

**Notice of a public meeting of  
Executive**

**To:** Councillors Gillies (Chair), Aspden, Ayre, Dew, Douglas, K Myers, Runciman and Waller

**Date:** Thursday, 27 September 2018

**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 **4:00pm** on **Monday, 1 October 2018**.

\*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 Customer and Corporate Services Scrutiny Management 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 the following:

Annexes 1 & 2 to Agenda Item 14 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. **Minutes** (Pages 1 - 10)

To approve and sign the minutes of the last Executive meeting, held on 30 August 2018.

## 4. **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, 26 September 2018**. 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**

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if recorded, will be uploaded onto the Council's website following the meeting. 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\\_film\\_or\\_webcasting\\_filming\\_and\\_recording\\_of\\_council\\_meetings\\_20160809.pdf](http://www.york.gov.uk/download/downloads/id/11406/protocol_film_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf)

- 5. Forward Plan** (Pages 11 - 18)  
To receive details of those items that are listed on the Forward Plan for the next two Executive meetings.
- 6. Demonstrating Delivery of the Older Persons' Accommodation Programme and Preparing for Further Action** (Pages 19 - 46)  
The Corporate Director of Health, Housing & Adult Social Care to present a report which will review the outcomes and achievements of the Older Persons' Accommodation Programme launched in 2015. It will also highlight the continued and growing need for new accommodation with care for older people and will propose a further phase of the Programme in order to tackle this need.
- 7. Director of Public Health Annual Report 2017** (Pages 47 - 56)  
The Director of Public Health to present their 2017/18 Annual Report, which has been produced as a video to be screened at the meeting.
- 8. Community Stadium Project Update** (Pages 57 - 78)  
The Corporate Director of Customer & Corporate Services to present a report which will update the Executive on the progress of the Community Stadium and Leisure Facilities since the last report presented in October 2017.
- 9. Supplementary Planning Documents to Support the Emerging York Local Plan** (Pages 79 - 102)  
The Corporate Director of Economy & Place to present a report which will provide details of Supplementary Planning Documents referred to in the Local Plan and to prioritise their production to aid development management decisions. This report will also ask the Executive to consider the SPDs to be produced and the SPDs to deliver as a priority.
- 10. Rufforth and Knapton Neighbourhood Plan - Examiner's Report and Decision Statement** (Pages 103 - 208)  
The Corporate Director of Economy & Place to present a report which requests that the Executive agree the Examiner's recommendations to enable the Neighbourhood Plan to proceed to Referendum.

**11. City Centre Access Update and Priority 1 Proposals**

(Pages 209 - 252)

The Corporate Director of Economy & Place to present a report which will update Members on the decision taken on 8 February 2018 to implement Hostile Vehicle Mitigation measures in the city centre to protect it from the vehicle as a weapon threat.

**12. Update of Formal Enforcement Action** (Pages 253 - 286)

The Corporate Director of Economy & Place to present a report which will enable the Executive to review formal enforcement action as well as the surveillance activity undertaken in 2017-18 by Public Protection (Environmental Health, Trading Standards and Licensing), Housing Services, Community Safety and National Trading Standards Regional Investigation and National Trading Standards eCrime teams.

**13. Appropriation of Land on Bootham Stray for Highway**

**Purposes** (Pages 287 - 302)

The Corporate Director of Economy & Place to present a report which will seek consent to appropriate land on the small part of Bootham Stray for highway purposes to expand the current access to land at Cocoa West development site and therefore to facilitate the proposed residential development.

**14. Establishing an Investment Budget for a Strategic Commercial Property Acquisition** (Pages 303 - 320)

The Corporate Director of Economy & Place to present a report which will recommend to Executive a further investment to acquire property in the Swinegate area in order to promote the growth and economic health of the city centre and secure additional income to the commercial portfolio.

**15. Urgent Business**

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

Democracy Officer:

Fiona Young

Contact details:

- Tel – (01904) 552030
- E-mail – [fiona.young@york.gov.uk](mailto:fiona.young@york.gov.uk)

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

- Registering to speak
- Business of the meeting
- 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)

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City of York Council

Committee Minutes

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Meeting	Executive
Date	30 August 2018
Present	Councillors Gillies (Chair), Aspden, Ayre, Douglas, K Myers, Runciman and Waller
Apologies	Councillor Dew
In Attendance	Councillor Looker

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## **PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS**

### **25. 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, that they might have in the business on the agenda.

Cllr Waller declared a personal interest in Agenda Item 6 (York Central Update – Western Access), as a member of West Yorkshire Combined Authority (WYCA), and in Agenda Item 9 (Capital Programme Monitor 1), as a governor of Westfield Primary School.

Cllr Gillies declared a personal interest in Agenda Item 6, as a member of WYCA.

### **26. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during any discussion of:

- Annexes 4 & 5 to Agenda Item 7 (Disposal of Ashbank – No. 1 Shipton Road) and
- Annexes 5 & 6 to Agenda Item 8 (The Proposed Purchase of Robinson Court and the Union Terrace Centre)

on the grounds that they contain 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).

**27. Minutes**

Resolved: That the minutes of the Executive meeting held on 12 July 2018 be approved and then signed by the Chair as a correct record.

**28. Public Participation**

It was reported that there had been three registrations to speak at the meeting under the Council's Public Participation Scheme and one request to speak by a ward member.

Cllr Mark Warters, ward member for Osbaldwick and Derwent , spoke on matters within the Executive's remit. He commented on recent media reports about the Joseph Rowntree Charitable Trust and urged the Executive to issue a statement distancing the Council, and York, from the Trust. In response, the Chair indicated that he would request a report to Executive to consider the matter.

Tamsin Hart Jones spoke on Agenda Item 6 (York Central – Western Access) on behalf of the York Central Partnership. She expressed support for the recommendations in the report, which she said represented a significant milestone in the project.

Paul Hepworth spoke on Agenda Item 6 on behalf of the York Cycle Campaign. He voiced concern on aspects of the shared pedestrian/cycle access arrangements shown in Annex 3 and asked that officers work closely with cycling bodies in developing the proposals further.

Philip Crowe spoke on Agenda Item 6 on behalf of the York Environment Forum. He noted the cost increase referred to in paragraph 19 of the report. He also highlighted problems with shared access and suggested the pedestrian/cycle route be re-aligned to go around, rather than through, the commercial area.



**29. 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.

**30. York Central Update - Western Access**

The Assistant Director of Regeneration & Asset Management presented a report which sought approval for the final alignment of the Western access route to York Central and a package of land transfers and compensation between the council and the Millennium Green Trust.

The proposals were intended to minimise the impact of the Western route option on Millennium Green and ensure deliverability of the scheme, as agreed by Executive when they endorsed this option on 15 November 2017 (Minute 85 of that meeting refers). Details of the land ownership and proposed acquisitions, disposals and licences were set out in the plan at Annex 2. The report also included proposals for undertaking the detailed design of the first phase of infrastructure, in order to bring the scheme forward as soon as possible. Executive approval was sought as part of this report, since this aspect was intrinsically linked to the decisions needed to deliver the alignment. The plans at Annex 3 illustrated current draft proposals for the layout of the junction, spine road and bridge, including pedestrian and cycle routes.

With regard to issues raised under public participation, Officers confirmed that the details of the plans at Annex 3 were still being finalised and would be decided by the Planning Committee. Members commented that the proposals would help reduce traffic in the area and noted that they would expect the final design for the bridge to comply with the York Central Design Guide.

Resolved: (i) That the route of the York Central Access road, bridge and spine road be agreed as set out in Annex 3, and that detailed planning applications for these be submitted in the autumn.

(ii) That approval be given to repossess the land reserved in the Millennium Green lease, to facilitate the access road onto York Central.

- (iii) That a long lease be granted of a plot of replacement land on the other side of the Holgate Beck, to provide long term replacement for the reserved land and to undertake minor improvement works to this land as agreed with the Millennium Green Trust (MGT).
- (iv) That a licence be obtained from the MGT permitting use of the area of land required to facilitate the construction of the bridge and that this land be landscaped prior to returning it to the MGT on completion of the works.
- (v) That approval be given to offer MGT temporary use of alternative City of York Council owned land adjacent to the Millennium Green during the period of the licence.
- (vi) That a compensatory payment of £375k be made to the MGT, to reflect the disturbance to the Millennium Green and enable the trustees to provide for the long term maintenance to the Millennium Green, of which £300k will be conditional upon planning permission.
- (vii) That further support to a maximum of £25k be provided to the MGT for their legal and technical support costs.
- (viii) That embankment land to the west of Severus Bridge be appropriated for the use of the Highway, in order to provide an additional pedestrian and cycle deck across the railway.
- (ix) That approval be given to undertake detailed design work for the key site infrastructure outlined in the report, including the access bridge and the spine road, and the National Railway Museum (NRM) rail link.
- (x) That further funding be sought from the West Yorkshire Combined Authority (WYCA) and York, North Yorkshire & East Riding (YNYER) Local Enterprise Partnerships (LEPs) to fund the detailed

design of the first phase infrastructure through to construction commencement.

(xi) That a further £2,390k funding from the Economic Infrastructure Fund (EIF) be committed to fund the project through to March 2019.

(xii) That, in the eventuality that WCYA or YNYER grant funding is forthcoming, the grant be used to reduce the level of EIF support required.

(xiii) That a further report be received in November with a detailed financial plan for the delivery of York Central, including analysis of potential Enterprise Zone backed council borrowing, in order to establish a budget for delivery of York Central infrastructure.

(xiv) That a further report be received in January 2019 which will:

- a) set out a partnership agreement with the York Central Partnership to formalise the relationship and the financial agreement between the partners and
- b) seek approval to draw down funds and commence construction of the access road and bridge.

Reason: To ensure the early delivery of a new access route to York Central within the timescale of available grant funding and the long term maintenance of the Millennium Green.

### **31. Disposal of Ashbank - No. 1 Shipton Road, York**

The Assistant Director of Regeneration & Asset Management presented a report which sought approval to dispose of the former council office at Ashbank, 1 Shipton Road, to the highest financial bidder.

Anchor had been identified as the preferred bidder for the site in autumn 2017 but, having been asked to reconsider their development scheme, had since submitted a lower bid for a smaller scheme. In view of this, the under bidders had also been invited to re-submit revised offers. Details of all bids

received were set out in Annex 2 to the report. The highest net value, £1.35m, had been offered by Anchor.

The council's agents had confirmed that this offer reflected best consideration, and Anchor's pre-application enquiry had received positive feedback from Planning. To further reduce the risk of a bid not proceeding, it was also recommended that the bidder submitting the next most favourable bid be appointed as reserve.

Resolved: (i) That the sale of Ashbank to Anchor Housing Trust (Anchor), as the highest net financial bidder, be approved.

