment](#)

[Proposed Change](#)

In the addendum of proposed changes there are no alterations that relate specifically to Scarborough Borough and so have no comments to make.

[Policy Number](#)

[Site Reference](#)

Canal & River Trust

0294/0153

Paragraph NC

[Comment](#)

[Proposed Change](#)

Do not wish to make comments on the proposed changes.

[Policy Number](#)

[Site Reference](#)

North Yorkshire Police

1125/0159

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

No comments to make.

West Tanfield Parish Council

0948/0157

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

No comments to make.

Environment Agency

0121/0150

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

The changes have no impact on any previous comments that we have provided and so have no comments to make.

Hull City Council

3027/0161

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

No further comments to make in respect of the proposed changes and there are no outstanding issues to be resolved.

The Coal Authority

1111/0158

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

Generally supportive of changes but are disappointed are proposed to Policy M16 as previously requested so consider that our previous comments are still relevant and our objections have not been addressed.

United Utilities

0327/0154

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

No comments to make at this stage but request to be consulted with future planning documents.

Leaving Parish Council

0726/0156

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

No further comments to make beyond those previously submitted.

York Health and Wellbeing Board

2175/160

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

Not submitting a formal response to the consultation.

Yorkshire Wildlife Trust

0128/0151

Paragraph NC
Proposed Change
Policy Number
Site Reference

[Comment](#)

Do not have any further comments to make.

012: Non-Duly Made Representations Received

3386/0171

Paragraph NDM
Proposed Change
Policy Number
Site Reference

[Comment](#)

Empty comment box

4190/0176

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

4189/0175

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

4195/0177

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

4197/0178

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

Poppleton Junior Football Club

3219/0170

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

Helmsley Town Council

0603/0163

Paragraph NDM
Proposed Change
Policy Number
Site Reference

Comment

Gladman Developments

2367/0168

Paragraph NDM
Proposed Change
Policy Number
Site Reference

Comment

Wistow Parish Council

0966/0164

Paragraph NDM
Proposed Change
Policy Number
Site Reference

Comment

Alkane Energy

3705/0172

Paragraph NDM
Proposed Change
Policy Number
Site Reference

Comment

Newby Hall Estate

1351/0166

Paragraph NDM
Proposed Change
Policy Number
Site Reference

Comment

1355/0167

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

4098/0174

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

Pool-in-Wharfedale Parish Council

1076/0165

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

3836/0173

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

2808/0169

Paragraph
Proposed Change
Policy Number
Site Reference

NDM

Comment

Contact us

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Annex B

Schedule of representations by issue with officer response

MINERALS AND WASTE JOINT PLAN - SUMMARY OF MAIN REPRESENTATION ISSUES AT THE ADDENDUM OF PROPOSED CHANGES TO THE PUBLICATION DRAFT (Regulation 22 (1))

Introduction

Following the Publication Draft of the Minerals and Waste Joint Plan in November 2016 a number of Proposed Changes were identified to the Plan. As a result, it was considered necessary to present the changes, in accordance with regulation 19: Publication of a Local Plan, for representations on Legal compliance and soundness. The additional period for receiving representation ran from 12th July 2017 for eight weeks until 6th September 2017. The following table provides a focussed summary of the main issues raised and the response by the Authorities. Any 'Actions' are highlighted in **bold** text.

As a substantial number of representations received relate to the Proposed Changes to the Hydrocarbons (oil and gas) policies in the Joint Plan, the table is divided into four main parts:

- 1) Key issues raised by the hydrocarbons industry;
- 2) Key issues raised by environment/amenity groups and individuals relating to hydrocarbons
- 3) Other key policy issues
- 4) Site allocations issues

Hydrocarbons key issues - industry

Representation main issues	Main representors	Response by the Authorities
PC56: Amends the 'Summary of the process of hydrocarbons development' section, to clarify the expected nature of development at the exploration stage. <ul style="list-style-type: none"> • Additional text should be added to clarify that activity will be subsequent to drilling. 	Zetland Group	The proposed change was made in the 1st bullet of para. 5.107 regarding unconventional hydrocarbons from exploratory 'drilling' to exploratory 'activity' to address that whilst drilling activities are similar for conventional and unconventional hydrocarbon sources, which is reflected in the sentence before the proposed change, there may be differences in the timing of exploratory activities associated with unconventional sources. No further change proposed.
PC59: Amends the 'Summary of the process of hydrocarbons development' section to clarify the role of the Environment Agency. <ul style="list-style-type: none"> • The change does not fully reflect the role of the Environment Agency and should be expanded. 	Zetland Group, Third Energy Ltd	The additional sentence in the Addendum is not a summary of the whole role of the Environment Agency, but was proposed in response to representations regarding the Agency's role as a regulator regarding the management and disposal of returned water and NORM. No further change proposed.
PC61: Amends the 'Other regulatory regimes' section under 'Hydrocarbons' to more closely align the text with national	Third Energy Ltd	National policy is clear that local planning authorities should assume that other regulatory regimes will operate effectively and

<p>policy and guidance.</p> <ul style="list-style-type: none"> This change is not effective as it reduces the scope of other regulatory bodies by only making reference to 'control of processes or emissions' with regard to what MPAs do not have to focus on. 		<p>indicates that they should focus on the impact of the use, rather than the control of processes or emissions where these are dealt with under other pollution control regimes. In order to ensure that the impacts of a proposed use can be properly assessed through the planning process, it is necessary to ensure that the development plan, as the starting point for the determination of applications, contains relevant policies. This is particularly the case where the regulatory position is relatively complex and where important issues arise which may be relevant to both assessing the land use impacts of a proposed use and the detailed control of processes or emissions. It is therefore inevitable, and appropriate, that there will be a degree of overlap between the Plan and matters subject of specific control through other regimes. No further change proposed.</p>
<p>PC62: Amends the 'Definitions' section under 'Hydrocarbons', to clarify distinctions between development activity associated with conventional and unconventional resources.</p> <ul style="list-style-type: none"> Para 5.119 (g) should be removed as it is unjustified. The nature of activities required to extract conventional or unconventional hydrocarbons will vary and there is no difference in policy terms between extracting conventional and unconventional hydrocarbons. This change is conjecture, as opposed to a definition, which has not been validated by the Oil & Gas Authority nor industry. Amend the change to remove the implication that unconventional hydrocarbon extraction is more complex and requires a greater number of well pads/individual wells than conventional hydrocarbons, Focus on the potential scale and impact of development. Object to the definition of 'hydraulic fracturing' in para 5.119 (f) as it is contrary to Section 50 of the Infrastructure Act 2015. Incorrect and irrelevant terminology needs to be corrected 	<p>UKOOG, Egdon Resources (UK) Ltd, Cuadrilla Resources Ltd, Third Energy Ltd, INEOS Upstream Ltd</p>	<p>Development of unconventional hydrocarbons may require use of a range of techniques and the specific techniques used will depend on a range of factors. These could include; the type of unconventional resource being developed (e.g. some activities associated with underground coal gasification will require different processes to those associated with development of shale gas); the specific geology and technical considerations and; commercial factors. In terms of land use planning issues, it is considered that relevant distinctions can be drawn between the specific nature and/or scale of activities associated with certain stages of development for conventional hydrocarbons and those used for unconventional hydrocarbons. These differences may include the potential requirement for a larger number of well pads and individual wells, the volume and pressure of fluids used for any hydraulic fracturing processes and the specific requirements for any related plant and equipment and for the management of any related wastes. No further change proposed.</p>

(e.g. conventional drilling, unconventional techniques).		
<p>PC63: Amendment to the Justification Text supporting Policy M16: Key spatial principles for hydrocarbon development, to more accurately reflect the regulatory position of the Government’s Surface Protections for hydraulic fracturing.</p> <ul style="list-style-type: none"> Section 4B(1) of the Petroleum Act 1998 does not contain the definition of associated hydraulic fracturing. It is unnecessarily restrictive that the planning restrictions under the Infrastructure Act 2015 for the purpose of ‘associated hydraulic fracturing’ should also apply to other oil and gas activity. 	<p>Zetland Group, UKOOG</p>	<p>The definition of "associated hydraulic fracturing" was inserted into the Petroleum Act 1998 Section 4, as Section 4B (1), by the Infrastructure Act 2015.</p> <p>The changes proposed in the Addendum reflect the current regulatory position relating to the Government's current position with regard surface protections for hydraulic fracturing, but the changes also recognise there are some distinctions between development activity associated with conventional and unconventional resources. No further change proposed.</p>
<p>PC66: Amendment to the Justification Text supporting Policy M16: Key spatial principles for hydrocarbon development, to clarify the approach and ensure appropriate flexibility.</p> <ul style="list-style-type: none"> This change does not address the fundamental problem with Policy M16 which seeks to apply restrictions to hydraulic fracturing for conventional gas resources. The change implies that there may be restrictions on unconventional fracturing operations over and above the Infrastructure Act 2015. The term ‘unreasonably’ in the change is not considered acceptable because it replaces objectivity with subjectivity in decision making. The application of new regulations and proposed surface protections to only high volume fracturing is contrary to the earlier statement that it is not considered appropriate to distinguish between this and lower levels of activity. This is contrary to Section 50 of the Infrastructure Act 2015. 	<p>Egdon Resources (UK) Ltd, INEOS Upstream Ltd, Cuadrilla Resources Ltd,</p>	<p>It is not the intention of the Plan to unreasonably restrict activity typically associated with production of conventional resources, such as well stimulation techniques where any fracturing activity would involve substantially lower volumes and pressures and the clarification in para 5.124 aims to ensure appropriate flexibility in the Plan. No further change proposed.</p>
<p>PC67: Amendment to the Justification Text supporting Policy M16: Key spatial principles for hydrocarbon development, to reflect the potential position.</p>	<p>INEOS Upstream Ltd</p>	<p>It is considered that the text illustrates and reflects the potential position where circumstances may arise such that the presence of equipment and activity on site may vary over time and which is therefore relevant to the consideration of, for example, impact on</p>