(ii) That Bidder 1 be retained as a reserve bidder and that, should Anchor fail to complete the purchase of Ashbank in a timely manner, authority be delegated to the Director of Economy & Place to agree its disposal to the reserve bidder in their place.

Reason: To achieve the best financial consideration for the disposal of this surplus asset and enable development on a currently vacant property.

**32. The Proposed Purchase of Robinson Court and the Union Terrace Centre (formerly the Arc Light Centre)**

*[See also under Part B]*

The Assistant Director of Regeneration & Asset Management presented a report which set out proposals for the purchase of the freehold of Robinson Court and the long leasehold of the Union Terrace Centre from York Housing Association (YHA).

Since February 2017, the council's Adult Community Wellbeing Support Services had been provided by The Cyrenians Limited (operating as Changing Lives), who were therefore now operating services in two buildings owned or leased by a competitor, YHA.

Although interim arrangements had been entered into, the purchases were recommended to provide certainty in respect of the future ownership and use of the properties, in line with the

council's Homelessness Strategy. A financial appraisal of the proposals was attached as Annex 3 to the report.

Resolved: (i) That the purchase of the freehold of Robinson Court for £610k be approved.

(ii) That approval be given to buy York Housing Association out of their long term lease of the Union Terrace Centre from the council for £1.1m.

Reasons: To:

- provide the opportunity to maintain the level of hostel provision within the city;
- enable consistent decision making processes across the hostel provision, with City of York Council acting as landlord / owner of each property;
- ensure strategic priority is maintained through allocation decisions, with No Second Night Out, Severe Weather procedure and use of shared rooms where appropriate.

### **33. Capital Programme - Monitor 1 2018/19**

*[See also under Part B]*

The Corporate Director of Customer & Corporate Services presented a report which set out the projected outturn position of the council's capital programme for the 2018/19 financial year, along with requests to re-profile budgets to or from current and future years.

A decrease of £33.329m on the current approved programme was reported, resulting in a revised programme of £123,620m. Variances against each portfolio area were set out in paragraph 6 and detailed in paragraphs 8 to 37. Officers emphasised that this was a major programme, with particularly significant investments in the areas of Children's Services, Housing and Transport.

With reference to paragraph 22, a request was made that ward members be updated on progress of the Modernisation of Local Authority Homes scheme in their wards.

Resolved: (i) That the 2018/19 revised budget of £123,620m, as set out in Table 1 at paragraph 6 of the report, be noted.

(ii) That the re-stated capital programme for 2018/19-2022/23, as set out in Table 2 at paragraph 17 and detailed in Annex A, be noted.

Reason: To enable the effective management and monitoring of the Council's capital programme.

#### **34. 2018/19 Finance and Performance Monitor 1**

The Corporate Director of Customer & Corporate Services presented a report which detailed the council's overall financial and performance position for the period 1 April 2018 to 30 June 2018, together with an overview of any emerging issues.

The financial pressures facing the council were projected at £805k, broadly in line with previous years at this stage. The report highlighted a number of known pressures, with strategies to manage and minimise these. A total of £740k contingency was currently available. All repayments were up to date on the two outstanding loans over £100k, both to Yorwaste. It was expected that the council would again out-turn within the approved budget.

The Corporate Director clarified that the recommendation in paragraph 26 should refer to 'empty properties' rather than 'second homes'; the recommendation was therefore to increase to 100% the additional council tax charged on empty properties, in line with the powers granted by Government from April 2018.

Key statutory services continued to perform well, with 6 of the 18 strategic indicators for which there was new data showing improvements. Details were set out in paragraphs 30–117.

Resolved: (i) That the finance and performance information set out in the report be noted.

(ii) That the proposed change in council tax for empty properties, increasing to 100% the additional charge for properties that have been empty for 2 years or more, be approved.

Reason: In accordance with the new power granted to councils from April 2018, to encourage the bringing of empty properties into use.

(iii) That the likely additional business rates income outlined in paragraph 30, and that some of this may be required to deal with the pressures outlined in the report, be noted.

Reason: To ensure expenditure is kept within the approved budget.

## **PART B - MATTERS REFERRED TO COUNCIL**

### **35. The Proposed Purchase of Robinson Court and the Union Terrace Centre (formerly the Arc Light Centre)**

*[See also under Part A]*

The Assistant Director of Regeneration & Asset Management presented a report which set out proposals for the purchase of the freehold of Robinson Court and the long leasehold of the Union Terrace Centre from York Housing Association (YHA).

Since February 2017, the council's Adult Community Wellbeing Support Services had been provided by The Cyrenians Limited (operating as Changing Lives), who were therefore now operating services in two buildings owned or leased by a competitor, YHA.

Although interim arrangements had been entered into, the purchases were recommended to provide certainty in respect of the future ownership and use of the properties, in line with the council's Homelessness Strategy. A financial appraisal of the proposals was attached as Annex 3 to the report.

Recommended: That a capital budget of £1.924m be established, financed by prudential borrowing, to fund the two property transactions, including acquisition costs and repairs needed to the property, with the prudential borrowing funded from rental receipts on both properties.

Reasons: To facilitate these transactions, which will:

- provide the opportunity to maintain the level of hostel provision within the city;
- enable consistent decision making processes across the hostel provision, with City of York Council acting as landlord / owner of each property; and
- ensure strategic priority is maintained through allocation decisions, with No Second Night Out, Severe Weather procedure and use of shared rooms where appropriate.

**36. Capital Programme - Monitor 1 2018/19**

The Corporate Director of Customer & Corporate Services presented a report which set out the projected outturn position of the council's capital programme for the 2018/19 financial year, along with requests to re-profile budgets to or from current and future years.

A decrease of £33.329m on the current approved programme was reported, resulting in a revised programme of £123,620m. Variances against each portfolio area were set out in paragraph 6 and detailed in paragraphs 8 to 37. Officers emphasised that this was a major programme, with particularly significant investments in the areas of Children's Services, Housing and Transport.

With reference to paragraph 22, a request was made that ward members be updated on progress of the Modernisation of Local Authority Homes scheme in their wards.

**Recommended:** That Council approve the adjustments resulting in a decrease in the 2018/19 budget of £33.329m, as detailed in the report and contained in Annex A.

**Reason:** To enable the effective management and monitoring of the Council's capital programme.

Cllr I Gillies, Chair

[The meeting started at 5.30 pm and finished at 6.07 pm].



**Forward Plan: Executive Meeting: 27 September 2018**

**Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 18 October 2018**

<b>Title and Description</b>	<b>Author</b>	<b>Portfolio Holder</b>
<p><b>Duncombe Barracks</b>  <b>Purpose of Report</b>                      To seek Executive approval to purchase the Duncombe Barracks site from the Ministry of Defence (MoD).</p> <p>The Executive will be asked to: Agree the sale with a view to developing the site for much needed affordable housing.</p>	<p>Paul Landais-Stamp</p>	<p>Executive Member for Housing &amp; Safer Neighbourhoods</p>
<p><b>Planning for the Possibility of a ‘No-deal’ Brexit</b>  <b>Purpose of Report</b>                      To update the Executive on discussions to identify the impacts of a ‘no-deal’ Brexit on York, and any activity required to mitigate risks or realise opportunities.</p> <p>The Executive will be asked to: Note the report and advise of any other areas of consideration.</p>	<p>Will Boardman</p>	<p>Executive Leader (incorporating Finance &amp; Performance)</p>
<p><b>Proposals for further temporary uses of Castle Car Park</b>                      The report proposes a repeat temporary use of part of Castle Car Park during 2019 for the purpose of siting the Rose Theatre and an additional proposal from another operator subject to planning permission.</p> <p>The Executive will be asked to agree these proposals including the financial terms on which they are taken forward.</p>	<p>Charlie Croft</p>	<p>Executive Leader (incorporating Finance &amp; Performance)</p>

<b>Title and Description</b>	<b>Author</b>	<b>Portfolio Holder</b>
<p><b>Waste Resilience Update</b>            In response to Members request an update on work to improve the resilience of waste services and agree the next steps</p> <p>The Executive are asked to:</p> <ul style="list-style-type: none"> <li>• Note the work already done to improve the resilience of the service.</li> <li>• Consider further steps that may be taken to further improve the resilience of the service.</li> </ul>	James Gilchrist	Executive Member for Environment (Deputy Leader)
<p><b>Attendance Management &amp; Well Being</b>            To update Members on progress being made in actively managing attendance across the authority and to request support for dedicated resource to reduce sickness absence.</p> <p>The Executive are asked to note ongoing activity and to approve to release funding from the Venture Fund to support the centralised well being team for a period of two years.</p>	Mary Weastell	Executive Leader (incorporating Finance & Performance)

**Table 2: Items scheduled on the Forward Plan for the Executive Meeting on 29 November 2018**

Title and Description	Author	Portfolio Holder
<p><b>Older Persons' Accommodation Programme</b>  <b>Purpose of Report</b>                      To agree the next steps for the Older Persons' Accommodation Programme, setting out the priorities and direction for the work programme.</p> <p>The Executive will be asked to:</p> <ul style="list-style-type: none"> <li>• agree the vision for the next stage of the programme</li> <li>• agree the action plan resulting from the review of the Glen Lodge development</li> <li>• agree the actions required to procure a construction partner for Lincoln Court</li> </ul>	Vicky Japes	Executive Member for Adult Social Care & Health Executive Member for Housing & Safer Neighbourhoods
<p><b>Q2 2018-19 Finance and Performance Monitor</b>  <b>Purpose of Report</b>                      To provide an overview of the council's overall finance and performance position at the end of Quarter 2.</p> <p>The Executive will be asked to note and approve the report.</p>	Ian Cunningham & Debbie Mitchell	Executive Leader (incorporating Finance & Performance)
<p><b>Q2 2018-19 Capital Programme Monitor</b>  <b>Purpose of Report</b>                      To provide an overview of the council's overall capital programme position at the end of Quarter 2.</p> <p>The Executive will be asked to note and approve the report.</p>	Emma Audrain & Debbie Mitchell	Executive Leader (incorporating Finance & Performance)

Title and Description	Author	Portfolio Holder
<p><b>Re-procurement of Occupational Health Services for City of York Council</b>            To make Members aware that the current occupational health contract comes to an end in June 19; to clarify the on-going need for an occupational health service.</p> <p>The Executive will be asked for permission to re-procure.</p>	Kay Crabtree	Executive Leader (incorporating Finance & Performance)
<p><b>York Station Front</b>            The report will inform the Executive about progress on the proposed York Station Front Improvement Scheme and request some decisions to move to the next stage.</p> <p>The Executive will be asked to note the outcome of the recent public engagement process and to endorse the proposals that have been drawn up for submission to the planning authority.</p>	Gary Frost	Executive Member for Transport and Planning
<p><b>The Sale of Land to Facilitate the Transfer and Transformation of Haxby Hall Care Home</b>            To update Members on the outcome of the procurement process for a care provider for the Haxby Hall care home, and to seek approval for the provider to be granted a 125 year lease for the site.</p> <p>Members will be asked to:</p> <ul style="list-style-type: none"> <li>•Note the appointment of the Preferred Bidder as the new residential care provider for Haxby Hall Care Home.</li> <li>•Note that the provider will enter into a contract to provide 9 residential beds for people living with dementia for 10 + 5 years at Actual Cost of Care at the Haxby Hall site.</li> </ul>	Tracey Carter and Vicky Japes	Executive Leader (incorporating Finance and Performance)

<b>Title and Description</b>	<b>Author</b>	<b>Portfolio Holder</b>
•Agree to grant The provider a long lease of the Haxby Hall site for a term of 125 years in return for the Council receiving payment of a premium. This will enable the provider to improve, redevelop and transform the existing care home.		

**Table 3: Items Slipped on the Forward Plan**

Title & Description	Author	Portfolio Holder	Original Date	Revised Date	Reason for Slippage
<p><b>The Provision of School Places, 2018-2023</b>  <b>Purpose of Report</b>                      To provide an update on the work taking place to manage the school's capital programme during 2018-2023, highlighting the challenges, pressures and risks involved in delivering both the capital maintenance and school planning programme during that period. These projects relate to the management of the LA's sufficiency duty and the recommendations from phase 2 of the inclusion review.</p> <p>The Executive will be asked to: note the approach being taken meet localised need for additional school places between 2018 and 2023 and to approve the use of basic need and SEND capital funding to allow the completion of the school building projects outlined in the paper</p>	<p>Maxine Squire</p>	<p>Executive Member for Education, Children &amp; Young People</p>	<p>27 September 2018</p>	<p>n/a</p>	<p>Withdrawn, to be considered at a future Decision Session of the Executive Member for Education, Children &amp; Young People (date tbc).</p>

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## **Executive**

**27 September 2018**

Report of the Corporate Director of Health, Housing and Adult Social Care Portfolio of the Executive Member for Adult Social Care and Health

### **Demonstrating delivery of the Older Persons' Accommodation Programme and Preparing for Further Action**

The report will review the outcomes and achievements of the Older Persons' Accommodation Programme launched in 2015 and demonstrate that we are on track to deliver over 900 new units of accommodation with care for older people by 2020, a significant increase on the 533 that was originally planned. In total, over £100m of new investment in care accommodation has been secured. The report will also highlight the continued and growing need for new accommodation with care for older people and will propose a further phase of the Programme in order to tackle this need.

### **Recommendations**

1. The Executive is asked to:
  - a) Note the outcomes and achievements that will deliver a substantial increase in the quantity and quality of accommodation with care for older people.
  - b) Agree that a report will be brought to the November meeting of the Executive so that they may consider the business case for a further phase of the Older Persons' Accommodation Programme.

### **Background**

2. In July 2015 the then new administration agreed a programme of work designed to address the shortfall in accommodation with care for older people: the Older Persons' Accommodation Programme. The Programme has been updated and expanded over the subsequent three years. This report demonstrates good delivery against the agreed programme of work and required outcomes.
3. This Programme is set in the context of a rapidly growing older persons'

population and a shortage of good quality accommodation, particularly Extra Care accommodation and facilities to support the care of those living with dementia. Because of this growing demand, Executive is asked to consider a further phase of the Programme.

4. York's older population is growing rapidly with the number of 75+ residents expected to increase by 50% by 2030 (up from 17,000 to 26,000). York does not currently have sufficient accommodation with care to cater for this rising population. Further, some accommodation was no longer fit for purpose, particularly Council run Older Persons' Homes (OPHs) which were outdated and lacked modern facilities. The provision of accommodation for those with high care needs is particularly important as it means that the needs of the increasing number of people with complex care needs including those living with dementia can be met.
5. Residents of York have an above-UK-average life expectancy. Based upon data from the Office for National Statistics, it was shown that York males born in 2014-2016 were expected to live until 80.4 years of age, and Females to 83.5 years. Both of these are above the UK average life expectancies for each group (79.2 and 82.9 respectively), highlighting the issue of an ageing population for York.
6. An aging population also poses challenges to the NHS as the health service simply has more people to care for. In addition, the growing elderly demographic suffers from age-related disease and injury, such as arthritis, dementia, and increased falls. Therefore, providing care provision or support for older people in their own home, or increasing access to residential or nursing homes, could alleviate pressure on the NHS. It has been recognised that a lack of appropriate accommodation for patients to return to delays the transfer of older people out of hospital, unnecessarily taking up hospital beds. This increases costs to the NHS and is less pleasant for the older person concerned.
7. One of the key aims of the Programme is to maximise use of York's existing Sheltered Housing stock, converting some to Extra Care Housing and therefore making it more accessible for people with higher care needs by increasing the care and support available.

8. The Older Persons' Accommodation Programme should also be seen in the context of our wider efforts to re-model the provision of care services and, in particular, our work with Health colleagues to modernise reablement services, align step-down and short stay provision and extend support for people living with dementia. In the last two years we have delivered a 26% increase in the support to older people to help them to continue to live independently in their own home.

### **Demonstrating Delivery**

9. The Programme has been successful and is on track to deliver 964 new units of accommodation with care for older people by 2020, comprising
  - 561 residential and nursing care beds; and
  - 403 homes in Extra Care schemes.

Of these, 242 are already in use and occupation and a further 215 under construction.

The original target for the Programme was to deliver 533 new units of accommodation.

10. These homes deliver the capacity to improve a person's quality of life, including physical and mental health, wellbeing, social life, and autonomy. In addition, homes built specifically for older people to move into allow family homes to be freed up for the next generation.
11. The changes delivered by the Programme are also financially significant, generating revenue savings of over £500,000 per annum, money which can be invested elsewhere in the care system.
12. Through partnership working and self-investment, the Programme has stimulated over £100m of capital investment in new care accommodation. Construction and care jobs are delivered through this investment.
13. The Programme has taken an engaging, empowering, and at times innovative, approach to encouraging investment in new care provision. Many care providers and developers of homes have been involved and, through this process, we have:
  - a) appointed Ashley House plc working with HC-One to construct and operate an 80 bed residential and nursing care home on Council land at Burnholme, with the Council buying 25 of those beds at our Actual Cost of Care rate for 15 years;

- b) supported the Joseph Rowntree Housing Trust and Homes England to invest in a new 44 bed care home and 105 extra care apartments to rent and to buy in New Earswick, with the Council holding nomination rights to 66 of the extra care homes;
  - c) entered into a contract with Octopus Healthcare (working with Barchester Healthcare) for Octopus to buy the site of the Fordlands older persons' home from the Council and (now that planning consent has been secured) build a new 64 bed care home in its place;
  - d) identified a preferred partner who can take on the transfer and transformation of Haxby Hall older persons home, aiming to take on the existing operations and staff and then transform the site by building a new, 63 bed residential and residential dementia care home on the site, with the Council buying back nine beds at our Actual Cost of Care rate;
  - e) supported the Abbeyfield Society to invest in a 25 bed dementia ready extension to their Extra Care facility at Regency Mews, at the same time securing nomination rights to the Council for 9 of these homes;
  - f) sold the site of the former Oliver House older persons home to McCarthy & Stone so that they could build a 34 home Independent Living scheme for older people; and
  - g) appointed Ashley House plc (working with Places for People Housing Association) to deliver a 56 home Extra Care facility on the site of the Oakhaven care home, with the Council having nomination rights to 25 of the apartments built.
14. The transformation of the Burnholme Community College site, which closed in 2014, is a key feature of the Programme, both because it delivers a site for the new 80 bed care home but also because it delivers key health and wellbeing facilities for the neighbouring communities. The way in which this was achieved is instructive:
- a) Neighbours, residents and stakeholders were fully engaged in drawing up a master plan for the Health & Wellbeing Campus at Burnholme and because of this the subsequent construction work has secured strong public support.
  - b) Via extensive market engagement and innovative procurement, our designated partner is Ashley House working with HC-One care provider, appointed to fund, build and manage a new care home at

Burnholme, providing back, at the Actual Cost of Care price, 25 care beds for use by the Council's clients.

- c) A new £5m library and community facility has been built and opened in June 2018. It is receiving positive public reaction. This building is delivered in partnership with Explore York Libraries and Archives and, through the provision of this building; they have been able to reduce by £66,000 the net annual operating cost of the service.
- d) Once more working in partnership, this time with GLL, the Council's current leisure management provider, we have agreed to refurbish and extend the sports facilities at Burnholme, helping to provide an accessible place where local people can stay active.
- e) The site also offers space for approximately 70 new homes and a state of the art health centre.

15. The Programme, following resident, relative and staff consultation, has safely closed six Council-run care homes. These homes were no longer fit for purpose. Residents moved as follows:

	Grove House	Oakhaven	Willow House	Woolnough House	Windsor House	Morrell House	
In hospital	0	1	5	0	1	0	6%
Haxby Hall	8	6	6	2	0	1	21%
Care Home	7	11	9	7	17	20	65%
Extra Care	1	1	1	0	0	0	3%
Out of area	0	1	1	1	2	0	5%
Home	0	0	1	0	0	0	1%
<b>TOTAL</b>	<b>16</b>	<b>20</b>	<b>23</b>	<b>10</b>	<b>20</b>	<b>21</b>	<b>110</b>

16. The revenue and capital resources freed up by these closures have been re-invested in new provision.
17. Change has been secured without major "shock" to the health and care system in York. This has been achieved by careful planning and co-ordination of resources, by paying close attention to the needs of individuals affected by change and by the investment in Independent Living Services (both at home and in Extra Care facilities) which have diverted demand away from residential and nursing care. However, until considerably more new provision is made available, the health and care system remains vulnerable to sudden change and, even with new provision, is experiencing some significant challenges, most notably that of staff recruitment and retention.