<ul style="list-style-type: none"> The change creates uncertainty for the decision maker rather than allowing for objective assessment. 		<p>amenity. No further change proposed.</p>
<p>PC70: Clarifies the proposed approach in Policy M17: Other spatial and locational criteria applying to hydrocarbon development.</p> <ul style="list-style-type: none"> This change fails to address the fundamental issue that there is no justification for setting a well pad density limit within a PEDL area. Cumulative impacts would be taken into account when planning applications are determined. 	<p>Egdon Resources (UK) Ltd</p>	<p>An objective within Policy M17 is ensuring that unacceptable cumulative effect does not arise. However, it is recognised that bearing in mind the very early stage of development of the industry in this area there is a need for a degree of appropriate flexibility. The text in 5.137, including the Addendum, regarding well pad density provides an indication of the approach that could be taken to preventing unacceptable cumulative impact, but, as acknowledged in the last sentence of the paragraph PEDL boundaries are based on an OS grid and do not reflect other considerations and constraints. Therefore, the location of existing or planned developments in the vicinity of a proposal will also be considered in assessing cumulative impact under this Policy. No further change proposed.</p>
<p>PC71: Amendment to the Justification Text supporting Policy M17: Other spatial and locational criteria applying to hydrocarbon development.</p> <ul style="list-style-type: none"> This change restates controls that are within the remit of other regulators. If the MPA wishes to explain how these are applied to hydrocarbon development this should be done through a Supplementary Planning Document. 	<p>INEOS Upstream Ltd</p>	<p>National policy is clear that local planning authorities should assume that other regulatory regimes will operate effectively and indicates that they should focus on the impact of the use, rather than the control of processes or emissions where these are dealt with under other pollution control regimes. In order to ensure that the impacts of a proposed use can be properly assessed through the planning process, it is necessary to ensure that the development plan, as the starting point for the determination of applications, contains relevant policies. This is particularly the case where there the regulatory position is relatively complex and where important issues may arise which may be relevant to both assessing the land use impacts of a proposed use and to the detailed control of processes or emissions. It is therefore inevitable, and appropriate, that there will be a degree of overlap between the Plan and matters subject of specific control through other regimes. No further change proposed.</p>
<p>PC72 & PC73: Amendment to the Justification Text supporting Policy M17: Other spatial and locational criteria applying to hydrocarbon development, to clarify the approach to</p>	<p>Third Energy Ltd, INEOS Upstream Ltd, Egdon</p>	<p>Policy M17 of the Plan seeks to address the potential for cumulative impact but doesn't set out any absolute limit on well pad or well numbers, recognising current uncertainty about the precise</p>

<p>preventing unacceptable cumulative impact.</p> <ul style="list-style-type: none"> This change is not effective as this arbitrary limit on well pad density is unnecessarily restrictive and without justification. The geographical spacing, scale, type of development and topographical and surface characteristics should be considered in the assessment of a proposal. 	<p>Resources (UK) Ltd, Cuadrilla Resources Ltd, UKOOG, Zetland Group</p>	<p>development model which industry may seek to follow and that a range of local circumstances are likely to arise and that bearing in mind the very early stage of development of the industry in this area there is a need for a degree of appropriate flexibility. The overarching objective of the policy is to prevent unacceptable cumulative impact. It is acknowledged that planning applications will need to be determined on a case by case basis and that cumulative impact, including the location of existing or planned developments in the vicinity of a proposal, may also be addressed via Environmental Impact Assessment, where this is required. However, it is considered important that the Plan sets out policy to provide a framework for addressing this potentially important issue. No further change proposed.</p>
<p>PC76: Amendment to the Justification Text supporting Policy M17: Other spatial and locational criteria applying to hydrocarbon development, to more accurately reflect the available evidence.</p> <ul style="list-style-type: none"> The reference to ‘induced seismic activity’ should be deleted as this is the responsibility of the OGA. The change is not effective as any development will be required to demonstrate that the geology is suitable via a technical study. 	<p>INEOS Upstream Ltd, Egdon Resources (UK) Ltd, Third Energy Ltd, UKOOG,</p>	<p>Whilst it is acknowledged that the Oil and Gas Authority has in place specific measures relating to the control of seismic risk, there is potential for this issue to give rise to wider considerations of local amenity, which is a matter relevant to planning and is therefore appropriately referenced in the Plan. No further change proposed.</p>
<p>PC79: Amends Policy M18: Other specific criteria applying to hydrocarbon development, to more accurately reflect the relevant regulatory requirements relating to decommissioning of wells.</p> <ul style="list-style-type: none"> This change is not effective as the decommissioning of wells is undertaken in line with regulatory requirements of the HSE, EA and OGA. 	<p>Third Energy Ltd,</p>	<p>The wording of the Policy was revised to delete the reference to the need for decommissioning where wells are suspended pending further hydrocarbon development, to more accurately reflect the regulatory position and help ensure consistency with other legislative processes. National policy is clear that local planning authorities should assume that other regulatory regimes will operate effectively and that they should focus on the impact of the use. In order to ensure that the impacts of a proposed use can be properly assessed through the planning process, it is necessary to ensure that the development plan, as a starting point for the determination of applications, contains relevant policies. This is</p>

		particularly the case where the regulatory position is relatively complex and where important issues may arise which may be relevant to both assessing the land use impacts of a proposed use and to the detailed control of processes or emissions. It is therefore inevitable, and appropriate that there will be a degree of overlap between the Plan and matters subject of specific control through other regimes. No further change proposed.
Hydrocarbons key issues - environment/amenity groups and individuals		
Representation main issues	Main representors	Response by the Authorities
<p>PC56 & PC57: Amends the 'Summary of the process of hydrocarbons development' section to clarify the expected nature of development at exploration and production stages.</p> <ul style="list-style-type: none"> Exploratory work should be limited to a defined period otherwise excessive nuisance could be caused. 	Frack Free Ryedale	Whilst this concern is noted it is considered that the suggested approach would lack flexibility to reflect a wide range of potential circumstances that apply to a specific proposal in the Plan area and it is considered that, in combination, the policies provide for a high degree of protection of local communities, taking into account also the role of other relevant regulators. No further change proposed.
<p>PC58: Amends the 'Summary of the process of hydrocarbons development' section to clarify the expected nature of development that could come forward.</p> <ul style="list-style-type: none"> This change appears to contradict the description of the exploration stage in para 5.107, which states that this is an 'intense activity' which for unconventional hydrocarbons may take 'considerably longer' than '12 to 25 weeks'. Therefore, the proposed change should be amended to reflect this. 	Frack Free Ryedale	This is not agreed. It is considered that the text, together with other relevant paragraphs, including 5.107 make it clear that some activities can be short-term, some intensive, some temporary, some intermittent and some may last for longer periods. The activities will vary with the nature of the development and the circumstances of the individual site. No further change proposed.
<p>PC59: Amends the 'Summary of the process of hydrocarbons development' section to clarify the role of the Environment Agency.</p> <ul style="list-style-type: none"> The change should be expanded to include reference to para 112 of the Minerals PPG, stating that onsite storage of returned water and associated traffic movements is a matter for the MPA. 	Frack Free Ryedale	The suggested addition is not necessary as paragraph 5.112 already refers, in the last sentence of the paragraph, to 'where matters subject to regulation through other regimes also give rise to land use implications, the Authorities will seek to address them through the planning process'. No further change proposed.

<p>PC61: Amends the 'Other regulatory regimes' section under 'Hydrocarbons' to more closely align the text with national policy and guidance.</p> <ul style="list-style-type: none"> Expand the change to state that 'the MPA must be satisfied that issues will be adequately addressed by the relevant regulatory body'. 	<p>Frack Free Ryedale</p>	<p>National policy is clear that local planning authorities should assume that other regulatory regimes will operate effectively and indicates that they should focus on the impact of the use, rather than the control of processes or emissions where these are dealt with under other pollution control regimes. No further change proposed.</p>
<p>PC62: Amends the 'Definitions' section under 'Hydrocarbons' to clarify distinctions between development activity associated with conventional and unconventional resources.</p> <ul style="list-style-type: none"> This change should be removed and the previous text which defines conventional and unconventional hydrocarbons, as provided in the Publication Draft, should remain as this provided greater clarity to the decision maker. Utilise the Minerals PPG definition of conventional hydrocarbons setting out that higher geology reservoirs often mean sandstone and limestone. Define the terms 'long term' and 'short term' as set out in the Minerals PPG, in addition to 'significant harm'. Expand the change to para 5.119 (d) to include 'for example where the reservoir is sandstone or limestone' to be in accordance with national policy. 	<p>Individual, CPRE (North Yorkshire Region), Frack Free Ryedale</p>	<p>Development of unconventional hydrocarbons may require use of a range of techniques and the specific techniques used will depend on a range of factors. These could include; the type of unconventional resource being developed (for example some activities associated with underground coal gasification will require different processes to those associated with development of shale gas); the specific geology and technical considerations and; commercial factors. In terms of land use planning issues, it is considered that relevant distinctions can be drawn between the specific nature and/or scale of activities associated with certain stages of development for conventional hydrocarbons and those used for unconventional hydrocarbons. These differences may include the potential requirement for a larger number of well pads and individual wells, the volume and pressures of fluids used for any hydraulic fracturing processes and the specific requirements for any related plant and equipment and for the management of any related wastes. Given the nature of hydrocarbons and that development can vary on a site by site basis, it is not considered appropriate to provide separate definitions for short-term or long-term to those used in the Minerals PPG and it is not necessary to further expand 5.119 d) regarding the nature of the geological reservoirs. No further change proposed.</p>
<p>PC63: Amendment to the Justification Text supporting Policy M16: Key spatial principles for hydrocarbon development, to more accurately reflect the regulatory position of the Governments Surface Protections for hydraulic fracturing.</p>	<p>Frack Free Ryedale, Individuals</p>	<p>The changes proposed in the Addendum reflect the current regulatory position relating to the Government's current position with regard surface protections for hydraulic fracturing, but the changes also recognise there are some distinctions between development activity associated with conventional and</p>