18. The table in Annex 1 demonstrates delivery of the agreed outcomes of the programme when compared to the original aims. It also highlights some delays in delivery including:
- a) A ten week delay in the completion of the new Glen Lodge Extra Care extension due to remodelling the entrance to the existing scheme, delays caused by poor weather, and difficulties getting utilities connected.
  - b) Continued uncertainty regarding Department of Health investment in the Health Centre at Burnholme has delayed progress on this part of the Burnholme Health and Wellbeing campus. We continue to lobby in support of this investment.
  - c) Delay in progressing the new Extra Care facility at Oakhaven, initially because we considered it as temporary homeless person's accommodation until the James House opportunity was identified and, following that, the planning uncertainty regarding the proposed care home at Carlton Tavern has delayed our partner's progress. However, recent public engagement showed support for their scheme and while the planning team express concerns regarding size of the proposed new building and its position on the plot, we now await a decision from our partner regarding the submission of the planning application for this scheme.
19. The next six months of the Programme will see positive activity to drive forward the delivery of the promised accommodation with care, as follows:

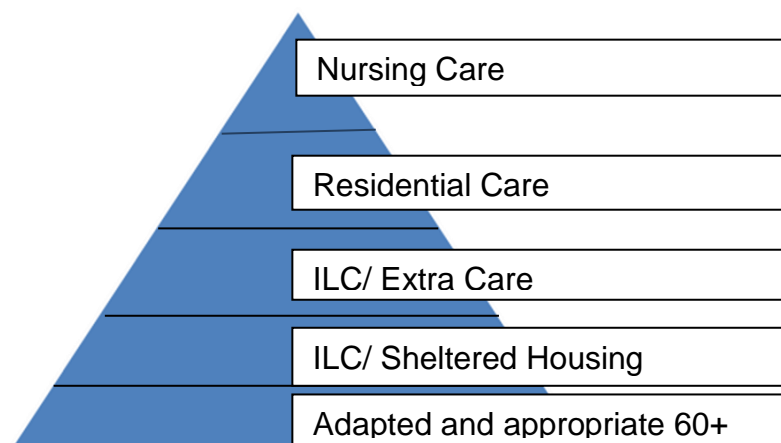
October	Start on site for construction of the 33 home extension to the Marjorie Waite Court Extra Care scheme. Start of site for the 80 bed Burnholme Care Home.
November	Ground breaking for the 64 bed Fordlands Care home.
January '19	Start on site with the Lincoln Court transformation works.
February	Ground breaking for the new Burnholme Sport facilities, part of the Burnholme Health & Wellbeing campus.
March	Appointment of the preferred partner to deliver a new care home on the Lowfield Green site.

### **A further phase of the Older Persons' Accommodation Programme**

20. Building on the success of the current phase of the Older Persons' Accommodation Programme, a further phase allows us to address wider, whole system, issues such as sustaining independent living in

old age, promoting health and wellbeing, allowing easy movement from hospital bed via transitional care (if needed) back to self-reliance and ensuring that the full range of accommodation choices are of the highest quality. To achieve this we will work with health colleagues in the Clinical Commissioning Group and Sustainability and Transformation Partnership plus Social Care and housing colleagues to shape a further programme. The Place Based Improvement Board will also engage and the Programme will benefit from input from the Health & Wellbeing Board.

21. Since early May 2018, consultation has been undertaken with colleagues, partners and stakeholders to ensure that there is a shared understanding of the work of the Programme and ambitions for future work.
22. The provision for older people's accommodation can be represented as a pyramid with care needs traditionally increasing towards the top of the pyramid.



23. The first phase of the Older Peoples' Accommodation Programme has focussed primarily on the top 3 tiers of the pyramid. Addressing our ageing residential care stock and boosting the provision of accommodation for Independent Living with Extra Care. The vision of the Programme is to support older people to live independently with all levels of care needs, to increase the provision of Independent Living stock, develop additional support for people to stay in independent properties and to manage the demand for residential and nursing care.
24. It is therefore proposed that a business case is prepared and presented to Executive in November 2018 for continued investment in a programme of renewal and growth in the provision of accommodation for older people.

## **Consultation**

25. The portfolio holder for Adult Social Care and Health is responsible for this Programme and receives regular briefings and updates on its progress to ensure that it is delivered in a timely and effective manner.
26. Ward Members have been briefed and kept informed.
27. Briefings have also been offered and provided to the York's MPs.
28. The Health, Housing and Adult Social Care Policy and Scrutiny Committee have scrutinised delivery of this Programme and assess and monitor its impact upon the health and social care services in the city. They most recently received a report on the work of the Programme at their meeting on 11<sup>th</sup> September 2018.
29. The Health and Wellbeing Board will also be kept informed.
30. With regard to consultation on the option to close care homes, we have followed a deliberative approach, delivering sensitive messages in a careful, well managed sequence:
  - a) Briefing key external stakeholders who have been actively involved to date (e.g. Age UK York and York Older People's Assembly).
  - b) Briefing OPH Managers/staff & Care Management colleagues.
  - c) Updating OPH residents/relatives.
  - d) Updating all other stakeholders, including NHS commissioner and provider organisations.
  - e) Media briefing.
31. Structured engagement with neighbours affected by development proposals has formed a key feature of the Programme, as has consistent and on-going engagement with a variety of stakeholders.

## **Council Plan 2015-2019**

32. The Programme is set in the context of the Council Plan for 2015-19 and will contribute to achieving its ambitions. Based on our statutory responsibilities and the aims of the administration, the plan focuses on three key priorities:
  - A prosperous city for all - where local businesses can thrive and



residents have good quality jobs, housing and opportunities;

*Facilities built as part of the Programme meet this aim due to increasing the number and quality of available accommodation for older people, and, at Burnholme, delivering facilities which provide learning and community enterprise facilities.*

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

*The Programme delivers quality housing for residents, particularly that part of York's population which is more vulnerable due to old age, by providing fit-for-purpose accommodation to promote wellbeing. By developing areas such as Lowfield and Burnholme with the older person's accommodation, communities are provided with housing for all generations and needs. Developments such as those are sustainable in that they provide for all of York's population and meet the aim to produce a prosperous city for all.*

- A council that listens to residents - to ensure it delivers the services they want and works in partnership with local communities;

*At each stage of the program where developments or changes are planned, engagement and/or consultation is undertaken. This is in order to find out the opinions of those affected, and where possible, incorporate their suggestions into plans. Partnerships are created in order to provide facilities and services for community groups. The option to close existing Older Person's Homes was subject to consultation and any modification or closure was discussed at resident's meetings.*

33. To support these corporate priorities and under the guidance of the Health & Wellbeing Board, York has developed proposals to achieve a new focus for adult health and social care which delivers:

- a) self care and self management;
- b) better information and signposting;
- c) home is best;
- d) early intervention and prevention;
- e) reablement and intermediate care (targeted resources);

- f) managing long term conditions;
- g) delivering services at a community level where this is desired and possible;
- h) to reduce loneliness and increase social interaction amongst older persons and their communities; and
- i) that York becomes a dementia friendly environment.

## **Implications**

### **Financial**

- 34. The Older Persons' Accommodation Programme has been successful in delivering both its revenue and capital outcomes:
  - a) £3m of ongoing annual revenue expenditure has been devoted to supporting older people to continue to live independently in Extra Care accommodation and to fund those moving to new residential care accommodation, as part of the transformational programme, money which was previously devoted to running the Council's older persons homes.
  - b) Annual revenue savings of at least £500,000 will be delivered by 2019/20, three years ahead of target.
  - c) General Fund capital receipts of at least £8.65m are expected, twice as much as originally planned, with these receipts already committed to transform the health and care infrastructure of York.
- 35. Furthermore, our capacity to block-purchase care beds at the Actual Cost of Care rate (of between £505 for Residential Care and £738 for Nursing Dementia Care) saves the authority significant sums, year on year. For example, we estimate that the block purchase contract for 25 beds at Burnholme will save approximately £1.6m over the life of the contract when compared to spot purchase arrangements.
- 36. £13m of Council Housing Revenue Account capital funds, including Homes England grant, is being spent on delivering new Extra Care accommodation at Glen Lodge and Marjorie Waite Court plus transformed and extended Independent Living accommodation at Lincoln Court.
- 37. Our independent sector and housing association partners have invested

at least another £90m in new build care accommodation.

## **Legal**

38. The activities of the Programme have been guided by legal advisers who have worked in partnership with the commercial procurement team to ensure good procurement and commissioning practice is followed. The Council's contract procedural rules and relevant legislation have been adhered to in achieving these outcomes, in order to avoid challenge.
39. The consideration of the closure of existing Council run older persons' homes has followed a clear and consultative path. There are a number of potential challenges to local authorities during the process of closing care homes which have been considered. Previous advice is held and has been updated by specialist legal colleagues. This advice includes an examination of the application of the Human Rights Act and the Equalities Acts.

## **Human Resources**

40. The staff implications of change have been handled by operational managers, taking advice and supported by the HR team in accordance with Council procedure. During the closure of six care homes we have been able to avoid compulsory redundancies.

## **Equal Opportunities**

41. In considering the closure of care homes the Council must have regard to the public sector equality duty. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:
  - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equalities Act 2010.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.
42. The Equalities Act 2010 explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

43. An Equality Impact Assessment for the Older Persons' Accommodation Programme was produced for the 15 May 2012 Executive Report and was reviewed regularly and most recently updated in November 2017.
44. An OPH Wider Reference Group has been established to act as a sounding board for the development of plans as the implementation of the Programme unfolds.

### **Better Decision Making Tool**

45. The Better Decision Making Tool has been used to guide key recent decisions of the Programme including investment in Sports Facilities at Burnholme and Sports Pitches on the Askham site.
46. The City of York Council aims to develop the city in line with aims set out by One Planet York – where resources consumed and waste produced don't exceed the limit of our one planet. The Older Person's Accommodation Programme met the following aims of One Planet York:
47. *Health and happiness: All residents enjoying long, healthy, independent and safe lives.*

One aim of the Older Person's Accommodation Program was to increase the provision of Extra Care accommodation in the city. This type of accommodation allows older people to maintain a higher level of independence, whilst retaining the safety of a care provision. For this reason, the Programme is in line with this aspect of One Planet York, as it allows a large section of York's population, older people, to live healthily, safely, but still independently. The program has increased extra care provision, which contributes greatly to this aim of the One Planet York initiative.

48. *Equity and local economy: A high skilled, low poverty, low carbon, circular economy aided by a high concentration of businesses.*

Developments under the older person's accommodation such as Lowfield include a cooperative housing scheme, and ventures at The Centre @ Burnholme promote local economy through education and social commercial ventures.

49. *Culture and heritage: Building confident, healthy, inclusive communities and a world class centre for culture, education and learning.*

Integration of different groups in society is promoted through large scale developments which cater to the needs of different generations. By developing whole areas to provide housing requirements of different ages, communities consist of different generations, and are inclusive, preventing isolated groups of younger people and older people. In addition to this, small-scale extensions such as Marjorie Waite Court share entrances with community centres, and Lincoln Court will neighbour the Centre of Excellence for young children. The Burnholme care home will be on the site with The Centre @ Burnholme, preventing isolation from the community for the care home residents. Facilities such as the new Centre @ Burnholme provide great opportunity to the local community.

50. *Land use and wildlife: Conserving and enhancing York's landscapes, built and natural environment and wildlife.*

Developments were delivered on brownfield sites. Environmental Impact Assessments were conducted in order to quantify the impact on existing habitats. As part of construction, relevant new developments employed bat boxes and bird habitats to maintain the availability for wildlife.