<ul style="list-style-type: none"> Expand change to include text stating that as similar environmental impacts occur when hydraulic fracturing occurs below the defined threshold all proposals in protected areas will be treated the same in policy terms. The use of a ‘1,000 cubic metres of fluid’ threshold is not effective and the Plan’s policies should apply to all hydraulic fracturing proposals Query what criteria will be used to judge how an operator may ‘persuasively demonstrate why requiring such a consent would not be appropriate’. Defined, robust and objective criteria should be used to ensure consistency. This change should be clear that the Plan will utilise the definition of hydraulic fracturing in para 5.119 (f) which is consistent with National Policy and not that provided in the Infrastructure Act 2015. 		<p>unconventional resources. It is not necessary to replicate in paragraph 5.122, matters addressed in other paragraphs, such as 5.124. No further change proposed.</p>
<p>PC66: Amendment to the Justification Text supporting Policy M16: Key spatial principles for hydrocarbon development, to clarify the approach and ensure appropriate flexibility.</p> <ul style="list-style-type: none"> This change should not be included, and the Plan should utilise the definition of hydraulic fracturing in para 5.119 (f) which is consistent with National Policy. 	<p>Individual</p>	<p>It is not the intention of the Plan to unreasonably restrict activity typically associated with production of conventional resources, such as well stimulation techniques where any fracturing activity would involve substantially lower volumes and pressures and the clarification in paragraph 5.124 aims to ensure appropriate flexibility in the Plan. No further change proposed.</p>
<p>PC68: Amendment to the Justification Text supporting Policy M16: Key spatial principles for hydrocarbon development, to reflect the presence of other potentially relevant designations in district local plans.</p> <ul style="list-style-type: none"> The text of this change should be included in the wording of Policy M16 or M17. The change should be amended to refer to the ‘appropriate body responsible’ rather than NYCC to ensure the National Infrastructure Planning body takes account of these policies if responsible for determining the proposal. 	<p>Malton Town Council, South Hambleton Shale Advisory Group, Individuals, Barugh (Great & Little) Parish Council, Habton Parish Council, Frack Free Malton & Norton, Frack Free Ryedale</p>	<p>It is not considered that specific reference is required within Policy M16 as Policy D06 of the Plan states that all landscapes will be protected from the harmful effects of development, and that they will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures. This would ensure that appropriate consideration is given to impacts on landscapes within Ryedale (or elsewhere within the Plan area) which are not nationally designated for protection. Furthermore, Policy D08 specifically recognises the significance of the archaeological resource of the Vale of Pickering, the Yorkshire Wolds and the North York Moors and Tabular Hills and indicates</p>

<ul style="list-style-type: none"> • The change should be amended to refer specifically to employment and economic policies in a local plan because under any other planning context surface development for hydraulic fracturing would be classed as employment or economic development. • The change should be expanded to include having regard to Landscape Character Assessments. • Clarify what is intended by the term ‘regard will be had to the requirements of associated local plan policy’. • Ensure areas high in landscape value (i.e. Vale of Pickering and Yorkshire Wolds) are protected. 		<p>that particular regard will be had to conserving the distinctive character and sense of place in these areas. In combination these policies will help ensure that distinctive landscape character, including historic landscape character, in Ryedale is protected where minerals or waste development is proposed. Furthermore, the Ryedale Plan itself forms a part of the statutory development plan and existing Policy SP13 of that Plan may be relevant to proposals for minerals and waste development, depending on the circumstances. No further change proposed.</p>
<p>PC70: Clarifies the proposed approach in Policy M17: Other spatial and locational criteria applying to hydrocarbon development.</p> <ul style="list-style-type: none"> • The change should not be accepted as it removes the need to consider planned well pads, which is important when considering the overall plan for the area and cumulative impacts of both planned and permitted sites. • The wording of the Policy should be more robust to consider the density of hydraulic fracturing sites. 	Individuals	<p>An objective within Policy M17 is ensuring that unacceptable cumulative effect does not arise. However, it is recognised that bearing in mind the very early stage of development of the industry in this area there is a need for a degree of appropriate flexibility. The text in 5.137, including the Addendum, regarding well pad density provides an indication of the approach that could be taken to preventing unacceptable cumulative impact, but, as acknowledged in the last sentence of the paragraph PEDL boundaries are based on an OS grid and do not reflect other considerations and constraints. Therefore, the location of existing or planned developments in the vicinity of a proposal will also be considered in assessing cumulative impact under this Policy. No further change proposed.</p>
<p>PC71: Amendment to the Justification Text supporting Policy M17: Other spatial and locational criteria applying to hydrocarbon development, to reflect the potential for vehicle movements to impact on air quality.</p> <ul style="list-style-type: none"> • The text of this change should be included in the wording of Policy M17. 	Friends of the Earth (Y&H and the NE)	<p>It is not considered that specific references to matters such as transport and air quality are required within the individual mineral policies, including those relating to hydrocarbons, as the policies of the Plan should be considered as a whole, including Policy D02 (local amenity and cumulative effects) and Policy D03 (transport of minerals and waste and associated traffic impacts). This will enable the consideration of the circumstances of developments such that there will be no unacceptable impact having taken into account any proposed mitigation measures. No further change</p>

<p>PC73: Amendment to the Justification Text supporting Policy M17: Other spatial and locational criteria applying to hydrocarbon development, to clarify the approach to preventing unacceptable cumulative impact.</p> <ul style="list-style-type: none"> Expand the change to include, in addition to green belt, areas of local landscape importance designated in District/Borough Local Plans. 	<p>Frack Free Ryedale</p>	<p>proposed.</p> <p>This matter is already addressed in Policy D06 of the Plan, which states that all landscapes will be protected from the harmful effects of development, and that they will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures. In the two-tier part of the Plan area the District and Borough Local Plans form part of the statutory development plan and therefore where areas of local landscape importance are identified in local plans and are relevant to a proposal under consideration these will need to be taken into account in determining the acceptability of the proposals. No further change proposed.</p>
<p>PC75: Amendment to the Justification Text supporting Policy M17: Other spatial and locational criteria applying to hydrocarbon development, to improve consistency with national policy and guidance.</p> <ul style="list-style-type: none"> The change is not in conformity with national guidance as developers should aim to reduce noise levels to a minimum level, below the thresholds set out in guidance, not meet them as the change suggests. In accordance with para 21 of the Minerals PPG, the change should be expanded to require applicants to provide evidence if noise levels cannot be reduced without onerous burden (i.e. noise level monitoring). Expand the change to require all well completions to be 'green' completions (i.e. no flaring allowed) 	<p>CPRE (North Yorkshire Region), Frack Free Ryedale</p>	<p>National policy requires that the issue of noise be addressed in the Plan. The Plan sets out a comprehensive range of criteria, including regarding noise and giving consideration to the nature of the proposed development (which could include whether or not flaring is involved), to ensure a robust approach to protection of the amenity whilst providing appropriate flexibility for development in line with national policy. No further change proposed.</p>
<p>PC79: Amends Policy M18: Other specific criteria applying to hydrocarbon development, to more accurately reflect the relevant regulatory requirements relating to decommissioning of wells.</p> <ul style="list-style-type: none"> Do not support this change as this will lead to wells 	<p>Frack Free Ryedale, Individual</p>	<p>The wording of the Policy was revised to delete the reference to the need for decommissioning where wells are suspended pending further hydrocarbon development, to more accurately reflect the regulatory position and help ensure consistency with other legislative processes. National policy is clear that local planning authorities should assume that other regulatory regimes will</p>

<p>remaining suspended in the hope of becoming commercially viable, and used as a reason to extend permissions in a speculative way.</p> <ul style="list-style-type: none"> Wells should be decommissioned promptly following completion of the operational phase and should not be suspended pending further planning applications. Flaring at sites, should be considered an onsite waste operation, and not be permitted. 		<p>operate effectively and that they should focus on the impact of the use. In order to ensure that the impacts of a proposed use can be properly assessed through the planning process, it is necessary to ensure that the development plan, as a starting point for the determination of applications, contains relevant policies. This is particularly the case where the regulatory position is relatively complex and where important issues may arise which may be relevant to both assessing the land use impacts of a proposed use and to the detailed control of processes or emissions. It is therefore inevitable, and appropriate that there will be a degree of overlap between the Plan and matters subject of specific control through other regimes. No further change proposed.</p>
<p>PC80: Amendment to the Justification Text supporting Policy M18: Other specific criteria applying to hydrocarbon development, to clarify that water arising on site may not always constitute waste.</p> <ul style="list-style-type: none"> Do not support this change as removal of the term ‘waste’ implies that water returned via a borehole may be reused instead of disposed of which is contrary to para 110 & 143 of the NPPF (i.e. presents dangers to the environment). The change should be amended to clarify that returned water would require treatment or processing. The change should refer to the potential increase in noise should onsite treatment of waste be permitted. 	<p>Individual, Frack Free Ryedale</p>	<p>In view of the uncertainty which exists in relation to future management of waste from any shale gas industry it is considered important to ensure that implications of on-site water management as well as off-site management requirements are properly addressed. The submission of a water management plan provides a mechanism for this. It is recognised that applications may also need to be accompanied by a transport assessment and that there could be some degree of overlap but this is considered reasonable bearing in mind the potential for large volumes of waste water requiring transport off site. Paragraph 5.154 of the supporting text to Policy M18 already indicates that a waste water management plan will need to address arrangements for the safe and sustainable management and transport of waste. Issues such as noise are dealt with by Policy D02. No further change proposed.</p>
<p>PC81: Amendment to the Justification Text supporting Policy M18: Other specific criteria applying to hydrocarbon development, to clarify the position.</p> <ul style="list-style-type: none"> The change should reference the additional impacts to noise levels as a result of site operations (i.e. pumping wastewater). 	<p>Frack Free Ryedale</p>	<p>Whilst this concern about noise is noted it is considered that, in combination, the policies provide for a high degree of protection of local communities and the environment, taking into account also the role of other relevant regulators. No further change proposed.</p>
<p style="text-align: center;">Other key policy issues</p>		

Representation main issues	Main representors	Response by the Authorities
<p>PC50: Clarifies the proposed approach in Policy M06: Landbanks for Crushed Rock:</p> <ul style="list-style-type: none"> • Representations have suggested that the Policy is not in accordance with Para 145 of the NPPF, insofar as the Policy uses the wording ‘a minimum overall landbank of 10 years’ whereas national policy states ‘the maintenance of at least 10 years’. • Representations have suggested that the Policy is not in accordance with Para 144 of the NPPF, insofar as the Policy does not include the term ‘as far as practical’ when referring to sourcing new crushed rock reserves from outside of the National Park and AONBs. 	<p>Minerals Products Association, Tarmac</p>	<p>It is considered that there is no material difference between maintenance of a minimum landbank of 10 years as stated in the policy, and the maintenance of a landbank of 'at least 10 years'. It is not considered necessary to refer, in the second paragraph of the Policy, to sourcing crushed rock from outside the National Parks and AONBs as far as practicable as it is not expected that there will be a need to seek to develop resources in these protected areas during the plan period in order to maintain the landbank and the policy as currently worded provides greater clarity on the approach the relevant Mineral Planning Authorities intend to take. No further change proposed.</p>
<p>PC53: Amendments to the Justification Text supporting Policy M12: Continuity of supply of silica sand, to reflect proposals for the realignment of the A59:</p> <ul style="list-style-type: none"> • The wording is not justified, positively prepared or effective and should be revised to clarify that the design of the A59 realignment should take into account Blubberhouses Quarry. 	<p>Hanson UK</p>	<p>Progress with determination of the planning application at Blubberhouses Moor is a separate, although relevant, matter to progress with the development of the policies in the Joint Plan. Progress with the Joint Plan has not been an influence on the determination period for the application.</p> <p>The Addendum reflects that realigning the A59 at Kex Gill to the other side of the valley is part of North Yorkshire County Council’s strategic transport plan to improve east to west connections between the east coast and Humber ports and Lancashire, and that investigations were occurring towards finding a solution to the existing problems with the stability of the road in the vicinity of Blubberhouses. Subsequent to the closure of the Addendum consultation, in September 2017 the County Council as Highway Authority has launched a public consultation based on four route corridors for the realigned road.</p> <p>Whilst the suggested amendment is noted, it is considered that the Addendum wording provides greater flexibility to deal with the progression of the quarry in the context of both the existing A59</p>

		and the, as yet, draft proposals for a realignment of the road. No further change proposed.
<p>PC84: Addition of link to Policy W10 in the key links to other policies section of Policy S03: Waste management facility safeguarding:</p> <ul style="list-style-type: none"> Policy S03 is too restrictive and does not take account of the fact that waste uses on safeguarded sites may prove unviable. 	Harworth Estates	<p>The Policy's purpose is not to prevent to other development on a safeguarded waste site, but to ensure that the presence of the safeguarded site is taken into account in decision making on other forms of development. The Policy states that the need for alternative development may outweigh the need to safeguard the site and the supporting text, at para. 8.29 already clarifies that the purpose of safeguarding sites in the MWJP is not to prevent other forms of development from taking place but to ensure that the need to maintain important infrastructure is factored into decision-making for other forms of development. This represents an appropriate and proportionate approach reflecting the requirements of national policy.</p> <p>No further change proposed.</p>
<p>PC85: Amendment to the Justification Text supporting Policy S03: Waste management facility safeguarding, to emphasise the need for a pragmatic approach to implementing safeguarding requirements.</p> <ul style="list-style-type: none"> The proposed change is not effective as it does not adequately address situations where new proposals are proposed or within an emerging development plan, therefore the word 'extant' should be removed. 	Harworth Estates	<p>The Addendum change to para 8.30. was proposed to emphasise the need for a pragmatic approach to implementing safeguarding requirements.</p> <p>No further change proposed</p>
<p>PC87: Amendment to the Justification Text supporting Policy S04: Transport infrastructure safeguarding, to emphasise the linkage between marine and terrestrial planning.</p> <ul style="list-style-type: none"> Policy S04 is not sound as it does not take account of the fact that waste uses on safeguarded sites may prove unviable. 	Harworth Estates	<p>It is agreed that where a site is not in use, viability issues will be relevant to considering whether there is a reasonable prospect of the site being used for minerals or waste transport in the foreseeable future.</p> <p>No further change proposed</p>
<p>PC88: Amendment to the Safeguarding Exemption Criteria to reflect the safeguarding of minerals and waste transport</p>	Harworth Estates	<p>The Addendum change to the 12th bullet point was proposed to reflect that minerals and waste transport infrastructure is also</p>

<p>infrastructure</p> <ul style="list-style-type: none"> The revised bullet point should include reference to 'emerging plan allocations where the minerals and waste planning authority has raised no safeguarding concerns during consultation' 		<p>safeguarded in the plan and is considered to still be appropriate.</p> <p>No further change proposed</p>
<p>PC90: Amendment to introductory text for Policy D04: Development affecting the North York Moors National Park and the AONBs, to clarify the purposes of the AONB designation.</p> <ul style="list-style-type: none"> The term 'particular regard should be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment' should also apply within the AONB buffer zone in Policy M16 (d) (i). 	<p>South Hambleton Shale Advisory Group</p>	<p>Whilst this concern is noted, Policy M16 d) i) provides policy to protect against impacts outside but near to AONBs and would operate in association with Policy D04 Part 3) to further protect the setting of such areas. No further change proposed.</p>
<p>PC91: Amendment to Justification Text supporting Policy D06: Landscape, to reflect the presence of other potentially relevant designations in District local plans.</p> <ul style="list-style-type: none"> This change does not provide consistent scrutiny. Landscape Character Assessments should be undertaken which include sensitivity assessments considering potential impacts of additional drilling sites and what number could be accommodated without detriment to avoid adverse cumulative impact. 	<p>South Hambleton Shale Advisory Group</p>	<p>Policy D06 of the Plan states that all landscapes will be protected from the harmful effects of development, and that they will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures. In the two-tier part of the Plan area the District and Borough Local Plans form part of the statutory development plan and therefore where areas of local landscape importance are identified in local plans and are relevant to a proposal under consideration these will need to be taken into account in determining the acceptability of the proposals. No further change proposed.</p>
<p>PC95: Amends Policy D10: Reclamation and Afteruse, to more closely reflect the requirements of national policy.</p> <ul style="list-style-type: none"> The change does not go far enough in terms of consultation with communities and proof of reasonable low impacts on the community and environment. 	<p>Individual</p>	<p>Whilst the concerns are noted it is considered that, in combination, the policies set out a robust approach to consultation, information requirements and the protection provided for the environment (including water resources and air quality) and for local communities, taking into account as well the role of other relevant regulators, such as the Environment Agency and the Oil and Gas Authority. No further change proposed.</p>

<p>PC96: Amends Policy D10: Reclamation and Afteruse, to clarify the proposed approach and reflect the diminishing significance of biodiversity action plans.</p> <ul style="list-style-type: none"> 'benefits at a landscape scale' can often only be delivered with large areas of land which may not be under the control of a developer and as such this policy cannot be effectively achieved. Therefore, reference to this should be removed. 	<p>Minerals Products Association, Tarmac</p>	<p>Whilst it is accepted that delivery of landscape scale benefits may not often be practicable in the Plan area, it is considered that the potential benefits of such an approach, where it can be delivered, justify the inclusion of this element of the Policy. No further change proposed.</p>
<p style="text-align: center;">Site allocation issues</p>		
<p style="text-align: center;">Representation main issues</p>	<p style="text-align: center;">Main representors</p>	<p style="text-align: center;">Response by the Authorities</p>
<p>PC102: Revision of site boundary - MJP21: Land at Killerby</p> <ul style="list-style-type: none"> Revision of the site boundary, to exclude land nearest the Killerby Hall Stable Block Listed Building, is opposed. Historic England's assertion, that the previous site boundary would 'be likely to result in harm to elements which contribute to the significance of a Listed Building' (i.e. Stable Block) is not justified. 	<p>Tarmac, Minerals Products Association</p>	<p>The Proposed Change of reducing the site area has been proposed to address a specific concern raised by Historic England, as statutory consultee regarding historic issues, concerning the potential harm to the setting on the listed building that could arise from the proposed development of the field closest to the listed building. However, it is acknowledged that, as pointed out by the objector, no objections have been raised by Historic England to the site design proposed in the planning application (ref. NY/2010/0356/ENV) for which in April 2017 the Planning & Regulatory Functions Committee resolved to grant planning permission subject to the completion of a S106 agreement (which is currently being prepared). No further change proposed.</p>
<p>PC104: Revision of site boundary - MJP17: Land to South of Catterick</p> <ul style="list-style-type: none"> Revision of the site boundary, to exclude land nearest to Rudd Hall and Ghyll Hall Listed Buildings, is opposed. Historic England's assertion, that the previous site boundary would 'be likely to result in harm to elements which contribute to the significance of two Listed Buildings' (i.e. Rudd Hall and Ghyll Hall) is not justified. 	<p>Tarmac, Minerals Products Association</p>	<p>The Proposed Change of reducing the site area has been proposed to address a specific concern raised by Historic England, as statutory consultee regarding historic issues, concerning the potential harm to the setting on the two listed buildings that could arise from the proposed development. No further change proposed.</p>
<p>PC106: Amendment to Key Sensitivities and Development</p>	<p>CPRE (North</p>	<p>The support for the proposed addition, in the Addendum, of the</p>