51. *Sustainable transport: Reducing the need to travel and using low emission transport to transform York into a nationally acclaimed low emission city.*

*Zero carbon: Creating energy efficient buildings, getting most of our energy from renewable sources and ensuring York is climate ready.*

*Zero waste: Reducing waste, reusing where possible and ultimately sending zero waste to landfill. Segregated bins*

As seen at The Centre @ Burnholme, developments encourage sustainable transport. The Centre has opportunity for 2 electric cars to charge, has ample bike storage, and is situated on a bus route, and

there are staff lockers and change facilities for those commuting by bike. The Centre was designed and equipped in order to achieve a Very Good BREEAM standard.

Care buildings are built to be energy efficient, warm and safe, and employ waste management strategies such as segregated waste bins.

### Other Implications

52. There are no other implications arising from this report.

### Risks

53. The risks associated with the Programme have been carefully managed. Key risks include failure to secure interest in procurement opportunities, failure to secure investment in new accommodation with care and failure to secure planning consent for new accommodation. Each key risk has been carefully managed and, with one or two exceptions, has been mitigated. Risks outstanding include the ability to procure partners to deliver new care accommodation and ongoing planning risks.

	<b>Risk</b>	<b>Control/action</b>	<b>Gross</b>	<b>Net</b>
54.	Anticipated level of capital receipts not realised.	Work closely with partners and CYC finance to maximise capital receipts. Good receipts have been received.	19	1
55.	Incorrect procurement of capital works.	Applying due diligence to ensure Council's normal approach to procurement of capital works.	13	2
56.	Increase in interest rates.	Ensure impact is capped or controlled through the contracts.	13	8
57.	Rising cost of external residential care providers.	Agreement of the Actual Cost of Care rates for a three year period.	19	14

	<b>Risk</b>	<b>Control/action</b>	<b>Gross</b>	<b>Net</b>
58.	Project does not deliver the right number and type of care places required by the city.	Good progress has been made in delivering a range of accommodation with care options across the city.	19	6
59.	Loss of morale for existing OPH staff leading to negative impact on service provided to current OPH residents.	Maintain staff morale and focus through regular briefings. This approach has proved to be successful and is embedded at Haxby Hall as we take that staff team through change.	19	2
60.	Challenge and negative publicity from existing OPH residents and relatives.	Development of good communications via briefings to residents and relative, Executive, group leaders, TUs, OPH Management & Staff, OPH Programme Wider Ref Group, media etc. Reaction to change has been neutral or positive.	19	2
61.	Burnholme - Disposal of redundant school assets not approved by Department for Education.	Consent awarded.	8	0
62.	No long term commitment from NHS Provider Organisations.	Early engagement with CCG as commissioning body. Bidding for development resources.	19	14
63.	Burnholme - Private Sector not attracted to financial viability.	Partner appointed to deliver the care home at Burnholme.	19	8

	<b>Risk</b>	<b>Control/action</b>	<b>Gross</b>	<b>Net</b>
64.	Burnholme - Planning Permission not granted / onerous.	Planning consent awarded for two of the five elements of the development, both without public objection.	<b>18</b>	<b>12</b>
65.	Burnholme - Phasing & Construction Conflict.	Consider in deliberations regarding commercial options.	<b>19</b>	<b>14</b>
66.	Burnholme - Construction Costs exceed pre-tender estimates.	Secure qualified technical advice when considering financial modelling, anticipate need for value engineering.	<b>19</b>	<b>14</b>

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		<b>Report Approved</b>	✓	<b>Date</b> 13 <sup>th</sup> September 2018
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<b>Wards Affected:</b> All				
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### Annexes

Annex 1: Summary of Outcomes against Aims for the Older Persons' Accommodation Programme



**Abbreviations:**

NHS – National Health Service

OPH – Older Persons' Home, previously referred to as – Elderly Persons' Homes

**Background Papers:**

19 July 2011	Report to Executive giving formal approval for the commencement of the Programme.
1 Nov 2011	Report to Executive giving the results of consultation and proposed a programme of closures, supported by a further consultation period on proposed closures of Oliver House and Fordlands.
10 Jan 2012	Report to Executive authorising consultation with staff, residents and their families and carers on proposal to close Fordlands and Oliver House, including changes to day care services as a result. Recommendation to close Fordlands and Oliver House.
15 May 2012	Report to Executive noting the successful homes closure and transition for residents
4 June 2013	Report to Executive seeking agreement on modernisation programme. The Council to fund the building of the two new care homes and so retain ultimate ownership of the buildings and the land with care homes designed, built, operated and maintained by an external provider.
3 Mar 2015	Report to Executive seeking approval of revised proposals based on creating new Extra Care Housing and reforming the Council's existing ECH stock; building a new care home on the Burnholme site as part of wider health and community facilities; and working more closely with current care providers to deliver more specialist dementia accommodation across the city.
30 July 2015	Report to Executive seeking approval of the Business Case for the Older Persons' Accommodation Programme and agreement to proceed.
29 Oct 2015	Report to Executive providing the results of the consultation undertaken with the residents, relatives and staff of Grove House and Oakhaven residential care homes to explore the option to close each home with current residents moving to alternative accommodation. Executive agreed to close Grove House and Oakhaven.

29 Oct 2015	Report to Executive regarding securing a viable future for the Burnholme school site in Heworth ward. Following extensive public consultation Members agreed to sanction further work to identify partners to progress the continued community and sports use of the site, complemented with wider health and enterprise services, the building and operation of a residential care home for older people and the provision of housing.
19 May 2016	Report to Executive that obtained consent to begin to deliver the Burnholme Health & Wellbeing Campus and secure a viable future for the former Burnholme Community College site (the <b>Site</b> ) in Heworth ward.
14 July 2016	Report to Executive by the Director of Adult Social Care. Agreement to move forward with examination of the development potential for Lowfield, alternatives to closure of Haxby Hall and sanction to consult on the closure of a further two older persons' homes.
28 Sept 2016	Report to the Audit & Governance Committee by the Programme Director, Older Persons' Accommodation, providing an update on progress of the Programme and actions taken to address External Audit recommendations.
24 Nov 2016	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The Executive received the results of the consultation undertaken with the residents, relatives and staff of Willow House residential care homes to explore the option to close the home with current residents moving to alternative accommodation, and agreement to close Willow House and sell the site.
7 Dec 2016	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The report obtained consent to complete the next phase of delivery of the Burnholme Health & Wellbeing Campus including sanction for the investment of £4.73m in new and refurbished community and library facilities, subject to Department for Education (DfE) approval to dispose of redundant land, as well as £200,000 in urgent repairs and works to the sports facilities on site.
9 Feb 2017	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The Executive agreed to sell the site of the former Fordlands Road older persons' home to Octopus Healthcare who propose to develop a residential and nursing care home on the site.

16 March 2017	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The Executive received an update on progress made towards delivering health & wellbeing services at Burnholme and agreed to enter into a long lease with a care home developer over a portion of the Burnholme Health & Wellbeing Campus site. Executive also agreed to enter into a head lease over the Community & Library facilities and the disposal of the Tang Hall Library site.
16 March 2017	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The Executive received an update on progress made towards delivering an Extra Care facility at Oakhaven on Acomb Road. Executive agreed to sell the Oakhaven site to an Extra Care developer. As part of this procurement the Council will secure nomination rights to 25 affordable rented and discount sale apartments.
31 August 2017	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The Executive received the results of the consultation undertaken with the residents, relatives and staff of Woolnough House residential care homes to explore the option to close the home with current residents moving to alternative accommodation, and agreed to close Willow House and the site be examined in accordance with the revised Corporate Asset Strategy and should it be concluded that sale is the preferred option that it be sold forthwith in order to generate a capital receipt to support the wider Older Persons' Accommodation Programme.
31 August 2017	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care and the Corporate Director of Children, Education and Communities. Executive received information on the outcome of public consultation concerning the future of Burton Stone Lane Community Centre and agreed to confirm its closure and approve investment into the provision of a 33 home extension to Marjorie Waite Court Extra scheme to provide accommodation for older people and new community facilities.
28 September 2017	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care and the Corporate Director of Children, Education and Communities. The Executive received information that demonstrated the progress of the Older Person's Accommodation Programme towards delivering over 900 new units of accommodation with care for older people. The

	Executive gave consent to undertake consultation on the option to close two further Council run older persons' homes.
7 December 2017	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The Executive received the results of the consultation undertaken with the residents, relatives and staff of Windsor House residential care homes to explore the option to close the home with current residents moving to alternative accommodation, and agreed to close Windsor House and the site to be use being for the Centre for Excellence for Disabled Children and their families and, should this use not be feasible, for housing use and should this use not be possible, then for the site to be sold forthwith in order to generate a capital receipt to support the wider Older Persons' Accommodation Programme.
7 December 2017	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The report dealt with two matters, both intended to deliver improved health and wellbeing facilities for York: a) The provision of sports pitches and related facilities on land at Askham (Ashfield Estate) and the granting of consent to lease the pitches to Bishopthorpe White Rose Football Club, delivering the commitments already made by Executive to deliver new football pitches in the West of the city and enable the development of the Lowfield Green site. b) The dispose (by way of a long lease) of land at Burnholme to facilitate the provision of a health hub and the provision of an update on the provision of sports facilities at Burnholme.
25 January 2018	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. Executive received information on the consultation undertaken with residents, relatives, staff and care providers on the option to transfer Haxby Hall older persons' home into the ownership and management of a partner organisation and, following transfer, to deliver improved care facilities on the site. Members agreed that the Council should procure a provider to deliver and operate an improved facility on the site and sanctioned the scope of the procurement.
15 March 2018	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. Executive received information on the outcome of an investment review which demonstrates that investment in the long term future of Lincoln Court will allow us to set out a new model for Independent Living

	(Sheltered Housing) in York, called Independent Living. Members agreed that investment be made at Lincoln Court to increase the number of homes from 26 to 34 and to create an Independent Living with Support facility as part of the Older Persons' Accommodation Programme.
20 April 2018	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. Executive received a report which provided Members with the results of the consultation undertaken with the residents, relatives and staff of Morrell House residential care home to explore the option to close the home with current residents moving to alternative accommodation. Executive agreed to close the home.
12 July 2018	Report to Executive by the Corporate Director Children, Education and Communities and the Corporate Director of Health, Housing and Adult Social Care. Executive agreed to recommend to Council that we invest £2.45m in improved sports facilities at the former Burnholme Community College site, continuing the plans to create a Health and Wellbeing campus. Members also agreed to appoint Greenwich Leisure Ltd to manage the facility and for officers to proceed to submit a planning application for the work and for the proposed.

## Annex 1: Summary of Outcomes against Aims for the Older Persons' Accommodation Programme

Aims	Outcomes	
30th July 2015 the Executive approved the Business Case for the Older Persons' Accommodation Programme. This will:		
67. Fund 24/7 care support at Auden House, Glen Lodge and Marjorie Waite Court Sheltered Housing with Extra Care schemes.	Auden House	April 2015
	Glen Lodge	February 2016
	MWC	April 2017
68. Progress with plans to build a 27 home extension to Glen Lodge.	Completed below budget.	
	Move-in date was around ten weeks later than planned. This was due to remodelling the entrance to the existing scheme; delays caused by poor weather, and difficulties getting utilities connected.	
	All new properties have been let and residents and carers report strong satisfaction with the new facilities.	
69. Seek the procurement of a new residential care facility as part of the wider Health and Wellbeing Campus at Burnholme.	A master plan for the Health & Wellbeing Campus at Burnholme developed and secured public support.	
	Our designated developer partner, Ashley House working with HC-One care provider, is appointed to fund, build and operate a new care home at Burnholme. Received planning consent for the Care Home @ Burnholme. Construction will begin shortly.	
	New £5m library and community facility built and opened in June 2018. It is receiving positive public reaction.	
Planning application for refurbished and extended sports facilities submitted in August 2018.		

Aims	Outcomes	
	Local support for a new health centre at Burnholme is evident. However, Department for Health funding has not yet been secured and, therefore, a planning application has not been made.	
70. Seek the building of a new Extra Care scheme at Oakhaven in Acomb.	Developer Ashley House plc have been appointed, who will work with their proposed operator partner Places for People Housing Association. However, the planning decision regarding the care home at Carlton Tavern has delayed their progress. Recent public engagement showed support for their scheme although the planning team express concerns regarding size and location. A decision is awaited from our partner regarding the submission of the planning application for this scheme.	
71. Encourage the development of additional residential care capacity in York including block-purchase of beds to meet the Council's needs.	<p>Burnholme – 25 bed contract agreed.</p> <p>Haxby Hall – appointment of a preferred partner to deliver 9 care bed contract is nearing conclusion.</p> <p>Lowfield – seek to procure a partner to deliver at least 20 care beds on contract to the Council.</p>	
Consult on and, if agreed, safely close existing outdated Older People's Homes:		
72. Closure of York's 225 existing OPH residential care beds by the end of the financial year 2018/19.	Fordlands Road	Closed 2012
	Oliver House	Closed 2012
	Grove House	Closed 2016
	Oakhaven	Closed 2016
	Willow House	Closed 2017
	Woolnough House	Closed 2017
	Windsor House	Closed 2018
	Morrell House	Closed 2018

Aims	Outcomes	
	Haxby Hall	To be transferred as a going concern ensuring ongoing care for existing residents and an increase in capacity in the long term.
7 <sup>th</sup> December 2016 the executive agreed additions to the Programme:		
73. Authorising consultation on the option to seek a partner to take over the ownership and management of Haxby Hall with a commitment to deliver improved care facilities on the site.	The partnership option was supported during consultation and following further agreement by Executive, we have identified a partner who can take over and transform the Haxby Hall care home.	
74. Agreeing to the procurement of a new residential care home on the Lowfield Green site.	Outline planning consent was approved on 16 <sup>th</sup> August 2018 and a partner will be sought to build and operate a care home on the Lowfield Green site.	
31 <sup>st</sup> August 2017 the executive agreed a further addition to the Programme:		
75. £6.6m investment in 33 homes and extension to Marjorie Waite Court Extra Care Scheme.	Involved closure and demolition of Burton Stone Community Centre. Therefore, tenants were relocated to The Centre @ Burnholme or other facilities in June 2018.	
	Plans to extend Marjorie Waite Court were drawn up and consultation was carried out.	
	Planning permission granted July 2018 and we will shortly appoint the builder to construct the housing and new facilities. Enabling work has begun.	



Aims		Outcomes	
In April 2018, plans sent to the Executive showed the securing of the delivery of up to 933 units of accommodation by 2020, with majority High Care and remainder Low and Medium Care - through the following additions:			
76. Where	Total	High Care Need	Update
Auden House Extra Care	41	16	As homes become vacant at Auden House, new tenancies are being let to those with higher care needs
Glen Lodge Extra Care	69	37	Fully open and operating well.
Marjorie Waite Court Extra Care	75	25	Construction of the 33 home extension is due to begin in the autumn.
Chocolate Works care home	90	90	Open and operating well.
New Lodge Care Home	44	44	Construction in progress.
New Lodge Extra Care	105	44	Construction in progress. CYC has secured nomination rights to affordable rented homes.
Burnholme Care Home	80	80	Care Home provider and operator chosen and works to commence shortly. 25 beds will be "block purchased" by the Council.
Fordlands Care Home	64	64	64-bed Care Home given planning permission and building works have begun.
Carlton Tavern	74	74	74-bed Care Home planning permission refused. An appeal was turned down. We await an update from the developer as to their future plans for the site.
Green Lane Care Home	66	66	Construction underway.

Aims		Outcomes	
Regency Mews Extra Care extension	25	9	Planning application for 25-bed extension approved Jan 2018. Nominations secured to affordable homes. Awaiting confirmation of construction date.
Lincoln Court (extension)	32	6	Planning application for the re-modelling and extension was submitted in August 2018.
Oakhaven Extra Care	56	24	Developer Ashley House plc have been appointed, who will work with their proposed operator partner Places for People Housing Association. A decision is awaited regarding the submission of the planning application for this scheme.
Lowfield Green Care Home	80	80	Outline planning consent was approved on 16 <sup>th</sup> August 2018 and a partner will be sought to build and operate a care home on the Lowfield Green site.
New Haxby Hall Care Home	63	63	A partner is identified who can take over Haxby Hall as a going concern ensuring ongoing care for existing residents and an increase in capacity in the long term.
<b>TOTAL</b>	<b>964</b>	<b>722</b>	

Seek to ensure that Extra Care Tenant Structure is in line with national benchmarks.

	No Care (%)	High Care (%)	Scheme	No Care (%)	High Care (%)
77. National Target	30	30	Auden House	30%	20%
			Glen Lodge	35%	26%
			MWC	63%	16%

	Aims	Outcomes																																					
	Finance																																						
78.	<p>Capital Receipts of £4m anticipated from the closure and sale of the following OPHs:</p> <table border="1"> <tr> <td>Fordlands Road</td> <td>£175,000</td> </tr> <tr> <td>Oliver House</td> <td>£650,000</td> </tr> <tr> <td>Grove House</td> <td>£700,000</td> </tr> <tr> <td>Oakhaven</td> <td>£0</td> </tr> <tr> <td>Willow House</td> <td>£400,000</td> </tr> <tr> <td>Woolnough House</td> <td>£575,000</td> </tr> <tr> <td>Windsor House</td> <td>£50,000</td> </tr> <tr> <td>Morrell House</td> <td>£450,000</td> </tr> <tr> <td>Haxby Hall</td> <td>£1,000,000</td> </tr> </table>	Fordlands Road	£175,000	Oliver House	£650,000	Grove House	£700,000	Oakhaven	£0	Willow House	£400,000	Woolnough House	£575,000	Windsor House	£50,000	Morrell House	£450,000	Haxby Hall	£1,000,000	<p>It is expected that £8.65m of capital receipts will be released from the sale of the following OPHs:</p> <table border="1"> <tr> <td>Closed 2012</td> <td>£1,700,000</td> </tr> <tr> <td>Closed 2012</td> <td>£1,800,000</td> </tr> <tr> <td>Closed 2016</td> <td>£1,600,00</td> </tr> <tr> <td>Closed 2016</td> <td>£150,000</td> </tr> <tr> <td>Closed 2017</td> <td>£2,300,000</td> </tr> <tr> <td>Closed 2017</td> <td>£475,000</td> </tr> <tr> <td>Closed 2018</td> <td>£300,000</td> </tr> <tr> <td>Closed 2018</td> <td>£325,000</td> </tr> <tr> <td>Remains open.</td> <td>£0</td> </tr> </table>		Closed 2012	£1,700,000	Closed 2012	£1,800,000	Closed 2016	£1,600,00	Closed 2016	£150,000	Closed 2017	£2,300,000	Closed 2017	£475,000	Closed 2018	£300,000	Closed 2018	£325,000	Remains open.	£0
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Remains open.	£0																																						
79.	<p>The borrowing for the project will be repaid from 2019/20 onwards over a 5 year period being fully repaid by 2023/24.</p>	<p>In 2016 government changed the rules for the funding of transformative projects and it was therefore agreed that the costs of change would be funded from the capital receipts received.</p>																																					
	OPAP Annual Savings																																						
80.	<table border="1"> <tr> <td>£284k by 2019/20</td> </tr> <tr> <td>£553k by 2023/24</td> </tr> <tr> <td>£9.6m over 25 years</td> </tr> </table>	£284k by 2019/20	£553k by 2023/24	£9.6m over 25 years	<p>The £553k annual savings will be delivered by 2020/21 and are included in the Adult Social Care medium term financial plan. Revenue savings over 25 years are expected to exceed £12.5m.</p>																																		
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**Executive****27 September 2018**

Report of the Director of Public Health  
Portfolio of the Executive Member for Adult Social Care and Health

**Director of Public Health Annual Report 2017/18****Summary**

1. The Director of Public Health's 2017/18 Annual Report has been produced as a video which will be screened at the meeting. A leaflet highlighting the key points of the video has also been produced and is attached as Annex 1. The annual report focuses on the issues of alcohol, childhood obesity, physical activity and mental health. It uses the experiences of residents in these issues with an emphasis on what people can do to help themselves in managing their own health.

**Recommendations**

2. The Executive are asked to receive the report.

Reason: To give the Executive an overview of the Annual Report of the Director of Public Health and a shared understanding of the issues highlighted.

**Background**

3. Directors of Public Health in England have a statutory duty to produce an annual report on the state of health within their communities.

**Consultation**

4. The report is for information only and therefore no consultation has been undertaken.

### Options

5. There are no options for the Executive to consider, they are asked to receive the presentation.

### Analysis

6. There are no options to consider and therefore no analysis is made.

### Council Plan

7. There are no proposals to consider.

### Implications

8. There are no specialist implications arising from the report.

### Risk Management

9. There are no known risks associated with the recommendations in this report.

### Contact Details

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**Chief Officer Responsible for the report:**

Sharon Stoltz  
Director of Public Health

**Report  
Approved**

**Date** 14 09 18

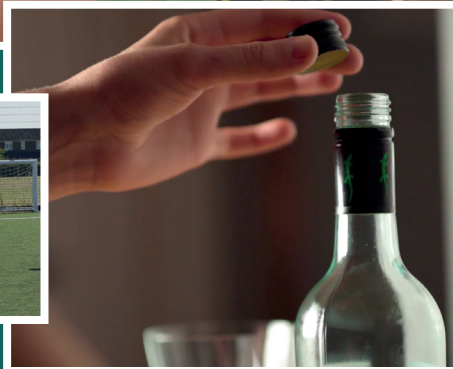
**Wards Affected:** List wards or tick box to indicate all

**All**

**For further information please contact the author of the report**

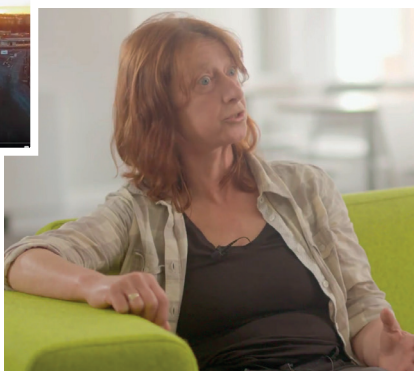
### Annexes

Annex 1 – Director of Public Health Annual Report 2017/18 summary leaflet



# Director for Public Health's annual report 2017/18

# Contents



**This booklet is produced alongside the Director for Public Health report video. To view the video please visit [www.healthyork.org](http://www.healthyork.org)**

- 3** Introduction
- 4** Alcohol
- 5** Childhood obesity
- 6** Physical activity
- 7** Mental Health
- 8** Progress against our last recommendations
- 10** Our recommendations
- 11** Have your say

# Welcome

It is a real pleasure to introduce the Director for Public Health's annual report, covering 2017/18. This year we have placed an emphasis on encouraging people to talk about health, including what is needed to help people live healthier lives and some inspiring stories of how people's lives have changed after accessing support.