<p>Requirements - MJP55: Land adjacent to former Escrick brickworks</p> <ul style="list-style-type: none"> • A full archaeological assessment should be required prior to development 	Yorkshire Region)	<p>reference to the SINC is noted. With regard to an archaeological assessment, the development requirements listed in Appendix 1 to the Publication Draft is not, as is explained at paragraph 1.9 in the introduction text to that appendix, an exhaustive list. PC98 and PC99 were proposed in relation to known significant heritage assets at those sites. The position at the Escrick MJP55 and WJP06 site is not the same and it is considered that the existing bullet point regarding 'appropriate site design and landscaping to mitigate impact on: heritage assets (archaeological remains, Escrick Conservation Area, Listed Buildings ... Escrick Park) is sufficient, as, at the point of an application any applicant should be following the guidance regarding archaeology as provided in the National Planning Practice Guidance. No further change proposed.</p>
<p>PC107: Amendment to Key Sensitivities and Development Requirements - WJP06: Land adjacent to former Escrick brickworks, Escrick</p> <ul style="list-style-type: none"> • A full archaeological assessment should be required prior to development 	CPRE (North Yorkshire Region)	<p>The support for the proposed addition, in the Addendum, of the reference to the SINC is noted. With regard to an archaeological assessment, the development requirements listed in Appendix 1 to the Publication Draft is not, as is explained at paragraph 1.9 in the introduction text to that appendix, an exhaustive list. PC98 and PC99 were proposed in relation to known significant heritage assets at those sites. The position at the Escrick MJP55 and WJP06 site is not the same and it is considered that the existing bullet point regarding 'appropriate site design and landscaping to mitigate impact on: heritage assets (archaeological remains, Escrick Conservation Area, Listed Buildings ... Escrick Park) is sufficient, as, at the point of an application any applicant should be following the guidance regarding archaeology as provided in the National Planning Practice Guidance. No further change proposed.</p>

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Executive

19 October 2017

Report of the Deputy Chief Executive/Director of Customer and Corporate Services

Portfolio of the Executive Member for Culture, Leisure & Tourism

Community Stadium & Leisure Facilities Update Report**Report Summary**

1. The purpose of this report is a concluding update to the Executive on the progress of the Community Stadium and Leisure Facilities Project (“Project”) since the last Executive report in July 2017.
2. This report confirms significant progress since July 2017, identifies a new risk highlighted at paragraph 16, and confirms that all necessary legal agreements are expected to be entered into soon.

Report Recommendations

3. The Executive are asked to:
 - a) Note the contents of this report and the progress made since the last report brought to Executive in July 2017;
 - b) Note and accept the new risk highlighted on the Commercial Development Capital Land Receipt, as per the details set out at paragraph 16.

Reason for recommendations: To progress with the Project and enter into all necessary legal agreements at Financial Close to deliver the New Stadium and Leisure Centre (“NSLC”) and operation by Greenwich Leisure Ltd (“GLL”) of the NSLC and the city’s wider Existing Leisure Facilities.

Project Update:

4. Significant progress has been made on the Project since the last report brought to Executive in July 2017. All aspects within the control of the Council that need to be in place before entering into the Design, Build, Operate and Maintain Contract (“DBOM Contract”) are expected to be complete within October 2017.

5. This includes the signing of the Community Partner agreements with York Teaching Hospital NHS Foundation Trust (“NHS”) and York Against Cancer. The signing of these Community Partner agreements, along with the existing legal agreements with York City Football Club and York City Knights RFLC, is another significant step forward in the Project and further prepares the Council to enter into the finalised DBOM Contract with GLL.
6. The last Project report presented to the Executive in July 2017 advised that GLL had concluded their re-tender exercise to appoint a new Building Contractor to their consortium team and that they were close to formally appointing its preferred new Building Contractor. It can now be confirmed that GLL have since appointed Buckingham Group Contracting Ltd as their new Building Contractor.
7. Pre construction design works have now been agreed with the Building Contractor and formally started on the 2nd October 2017, this further helping to enable a planned construction site mobilisation in November 2017.
8. The signing of the DBOM Contract is planned within October 2017.

NSLC Commercial Development

9. The Commercial Development outputs proposed at the NSLC site, which are being brought forward by Wrenbridge Sport (the "Developer") and which will ultimately be acquired by Legal and General (the “Investment Fund”), remain in principle the same as those set out in detail in the March 2016 Executive Report.
10. As set out in the July 2017 Executive Report, the Council was expecting to receive in total £10.76m from the Commercial Development. From the £10.76m, £8.7m (funding to the Project) would be paid through Capital Land Receipts in respect of the grant of the long lease of the East Stand Restaurant Units and the freehold transfer of the Southern Block to the Investment Fund. A further £2.06m would be received from the Commercial Development through contributions by the Investment Fund to the cost of the Stadium works, this contribution being used to meet part of the Construction Cost.
11. The Capital Land Receipts are to be received by the Council in two parts. £4.9m to be received at Financial Close (before construction commences) upon the execution of the freehold land transfer from the Council to the Investment Fund of the Southern Block. £3.8m (subject now to possible reductions as set out in paragraph 16 below) to be

received at practical completion of the construction works, this being the point the Investment Fund will enter in to the long lease of the East Stand Restaurant Units (pursuant to an Agreement for Lease to be entered into at Financial Close).

12. As set out in the July 2017 Executive Report, legal agreements between the Council and the Investment Fund are in the process of being finalised. However, the execution of agreements between the Council and the Investment Fund can only take place once the following Investment Fund conditions have all been satisfied:
 - Southern Block -
 - I. exchange by the cinema of an agreement for lease with no conditionality – *complete*;
 - II. satisfactory Planning Consent being received in relation to required amendments to the design of the Southern Block – *complete*;
 - III. confirmation of a fixed price building contract for the Commercial Development – *complete*;
 - IV. exchange on a 15 year agreement for lease with the Council for commercial space within the Southern Block – *at time of writing this is being finalised*;
 - V. one restaurant unit to have been pre let within the Southern Block - *at time of writing this is being finalised*.
 - East Stand Restaurant Units -
 - VI. two of the three restaurant units within the Stadium east stand to have been pre let – *in progress*.
13. As above, the conditions for the Southern Block have almost been satisfied. Once satisfied the freehold transfer of the Southern Block to the Investment Fund can be entered into, this securing the Southern Block Capital Land Receipt and the Commercial Development contributions to Stadium works. This freehold transfer will take place at Financial Close and would enable the DBOM Contract to be entered into.
14. With regards to the East Stand Restaurant Units Agreement for Lease, condition VI above has not yet been met and is unlikely to be met in full by the proposed October 2017 Financial Close date. Good progress is being made by the Developer to sign up two restaurant

operators, but at this time these have not progressed to the point where restaurant operators have signed legal agreement for leases.

15. Given this position and to not further hold up Financial Close, discussions have been held between all relevant parties to reach a solution that enables the entering into of the East Stand Restaurant Units Agreement for Lease between the Council and the Investment Fund before condition VI (at paragraph 12 above) has been fully met.
16. These discussions in relation to the conditionality on the East Stand Restaurant Units has led to the Investment Fund proposing to the Council a revised financial proposal as set out directly below. This revised financial proposal being solely around the Capital Land Receipt for the East Stand Restaurant Units lease:
 - A. The Investment Fund will pay the Council the full East Stand Restaurant Units Capital Land Receipt sum of C.£3.8m upon entering the long lease for East Stand Restaurant Units should two of the three restaurants have been let by the time Practical Completion of the Stadium has been reached. This the same position as set out in the July 2017 Executive Report and would result in the Council receiving all anticipated receipts under the Commercial Development;
 - B. In the event that no restaurants have been let at the time Practical Completion of the Stadium is reached, the Investment Fund will still enter in to the long Lease for the East Stand Restaurant Units but pay a reduced Capital Land Receipt of C.£2.4m, a reduction of C.£1.4m on the full anticipated receipt;
 - C. In the event that only one restaurant has been let at the time Practical Completion of the Stadium has been reached the Investment Fund will still enter in to the long Lease for the East Stand Restaurant Units but pay a Capital Land Receipt of C.£3.1m, a reduction of C.£700k on the full anticipated receipt.
17. This revised financial proposal from the Investment Fund in relation to the East Stand Restaurant Units lease is the only basis on which the Investment Fund will now proceed if Financial Close is to take place before condition VI (at paragraph 12) is met.
18. Other resolution options have been fully exhausted between the Council and Investment Fund to reach this point. With other scenarios assessed around partial ownership of the Commercial Development, or the Council underwriting restaurant agreements. However, none of these were deemed acceptable by the Investment Fund, this mainly

as the Investment Fund require full ownership of the Commercial Development or none.

19. Even if the Investment Fund had been prepared to consider partial ownership of the East Stand Restaurant Units and/or Council covenant, there would have been additional risks upon the Council.
20. This revised financial proposal (at paragraph 16) does not expose the Council to a risk of ownership for the East Stand Restaurant Units, or result in the Council having to meet ongoing revenue implications around these East Stand Restaurant Units. The risk to the Council under this revised financial proposal for the East Stand Restaurant Units Lease is purely in the form of the total Capital Land Receipts generated as part of the Commercial Development.
21. Under this revised financial proposal the Developer has agreed to cover an element of rent and cost to both the Investment Fund and the Council.
22. The Developer is financially incentivised to ensure all available space across the Commercial Development is let at the earliest opportunity and by the time Practical Completion is achieved. Otherwise any loss in rent to the Investment Fund is taken from the Developer's profit, this includes loss of rent on all three of the East Stand Restaurant Units.
23. With the revised financial proposal around the East Stand Restaurant Units lease this means there is a risk to the Council that should no East Stand Restaurant Units be let by the time Practical Completion of the Stadium is reached, and when the long lease for the East Stand Restaurant Units would be granted to the Investment Fund, the Council would receive as a minimum £9.36m, not £10.76m across the whole Commercial Development deal.
24. Given the Developer is in detailed negotiations for the letting of two of the East Stand Restaurant Units already this is considered a low risk, but one that the Council needs to accept formally.
25. Whilst this risk is considered low, the impact if it were to materialise in full (no restaurant units lets) would be a shortfall in capital funding to the Project of C.£1.4m. In this context it should be noted that the July 2017 Executive Report identified a revenue surplus of some £3.4m across the life of the Project and some of this could be utilised should this risk materialise.