We were really keen to hear from people what good health meant to them so we decided to produce a short film highlighting the state of the health of the population in York, and what is being done to improve this. The film focuses on the issues of alcohol, childhood obesity, physical activity and mental health. We know that these present challenges for our residents, but I hope that the video provides encouragement about how some of our residents are taking their health into their



own hands and tackling these issues. I would like to thank all those involved, especially the residents who spoke so openly and honestly about their health journeys and spared the time to contribute to this video. We hope you find it informative and interesting, if you have any thoughts we would love to hear from you - see page 11 to find out how you can do this.

**Sharon Stoltz,**  
**Director of Public Health**





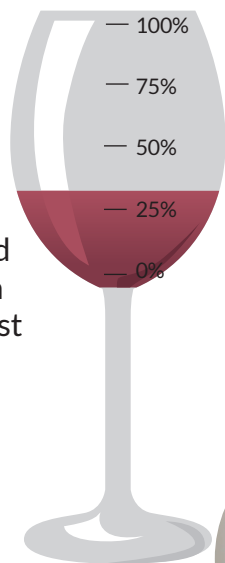
# Alcohol

**In York 30% of adults drink over the recommended 14 units of alcohol per week.**

Increased alcohol intake can lead to increased incidence of certain cancers, such as throat and breast cancer, as well as heart disease and liver disease.

The Local Alcohol Profile for England<sup>1</sup> indicates that in York hospital admissions for alcohol related conditions are higher than the England average.

Admissions are over represented for alcoholic liver disease and for episodes of mental and behavioural disorders. Under 18 females are also over represented in admission figures.



**“Alcohol became a prominent part of my life. I referred myself and got some support.”**

Sally

<sup>1</sup>(<https://fingertips.phe.org.uk/profile/local-alcohol-profiles>)

# Childhood obesity

**In York 1 in 5 reception class aged children are overweight, with 8% of these being classified as obese.**



**By the time children reach year 6, that figure has risen to 1 in 3, with 16% classed as obese.**

The National Child Measurement Programme Data<sup>2</sup> shows that our obesity levels are comparable to the England average.

However, our analysis of the data at ward levels shows that there is a clear link between obesity and socioeconomic status, with our most deprived wards having the highest levels of obesity.

Children that are obese are more likely to go on to be obese adults, and are then more at risk of developing conditions such as type II diabetes. Children that are above a healthy weight are more likely to experience bullying and low self esteem, and the onset of conditions such as diabetes has become more prevalent in children.



**“I’ve started eating healthily and I just love gardening.”**

Jasmine

<sup>2</sup><https://fingertips.phe.org.uk/profile/national-child-measurement-programme>

# Physical activity

York, in comparison to the rest of England has high levels of physical activity, with 72% of our population meeting the Chief Medical Officer's recommended amount of physical activity per week<sup>3</sup>.

Being physically active can help to guard against conditions such as diabetes, heart disease and stroke, reducing our risk of these by up to 50%.

Whilst the picture is positive, this still means that we have almost a third of our population not doing enough physical activity.



"There's a popular saying that if physical activity were a pill it would be the wonder drug."

Fiona

Given the benefits of physical activity and how cheap and easy it can be for people to engage in it, it is a priority for us to increase the number of people that meet physical activity guidelines, but particularly concentrating on those that are the most inactive.



"It benefits them through getting exercise but also through seeing people which is good for your health as well as your mental health."

Rosie

<sup>3</sup> <https://fingertips.phe.org.uk/profile/physical-activity>



"My advice to anyone with mental health problems is simply to talk about it. The more we can get people talking about it the better."

Ian

# Mental wellbeing

In York it is estimated that 17.3% of adults have depression and anxiety, higher than the England rate<sup>4</sup>.



We know that in York there are particular areas of concern for us around hospital admissions for self harm in young people, and our suicide rate.

We know that there is a stigma attached to mental health and that often people don't feel they are able to talk about their mental health, which can lead to problems escalating and help not being accessed.

One of our priorities is to work to tackle the stigma around mental health, and ensure that people are equipped with the skills to look after their own mental health and seek help when necessary.

<sup>4</sup> <https://fingertips.phe.org.uk/profile-group/mental-health>

# Progress against our 2016 recommendations

**We said...** City of York Council and York Hospital Trust work together to address smoking at time of delivery, ensuring that women are given timely and appropriate support to stop smoking.

**We did...** The Yorwellbeing Service has been working with the midwifery team to ensure that there is a seamless referral pathway for pregnant women that are smoking to be referred into the support they need to help them stop. Whilst we have seen a small decrease in the prevalence of women that smoke at the time of delivery (from 12.3% to 11.1%) this has not been as sharp a decline in the prevalence of smoking in the general population (from 12.6% to 9%). We therefore acknowledge that more work needs to be done in this area.

**We said...** All partners, in particular Adult Social Care and primary care, should work together to increase the uptake of flu vaccination in those under 65 with long term conditions.

**We did...** Work has been done across the system to boost the uptake of the flu vaccine in all at risk groups. In 2016/17 the percentage of those under 65 with a long term condition that received a flu vaccine was 44.6%. In 2017/18 this rose to 46.1%. However, this is still below the national target of 55%, and more work needs to be done to target this group.

**We said...** Further work is done by City of York Council to understand the data around admissions to hospital in young people for mental health conditions. This analysis should underpin further work between the council, Tees, Esk and Wear Valley NHS Trust, York Hospital Trust, and Vale of York Clinical Commissioning Group to address areas of concern (through Yor-OK Board or Mental Health Partnership Board).

**We did...** The Joint Strategic Needs Assessment (JSNA) Group has been carrying out further analysis on areas of concern, or where inequalities exist. This work has included understanding the inequalities that exist around hospital admissions in young people for self harm. This has been discussed at the Yor-OK Board as well as the Health and Wellbeing Board. Details of this work is available on the JSNA website – [www.healthyork.org](http://www.healthyork.org)

**We said...** The Vale of York Clinical Commissioning Group (CCG), City of York Council, and York Hospital Trust should work together to improve outcomes on cardiovascular disease. This should focus on identifying people at risk of cardiovascular disease and ensuring that they are receiving the optimum treatment.

**We did...** The CCG launched the Vale of York Healthy Hearts Scheme to reduce the number of people that die from cardiovascular disease. The scheme has involved working with partners in the hospital and in the council to ensure that every opportunity is taken to ensure that people are given the right advice to prevent heart disease, as well as ensuring those at risk are on the optimum treatment. [www.valeofyorkhealthyhearts.org.uk](http://www.valeofyorkhealthyhearts.org.uk)

### We said...

NHS England should lead a campaign to improve dental health in children. This should focus on awareness of fluoride varnish, the impact of sugar on dental health and supervised brushing for young children.

### We did...

In the last year the City of York Council has established an Oral Health Information and Advice Group. This group consists of a range of partners, including NHS England. As part of this work, the council is conducting an Oral Health Needs Assessment to understand fully the state of oral health in children in York. Once the results of this work are available we will be able to determine what further work is needed to address any areas of concern.

## Our recommendations

**Following our discussions with residents and data analysis to help us understand how York compares with other areas we are proposing the below recommendations:**

- 1** Develop a strategic approach, involving all partners, to tackling obesity and physical activity across the city.
- 2** Deliver training on alcohol awareness with primary care staff to enable them to deliver a brief intervention with residents drinking over recommended levels.
- 3** Recruit a number of Time to Change champions that will work to help tackle stigma around mental health.

## How you can get involved/have your say on health in York

To view the Director for Public Health report please visit [www.healthyork.org](http://www.healthyork.org), where you can also see the York Health and Wellbeing Board's current and emerging health and wellbeing needs for people who live in York.



You can get in touch by emailing [healthandwellbeing@york.gov.uk](mailto:healthandwellbeing@york.gov.uk) on social media by getting in touch with City of York Council on Facebook, Twitter and Instagram or writing to:

Sharon Stoltz  
Director of Public Health,  
City of York Council,  
West Offices,  
Station Rise,  
York,  
YO1 6GA

If you would like this information in an accessible format  
(for example in large print, in Braille, on CD or by email)  
please call **(01904) 551550**

**This information can be provided in your own language.**

Informacje te mogą być przekazywane w języku ojczystym.

Polish

Bu bilgi kendi dilinizde almanız mümkündür.

Turkish

此信息可以在您自己的语言。

Chinese (Simplified)

此資訊可以提供您自己的語言。

Chinese (Traditional)

 **01904 551550**

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27 September 2018

## **Executive**

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**

### **Summary**

1. The purpose of this report is to update the Executive on the progress of the Community Stadium and Leisure Facilities Project (“Project”) since the last Executive report presented in October 2017.
2. In doing so this progress report sets out an up to date position on the following:
  - A construction progress update on the York Stadium Leisure Complex (“YSLC”);
  - Updates on the latest position with all Community Partners and Sport Clubs. This includes a recommendation to provide further financial support to York City Knights RLFC (“YCK”) first team arrangements for the coming Rugby League season;
  - An updated Project timetable, now that YSLC construction has commenced.

### **Recommendations**

3. The Executive are asked to:
  - a) Approve the proposed YCK financial support towards first team playing arrangements at Bootham Crescent, as set out at table one of this report, amounting to Council financial support payable up to a net cost of £30,000 for the 2019 Rugby League season, up until the new Stadium is operational, paid from the existing Project budget;

- b) Note the overall contents of this report and the significant progress made since the last report brought to Executive in October 2017.

Reason for recommendations: To ensure continued progress of the Project.