Community Partners

26. Significant progress has been made with all Community Partners since July 2017 with legal agreements for the NHS and York Against Cancer expected to exchange in October 2017.

York Teaching Hospital NHS Foundation Trust (“NHS”)

27. The Agreements for Lease between the Council and the NHS relating to the areas they will take within the Stadium are now complete and due to exchange in October 2017.
28. These legal agreements include the lease premium to be paid by the NHS as set out in the July 2017 Executive Report.

York Against Cancer

29. Agreements for Lease between the Council and York Against Cancer are now complete and due to exchange in October 2017.

Project Financials update

30. No changes are required in the overall budgets agreed previously by Council. Whilst there is a new risk under the East Stand Restaurant Unit Lease to be considered, as set out at paragraph 16, this does not require a change in the budget at this stage. It is merely a risk at this stage, and one which is considered capable of moving to a satisfactory position.
31. The report to Executive in July 2017 showed a revenue surplus across the contract period (13 years) of £3.4m, and that £300k which was previously approved from the Venture Fund was unlikely to need to be called upon, but is retained within the Project.
32. Should the risk of a lower Capital Land Receipt for the East Stand Restaurant Unit Lease materialise, there is clearly the potential to consider the use of some of this surplus to provide funding, though this would require initial funding to cover the shortfall as the revenue surplus occurs over a number of years.
33. The proposal from the Developer and Investment Fund, as set out at paragraph 16, mitigates this risk down to a maximum of £1.4m. In addition the Developer has agreed to fund £70,000 of the Council’s costs should this risk materialise. This sum represents the interest costs for two years on borrowing half of the potential shortfall (i.e. some £700k).

Capital Costs

34. The capital cost of the Project remains within budget and as outlined in the July 2017 Executive Report.
35. The Construction Cost remains effective and held by the Building Contractor until the end of October 2017. Therefore a risk does remain that if Financial Close does not happen by that date costs may rise.

Funding

36. As set out in detail in the March 2016 Executive Report, the NSLC is proposed to be funded by a mix of Council capital funding (borrowing), s106 funds (from the Vangarde Retail Park development), a contribution from York City Football Club and funds arising from the Commercial Development.
37. The only potential funding change from that set out in the March 2016 Executive Report relates to the Commercial Development Capital Land Receipt, as detailed at paragraph 16 earlier in the report.
38. The Council also continues to have responsibility to pay for the construction works ahead of contributions being received from the Football Foundation/York City Football Club, NHS, as well as the contribution to the Stadium works and fit out costs from the Commercial Development, all of which will only be received post practical completion of the Stadium works.

Other Project Revenues

39. The Project continues to be supported by revenues from the Sports Clubs, and when a Stadium Sponsor is appointed from Stadium Naming Rights Sponsorship, revenues from Community Partners and Council commercial units within the Southern Block and NSLC for future onward letting.

Project Timetable for NSLC Delivery

40. The current scheduled operational date for the delivery of the New Leisure Centre and Stadium is June 2019, the key indicative milestones for the Project are set out in the table below.
41. Until Financial Close is reached the exact start on site date for construction works is not fixed. Until this point there is therefore a risk further delays could be incurred.

42. *Table 1 - Current indicative Project timetable:*

Date	Indicative Milestone
2 nd October 2017	Pre commencement construction design works - Have now started in readiness for site mobilisation and in line with the July 2017 executive approval
October 2017	Financial Close - DBOM Contract, Commercial Development Agreements and ancillary legal documents signed
November 2017	Construction site mobilisation - Period for Building Contractor following Financial Close to mobilise the NSLC site and complete remaining required construction design work before full construction works commence.
1 st December 2017	DBOM Contract live - GLL operation of Energise and Yearsley commences.
December 2017	NSLC full construction works commence - Full works commence following site mobilisation.
Feb 2019 - April 2019	NSLC construction complete - practical completion of NSLC facilities will be phased, with the Stadiums completion date slightly later than the build completion of the New Leisure Centre. - At the point of the Building Contractor reaching practical completion on the facilities they will not be operational and will require further GLL and Stadium Operator fit out before they are available for use by the public and the Sport Clubs.
From June 2019	NSLC facilities operational - NSLC facilities (Stadium, Community Hub and New Leisure Centre) available for use and operational following all required GLL and Stadium Operator fit out.

Risk Management

43. A detailed risk assessment for the Project was set out in the March 2016 Executive Report. The July 2017 Executive Report updated on these risks as appropriate and/or where changes had occurred. Further updates where applicable are also provided within the body of this report.

Financial Implications

44. The financial implications of this report have been set out under the Project Financial Update section at paragraphs 30 - 39.

Financial Impact of Not Proceeding

45. The March 2016 Executive Report set out in detail the impact of not proceeding with the Project and the significant risks and costs associated with this. This position remains as previously advised and has not altered.
46. It is also important to note that further delays to the Project will lead to further costs, including, but not limited to the construction works as advised earlier in this report (the Construction Cost is only valid until the end of October 2017).

Legal Implications

47. The Council continues to be advised on the Project by external law firm Bond Dickinson LLP.

Report Annexes and InformationDefined Glossary of Terms

Definition	Meaning
Building Contractor	Buckingham Group Contracting Ltd, GLL's building contractor who will construct the NSLC
Capital Land Receipt	£8.7m in respect of the land transactions for the Commercial Development, as set out in paragraph 23 of this report
Commercial Development	the commercial development comprising a state of the art Multiplex Cinema and a number of restaurants and retail units, as set out in paragraphs 16 to 18 of the July 2017 Executive Report
Community Partners	NHS and York Against Cancer as more fully detailed at paragraphs 25-28 of this report
Construction Cost	the construction costs for the NSLC under the DBOM Contract
DBOM	Design, Build, Operate and Maintain
DBOM Contract	the Design, Build, Operate and Maintain contract
Developer	Wrenbridge Sport
East Stand Restaurant Units	3 Restaurant Units in the Stadium East Stand, of which will form part of the Commercial Development
Existing Leisure Facilities	Yearsley Swimming Pool and Energise Leisure Centre
Financial Close	the date of signature of the DBOM Contract and all associated legal agreements to the Project
FSIF	Football Stadia Improvement Fund
GLL	Greenwich Leisure Limited
Investment Fund	Legal and General being the entity purchasing the rights of the Commercial Development
July 2017 Executive Report	The Project report presented at the Executive meeting on the 27 th July 2017

March 2016 Executive Report	The Project report presented at the Executive meeting on the 17 th March 2016
New Leisure Centre	the new leisure and sports centre proposed within the NSLC scheme, as more fully set out in the March 2016 Executive report at paragraph 7 (II) of the summary and paragraph 13 (II) of the main report.
NHS	York Teaching hospital NHS Foundation Trust
NSLC	New Stadium Leisure Complex
Practical Completion	The completion of the construction of the NSLC
Procurement	OJEU Competitive Dialogue Procurement undertaken from September 2012
Project	The Community Stadium & Leisure Facilities Project
Southern Block	the land adjacent to the proposed South Stand of the NSLC forming part of the Commercial Development and identified on Plan B of Annex A of the March 2016 report
Sport Clubs	York City Football Club and York City Knights RFLC
Stadium	an 8,000 all seat community sports stadium to host professional football and rugby league games

Report contact details

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Report Approved		√	Date 09.10.2017		
Specialist Implications Officer(s) <i>List information for all</i> Patrick Looker, <i>Finance Manager</i> / Andy Docherty, <i>Legal Services</i> .					
Wards Affected:				All	✓
For further information please contact the author(s) of the report					



Executive**19 October 2017**

Report of the Director of Economy and Place

Portfolio of the Executive Leader (incorporating Finance and Performance)

DISPOSAL OF WILLOW HOUSE**Summary**

1. This report seeks an Executive decision to dispose of the former Older Persons Home (OPH) at Willow House to the highest bidder.

Recommendations

2. The Executive is asked to :-
 - i. Approve the sale of Willow House to Empiric PLC as the highest bidder for Willow House.

Reason: To achieve the best consideration for the Willow House site, and facilitate investment in the Older Persons Accommodation Programme.

Background

3. Willow House is a former 34 bed Older Persons Home, which closed on 31st January 2017. On 29th November 2016 the Executive resolved to sell the Willow House site forthwith to generate a capital receipt to support the wider Older Persons Accommodation Programme.
4. The property lies just inside the city walls on the south-east side of the City, in a mostly residential area. Walmgate Bar is nearby. The site of Willow House is shown edged red on the plan attached at Annex 1.
5. A marketing campaign in June and July attracted 11 bids from 7 developers. 7 of these bids were unconditional but for significantly lower

values. Unconditional bids have not been taken forward as they were significantly lower value.

6. The council initially received a number of high bids for four storey schemes. Given the site is in close proximity to the city walls and based on early engagement with the Planning team there is a high risk that these schemes would not be granted planning permission which would then require a re-evaluation of the other bids and ultimately lead to a significant delay in the capital receipt. All bids based upon a 4 storey scheme have therefore been discounted and bidders were asked to submit applications for no more than 3 storeys.
7. The conditional bids are set out in Annex 2 with a list of the bidders in confidential Annex 3.
8. The value of these offers ranges from £1,950,000 to £2,825,000. The three highest bids are for new build student housing. The highest bid of £2,825,000 is from Empiric Student Property plc who are proposing to build a new 126 bedroom student housing scheme. All bids is subject to obtaining planning permission for their development proposal.
9. Given the need for the council to achieve a significant capital receipt from the sale of Willow House to fund investment in the Older Persons Accommodation Programme, the highest and least caveated bid is most likely to achieve this objective.
10. The provision of bespoke accommodation for student accommodation responds to the future projected growth in student numbers in the city (between 4000-6000 over the next 10 years). Increasing bespoke provision will reduce the impact of this growth upon family housing in the city.

Consultation

11. This report has been written in consultation with the Council's Older People's Accommodation programme team.

Council Plan

12. This proposal contributes towards the Council's priority of
 - a prosperous city for all.

- a focus on frontline services - to ensure all residents, particularly the least advantaged, can access reliable services and community facilities

Implications

13.

- **Financial** The Older Persons Accommodation Programme anticipates capital receipts from the sale of redundant care homes, including the Willow House site. The disposal of the site to the highest bidder will ensure that the £4m of receipts required to fund current plans in the Programme will be achieved.
- **Human Resources (HR)** – There are no human resources implications.
- **Equalities** – The provision of additional student accommodation would provide an essential facility for young people.
- **Legal** - Section 123 of the Local Government Act 1972 authorises the Council to dispose of non-housing land without the consent of the Secretary of State (for Communities and Local Government) provided that the best consideration reasonably obtainable is being obtained. The Council can still sell non-housing land without the Secretary of State's consent for less than best consideration/full open market value provided that:
 - (i) the difference between the price obtained and full market value does not exceed £2 million and
 - (ii) the Council (acting reasonably and properly considers) that the disposal will facilitate the improvement of economic, environmental or social well-being of the area.
- All bids are subject to the respective bidders obtaining planning permission (on terms acceptable to them) for their respective proposed schemes. If that condition is not satisfied by a specified date (which date would need to be negotiated with the chosen bidder) then the sale contract would automatically terminate. (However the chosen bidder would have the right to waive that condition and proceed to complete the purchase of the property without having obtained planning permission).

- Whichever bid is chosen, the sale contract between the Council and the chosen bidder would not impose a legal obligation on the purchaser to develop any particular scheme/facility on the site by any particular date – it would be the buyer’s own choice whether they redevelop the Willow House site. If Executive want to ensure that a particular scheme is developed on the site, then the Council would instead need to select and appoint a developer/operator after following a procurement process that complies with the Public Contract Regulations and impose a covenant that the site could only be used for that purpose. If any bidder was going to be under a legal obligation to the Council to construct and operate a particular facility on the site then their current offer would be likely to reduce significantly.
- **Crime and Disorder** – There are no crime and disorder implications.
- **Information Technology (IT)** – There are no information technology implications.
- **Property** – contained within this report.

Risk Management

14. Failure to secure a significant capital receipt may impact upon the business case for Older People’s Accommodation project. The recommended bid will enable the achievement of the £4m of receipts required to fund current plans in the Programme so this risk is low.
15. There is a risk of any scheme not getting planning consent.

Contact Details

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Asset and Property
Management
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Chief Officer Responsible for the report:

Neil Ferris
Director of Economy and Place

Report **Date** 9/10/17
Approved

Specialist Implications Officer(s) List information for all

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Senior Solicitor
Tel No. 552004

Wards Affected: Guildhall

All

For further information please contact the author of the report

Background Papers: None

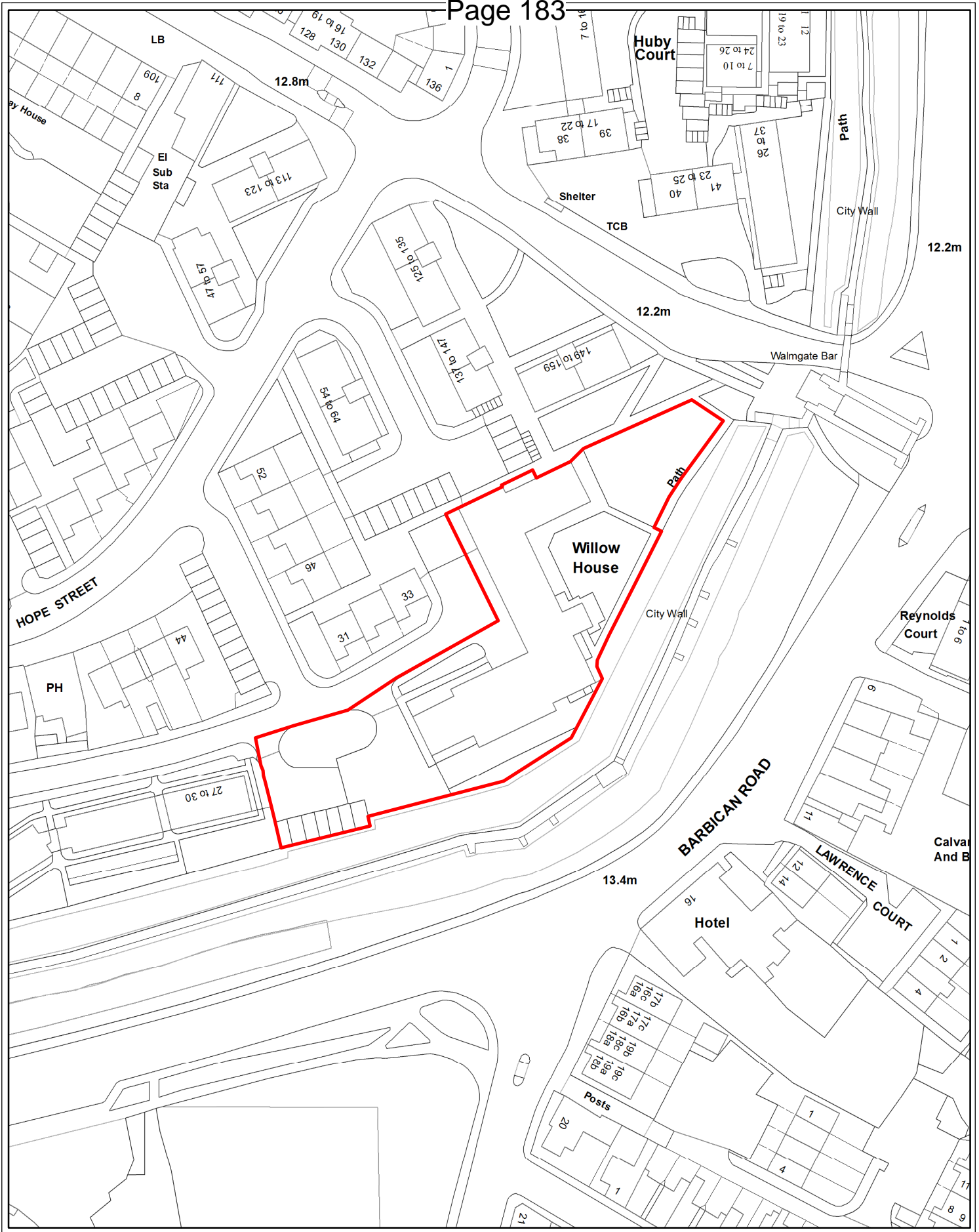
Annexes

- Annex 1 – Site Plan
- Annex 2 – Summary of Bids
- Annex 3 – One Planet York Decision Making Tool

Confidential Annex

- Annex 4 – List Identifying the Bidders

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**Asset & Property
Management**

Willow House Elderly Persons Home

SCALE 1:1,000

DRAWN BY: CC

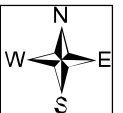
DATE: 25/09/2017

Originating Group:

Asset & Property Management

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WILLOW HOUSE, WALMGATE, YORK – Annex 2 List of Bids

BIDDER	OFFER	PRE-CONTRACT ENQUIRIES	CONDITIONS	USE	TIMESCALE	FINANCE	COMMENTS
Bidder 1 SPV of Empiric Student Property PLC guaranteed by ESP PLC	£2,825,000	Usual surveys and title	Satisfactory planning permission	126 bed student housing scheme.	1 month contract. 2 months planning application 11 months planning 20 months long stop (all dates from now) Aim to complete within 8 weeks	Cash/internal resources	<ol style="list-style-type: none"> £100,000 refundable deposit. Looking to reduce price if surveys reveal abnormal costs. Would need to be fixed prior to exchange. New build scheme including some development on land fronting Walmgate.
Bidder 2	£2,697,000	Ground survey	Satisfactory planning permission	128 bed student scheme	8 weeks to exchange No timetable for completion or longstop provided albeit discussed at inspection.	Not disclosed but can be made available if offer of interest – not clear where funding coming from and whether any risks.	<ol style="list-style-type: none"> 3 storey new build scheme. Smaller block on garages site also 3 storey. Extends into green space area fronting Walmgate. 10% deposit offered but not stated whether returnable. Overage offered at £21,000 per room in excess of 128 no.
Bidder 3	£2,650,000 3 storey but requires tree to be removed	Usual surveys and title	Satisfactory planning permission	168 bed new build student housing scheme.	3 months contract 5 months planning. (consecutive)	Cash	<ol style="list-style-type: none"> 10% refundable deposit. Overage considered if appropriate mechanism. New build scheme including some development on land fronting Walmgate. Scheme is 3 storey but requires removal of the tree.

WILLOW HOUSE, WALMGATE, YORK – Annex 2 List of Bids

BIDDER	OFFER	PRE-CONTRACT ENQUIRIES	CONDITIONS	USE	TIMESCALE	FINANCE	COMMENTS
Bidder 4	£2,325,000		Detailed planning permission for C2 Care Home of no less than 66 beds	Care Home	Exchange 28 days from full legal pack Submit planning application 3 months of exchange Completion 10 days after satisfactory planning (after judicial review period – no long stop stated).	Cash	<ol style="list-style-type: none"> 1. 3 storey development with no roof space. 2. No further Board approvals needed. 3. New build scheme including some development on land fronting Walmgate. 4. Two month exclusivity period required for ground investigations. 5. 10% deposit returnable
Bidder 5	£1,950,000 3 storey and tree retained	Usual surveys and title	Satisfactory planning	130 bed new build student housing scheme.	3 months contract 5 months planning. (consecutive)	Cash	<ol style="list-style-type: none"> 1. 10% refundable deposit. 2. Overage considered if appropriate mechanism. 3. New build scheme including some development on land fronting Walmgate.

The 'Better Decision Making' tool has been designed to help you consider the impact of your proposal on the health and wellbeing of communities, the environment, and local economy. It draws upon the priorities set out in our Council Plan and will help us to provide inclusive and discrimination-free services by considering the equalities and human rights implications of the decisions we make. The purpose of this tool is to avoid decisions being made in isolation, and to encourage evidence-based decision making that carefully balances social, economic and environmental factors, helping us to become a more responsive and resilient organisation.

The Better Decision Making tool should be used when proposing new projects, services, policies or strategies, or significant amendments to them. The tool should be completed at the earliest opportunity, ideally when you are just beginning to develop a proposal. However, it can be completed at any stage of the decision-making process. If the tool is completed just prior to the Executive, it can still help to guide future courses of action as the proposal is implemented.

The Better Decision Making tool must be attached as an annex to Executive reports. A brief summary of your findings should be reported in the One Planet Council / Equalities section of the report itself.

Guidance to help you complete the assessment can be obtained by hovering over the relevant question.

Please complete all fields. If you wish to enter multiple paragraphs in any of the boxes, hold down 'Alt' before hitting 'Enter'.

Introduction

Service submitting the proposal:	Asset and Property Management
Name of person completing the assessment:	Tim Bradley
Job title:	Asset Manager
Directorate:	Economy and Place
Date Completed:	27th September 2017
Date Approved 9/10/17	Tracey Carter

Section 1: What is the proposal?

1.1	Name of the service, project, programme, policy or strategy being assessed? Sale of the Former Older Persons Home, Willow House, Walmgate, York
1.2	What are the main aims of the proposal? The sale of the property to the highest bidder and consideration of the proposed uses to which the property will eventually be put to.
1.3	What are the key outcomes? A capital receipt. Redevelopment of the site for student housing. Consideration was also given to accepting a lower offer for care home use.

Section 2: Evidence

2.1	What data / evidence is available to support the proposal and understand its likely impact? (e.g. hate crime figures, obesity levels, recycling statistics) Bids received from other interested parties. Shown in appendix 2. Projected growth of student numbers over the next 10 years. Expected to rise by 4,000 to 6,000 over the next 10 years. National benchmarks for residential and nursing care beds. There is currently a shortfall of 657 rising to 962 by 2020.
2.2	What public / stakeholder consultation has been undertaken and what were the findings? Consultation with the Council's Older Persons Accommodation programme team
2.3	Are there any other initiatives that may produce a combined impact with this proposal? (e.g. will the same individuals / communities of identity also be impacted by a different project or policy?) The capital receipt from the sale of this property will be used to fund investment in the Older Persons Accommodation Programme. Alternatively, selling the property for care home use at a lower capital receipt would help to address the shortfall in bed numbers across the city.

Section 3: Impact on One Planet principles

Please summarise any potential positive and negative impacts that may arise from your proposal on residents or staff.
This section relates to the impact of your proposal on the ten One Planet principles.

For 'Impact', please select from the options in the drop-down menu.
If you wish to enter multiple paragraphs in any of the boxes, hold down 'Alt' before hitting 'Enter'.

Equity and Local Economy

Does your proposal?		Impact	What are the impacts and how do you know?
3.1	Impact positively on the business community in York?	Positive	University and research led business growth
3.2	Provide additional employment or training opportunities in the city?	Positive	Students living in the accommodation will develop skills.
3.3	Help improve the lives of individuals from disadvantaged backgrounds or underrepresented groups?	Negative	The proposed type of accommodation will not help those in care, homeless, or on low incomes. The rents in this type of accommodation will not be affordable to these groups.

Health & Happiness

Does your proposal?		Impact	What are the impacts and how do you know?
3.4	Improve the physical health or emotional wellbeing of residents or staff?	Neutral	
3.5	Help reduce health inequalities?	Neutral	
3.6	Encourage residents to be more responsible for their own health?	Neutral	
3.7	Reduce crime or fear of crime?	Neutral	
3.8	Help to give children and young people a good start in life?	Positive	Provision of accommodation for young people (students)

Culture & Community

Does your proposal?		Impact	What are the impacts and how do you know?
3.90	Help bring communities together?	Negative	The proposal wil have little effect on bringing people and communities together.
3.10	Improve access to services for residents, especially those most in need?	Negative	Student housing will not reduce the barriers.
3.11	Improve the cultural offerings of York?	Mixed	
3.12	Encourage residents to be more socially responsible?	Mixed	Does not promote residents to promote or shape their communities. However, students may become involved in volunteering and local deomcracy as part of their studies.

Zero Carbon and Sustainable Water

Does your proposal?	Impact	What are the impacts and how do you know?

3.13	Minimise the amount of energy we use and / or reduce the amount of energy we pay for? E.g. through the use of low or zero carbon sources of energy?	Positive	The Council will no longer occupy the building
3.14	Minimise the amount of water we use and/or reduce the amount of water we pay for?	Positive	The Council wil no longer occupy the building

Zero Waste

Does your proposal?		Impact	What are the impacts and how do you know?
3.15	Reduce waste and the amount of money we pay to dispose of waste by maximising reuse and/or recycling of materials?	Neutral	

Sustainable Transport

Does your proposal?		Impact	What are the impacts and how do you know?
3.16	Encourage the use of sustainable transport, such as walking, cycling, ultra low emission vehicles and public transport?	Positive	City centre location
3.17	Help improve the quality of the air we breathe?	Neutral	

Sustainable Materials

Does your proposal?		Impact	What are the impacts and how do you know?
3.18	Minimise the environmental impact of the goods and services used?	Neutral	

Local and Sustainable Food

Does your proposal?		Impact	What are the impacts and how do you know?
3.19	Maximise opportunities to support local and sustainable food initiatives?	Neutral	

Land Use and Wildlife

Does your proposal?		Impact	What are the impacts and how do you know?
3.20	Maximise opportunities to conserve or enhance the natural environment?	Positive	Retain mature Causican Pine Tree. Advice from the Council's landscape artchitect.
3.21	Improve the quality of the built environment?	Positive	Improved building design shown by indicative plans provided by developer.
3.22	Preserve the character and setting of the historic city of York?	Positive	The proposed buildings will be designed to have a positive impact on York's built environment.
3.33	Enable residents to enjoy public spaces?	Neutral	

3.40	Additional space to comment on the impacts		

Section 4: Impact on Equalities and Human Rights

Please summarise any potential positive and negative impacts that may arise from your proposal on staff or residents. This section relates to the impact of your proposal on **advancing equalities and human rights** and should build on the impacts you identified in the previous section.

For 'Impact', please select from the options in the drop-down menu.
If you wish to enter multiple paragraphs in any of the boxes, hold down 'Alt' before hitting 'Enter'

Equalities

Will the proposal **adversely impact** upon 'communities of identity'?
Will it **help advance equality** or **foster good relations** between people in 'communities of identity'?

		Impact	What are the impacts and how do you know?
4.1	Age	Neutral	The proposal will not contribute directly to meeting the shortfall of car home places in York, but the higher capital receipt will enable the Older Persons accomodation programme to deliver its objectives of improving accomodation for older people. The proposal will provide accomodation for young People who have come to study In York and need good quality accomodation.
4.2	Disability	Positive	The existing building will be replaced with one that will comform to modern standards which will include disabled facilitie as required by current legislation.
4.3	Gender	Neutral	
4.4	Gender Reassignment	Neutral	
4.5	Marriage and civil partnership	Neutral	
4.6	Pregnancy and maternity	Neutral	
4.7	Race	Neutral	
4.8	Religion or belief	Neutral	
4.9	Sexual orientation	Neutral	
4.10	Carer	Negative	The shortfall of bed spaces for good quality residential and nursing care will not be addressed by the proposed sale.
4.11	Lowest income groups	Neutral	
4.12	Veterans, Armed forces community	Neutral	

Human Rights

Consider how a human rights approach is evident in the proposal

		Impact	What are the impacts and how do you know?
4.13	Right to education	Positive	Student accomodation is provided in connection with higher education. Extra good quality housing for students will have a positive impact.
4.14	Right not to be subjected to torture, degrading treatment or punishment	Neutral	

4.15	Right to a fair and public hearing	Neutral	
4.16	Right to respect for private and family life, home and correspondence	Positive	Providing student housing on this site will help to reduce the adverse impact of the demand on private family housing from the student population.
4.17	Freedom of expression	Neutral	
4.18	Right not to be subject to discrimination	Neutral	
4.19	Other Rights	Neutral	

4.20	Additional space to comment on the impacts		



Section 5: Planning for Improvement

5.1	What have you changed in order to improve the impact of the proposal on the One Planet principles? (please consider the questions you marked either mixed or negative, as well as any additional positive impacts that may be achievable)
	It is considered that there are no changes that could be made.

5.2	What have you changed in order to improve the impact of the proposal on equalities and human rights? (please consider the questions you marked either mixed or negative, as well as any additional positive impacts that may be achievable)
	No improvements could be made.

5.3	Going forward, what further evidence or consultation is needed to ensure the proposal delivers its intended benefits? e.g. consultation with specific vulnerable groups, additional data)
	The older persons accommodation programme will ensure that the project delivers its intended benefits.

5.4	Please record any outstanding actions needed to maximise benefits or minimise negative impacts in relation to this proposal? (Expand / insert more rows if needed)
-----	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Action	Person(s)	Due date
Progress Older Persons Accommodation Programme to reduce the shortfall in care home places.	Roy Wallington	Apr-20

In the One Planet / Equalities section of your Executive report, please briefly summarise the changes you have made (or intend to make) in order to improve the social, economic and environmental impact of your proposal.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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