**Overall Project Update:**

4. Major milestones have been achieved on the Project since the last full Project report brought to Executive in October 2017. In this time updates on the Project have been provided within Capital Monitor reports to the Executive.
5. As was widely reported at the time, on the 16<sup>th</sup> November 2017 the Council entered into a minimum 13 year Design, Build, Operate and Maintain Contract (“DBOM Contract”) with Greenwich Leisure Ltd (GLL).
6. This milestone enabled the Project to move forward to its next major phase. Construction works to the YSLC commenced from December 2017, with GLL also taking over operational control of Existing Leisure Facilities, Energise and Yearsley Swimming Pool, at this time.
7. YSLC construction works are on programme, with all construction works scheduled to be complete by May 2019. Subsequent end user fit out, mobilisation periods and Stadium licensing test events will be required before an opening of the New Facilities from July 2019.
8. The Project by its conclusion will have helped deliver:
  - Regional standard athletics facility at Heslington West Campus – Successfully opened summer 2015.
  - Long term training arrangements for YCK at York St John’s University Haxby Road sports complex.
  - New long term leisure contract – GLL now operating and maintaining Energise and Yearsley Swimming Pool.
  - York Stadium & Leisure Complex – Location of the New Stadium but with so many more other leisure and community facilities present, including new swimming pools, gym, sports hall, Community Hub, NHS outpatient services and many more.



- YSLC associated commercial offer – Regions first Cineworld IMAX Cinema, up to 5 restaurants, retail and further leisure offers.

### **York Stadium Leisure Complex**

9. The main construction works to the YSLC commenced in December 2017 and are now well under way. Construction progress to date has been significant and has included:
  - All building foundations complete;
  - Steel frame complete on the entire Leisure Building, Stadium main East Stand and West Stand;
  - The main swimming pool and learner pool have been constructed;
  - Internal block work has commenced within the Leisure Building;
  - External cladding has started to the Leisure Building.
10. Annex A to this report provides a wide selection of recent construction site progress images.
11. Major upcoming construction milestones on site will see:
  - External cladding and glazing to start on Stadium main East Stand;
  - Completion of the steel frame on the North Stand;
  - South Stand foundations to be completed;
  - Leisure Building external cladding and glazing wrap to be completed to become first water tight building on site.

### Stadium Operator

12. GLL have now entered a formal legal agreement with the Stadium Operator. The Stadium Operator selected is York City Football Club (YCFC) who currently operate Bootham Crescent, YCFC have set up a specific company to operate the Stadium.
13. GLL will be responsible for the overall management of the YSLC site and the direct management of the Community Hub, the New Leisure Facilities and associated assets under the terms of the DBOM Contract.

14. The principle role of the Stadium Operator will be the day to day operation of the Stadium (excluding hospitality and catering areas), duties including:
- Ensure the Stadium holds all required safety / licence certificates at all times;
  - Pitch maintenance and preparation for all games;
  - Cleaning responsibilities within the Stadium;
  - Managing all ticketing functions for the Stadium, from the ticket office, to online ticket sales;
  - Match day stewarding and car parking management;
  - Maintenance and repair responsibilities within the Stadium, to the extent of the Stadium Operator's demise under their operating agreement.
15. For clarity both YCFC and YCK already have independent Match Day Agreements through the form of lease agreements with the Council for their long term occupation at the Stadium.

#### Stadium Caterer

16. The March 2016 Executive report outlined that GLL would appoint an external caterer to provide the catering at the YSLC, in particular the catering for the Stadium hospitality lounges.
17. Since such time GLL have expanded as a company and now hold their own catering division and cafe brand which they have already rolled out nationally at applicable leisure centres and venues.
18. GLL have therefore reviewed their position at the YSLC and are no longer to appoint a catering sub contractor but will instead deliver all catering requirements of the DBOM Contract themselves. This will include GLL providing catering services at the cafe in the Community Hub, concession food & beverage outlets in the Stadium concourses and the catering in the Stadium hospitality lounges for all events.

#### Counter terrorism design review

19. Inline with ongoing wider Council reviews, Officers have conducted a recent counter terrorism design review on the YSLC. This latest review built upon previous advice and reviews conducted by the

Counter Terrorism Unit (“CTU”) and North Yorkshire Police as part of the 2015 planning approval for the YSLC scheme.

20. CTU reviews assess sites and categorise them into three tiers; Tier 1 being most vulnerable down to Tier 3 which are deemed a lower risk. The findings of the latest CTU review have shown that the YSLC remains categorised as a Tier 3 site and as such a low risk. This compared to other York destinations such as York Minster and the race course which are categorised higher than Tier 3.
21. As a Tier 3 site only generic recommendations for improvements to sites are provided by the CTU, these are not mandatory or enforceable changes.
22. No special measures were in place at the old Huntington facility or currently at Bootham Crescent, with both sites again considered Tier 3. Consultants engaged have also noted other, much bigger and higher risk, sport clubs/grounds have sought preliminary studies and to date have not implemented any physical site changes.
23. Neighbouring landlords to the YSLC have confirmed they are not progressing any design alterations or site changes following their own counter terrorism assessments. Without this any changes made on the YSLC site could be rendered meaningless as any direct access by vehicles could be gained from the neighbouring sites.
24. The generic recommendations received from the CTU have been thoroughly reviewed and costed by GLL’s design team and if all implemented would cost in excess of £2m and add significant delays to the completion of the New Facilities.
25. Given the above findings, and in particular the Tier 3 classification, no design or build changes to the YSLC are proposed at present. Officers will continue to liaise with the neighbouring landlords, whilst continuing to review the YSLC site based on professional assessment and any changes to the threat level both locally and nationally. Ongoing monitoring of the situation is recommended in the future.

### **Existing Facilities – Energise & Yearsley Swimming Pool**

26. GLL have now been operating Energise and Yearsley Swimming Pool for 10 months and reporting back to the Authority every quarter on performance.

27. GLL have already made some major positive impacts:
- £250k investment into the fitness suite at Energise;
  - Increased pre-paid memberships by 40%;
  - Introduction of the 'Better' membership card, which now allows residents to make bookings using their smart phone or internet and also access to new membership types including a swim only, inclusive and concession memberships;
  - Taken the lead to expand York's GP exercise on referral scheme which is now called 'Healthwise';
  - Working in the community including; teaching first aid and CPR skills to local scouts groups, promoting water safety as part of the RLSS National Drowning Prevention week in partnership with North Yorkshire Fire and Rescue Service and York Rescue Boat, attending various community summer fairs and wellbeing events at large employer organisations.
28. GLL are now represented on the city's sports and active leisure strategic board 'Active York' and are looking at integrating the GLL Sports Foundation into the Active York's Fund for the gifted scheme. At present 16 young residents are being funded by GLL with free access to the Existing Leisure Facilities.
29. GLL have appointed two new community posts in the form of a Community Sports Manager and Healthwise Coordinator who will both look to work in partnership across the city to increase participation levels and improve health and wellbeing.

### **Burnholme Leisure Facility**

30. On 12th July 2018, Executive approved £2.45m investment into the leisure facilities at the former Burnholme Community College site which is being transformed into a health and wellbeing campus.
31. Alongside this approval the Executive approved a variation to the DBOM Contract under this Project that will allow GLL to operate the new Burnholme sports facilities from Q4 2019, following the capital refurbishment works, for the remainder of the DBOM Contract.

32. Following these July approvals Officers are finalising design for the improved Burnholme leisure facility, alongside working with GLL to process the required DBOM Contract variation.

## **Sport Clubs**

### York City Knights RLFC Interim First-Team Playing Arrangements

33. Following the closure of the Huntington Stadium, and from the start of the 2016 Rugby League season, York City Knights RLFC (“YCK”) have been playing all their first team home fixtures at Bootham Crescent, the home of York City Football Club (“YCFC”).
34. Through these past three Rugby League seasons the Council has provided financial support to York City Knights RLFC (“YCK”) for all first team home fixtures.
35. In December 2016 Executive approved the current two year (2017 & 2018) YCK financial support for all first team home fixtures at Bootham Crescent. At the time of this approval it was anticipated the Stadium would be operational by its end and YCK would be playing the 2019 Rugby League season from the Stadium.
36. Inline with the latest Project timetable, set out at table two of this report, it is now scheduled the Stadium will be operational from July 2019. This means YCK will have a minimum of six months of the 2019 Rugby League season still with interim playing arrangements required and with the current Council financial support having stopped at the end of the 2018 Rugby League season.
37. To address these matters, an extension to the previous license between the Council and YCFC has already been signed to ensure the continued use of Bootham Crescent for hosting YCK first team fixtures for the period from 1st January 2019 until the Stadium is operational, anticipated from July 2019.
38. An extension to the existing user agreement between the Council and YCK, which provides YCK rights to occupy Bootham Crescent, will be formalised ahead of the 2019 Rugby League season. This following Member approval to the Officer recommendation of continued Council financial support to the YCK interim first-team playing arrangements within this report.

39. The December 2016 approved financial support to YCK for interim first team arrangements was set on the Council meeting a percentage of the direct costs associated with YCK first team games that are played at Bootham Crescent. These costs being ones that YCK would not incur, or would be able to offset with advertising and match day hospitality income, if they were still playing first team games at Huntington Stadium.
40. This proposal meant no financial support being paid directly to YCK, but simply that YCK do not incur directly operating costs associated with the use of Bootham Crescent. This providing YCK with greater financial stability until the new Stadium is operational.
41. The YCK financial support over the last two Rugby League seasons (2017 & 2018) has been capped at a maximum cost to the Council of £45k per Rugby League season. It has always been noted that interim financial support will cease once the new Stadium is operational for YCK.
42. Officers recommend that YCK interim first team arrangements financial support continues for the 2019 Rugby League season until YCK play their first game from the Stadium.
43. Officers recommend this be approved on all the same principles as the 2017 + 2018 Rugby League seasons financial support. The only change accounting for that the 2019 financial support will not be for a full Rugby League season. Therefore the Council capped cost to be based on 13 YCK first team games being played at Bootham Crescent between January 2019 – July 2019, and not as before a full Rugby League season assumption of 20 games.
44. Table one below outlines the principles of this recommended proposal.

Table 1 – YCK further 2019 financial support recommendation

<b>YCK financial support proposal – Part 2019 RFL season</b>	
<p>Costs met by the Council, directly with YCFC, for the hosting of YCK first team games at Bootham Crescent.</p> <p>Items covered by the Council to include:</p> <ul style="list-style-type: none"> <li>- Match fee (direct costs incurred for setting up the venue as a Rugby facility).</li> <li>- Match day stewarding &amp; ground safety costs.</li> <li>- Electronic scoreboard maintenance.</li> <li>- Any floodlights or additional ground charges, such as music licenses.</li> </ul>	<p><u>Council cost =</u></p> <p>C.£3,000 per first team game played at Bootham Crescent.</p> <p>+</p> <p>Capped at £40,000</p> <p>(For period Jan'19 – July '19.)</p>
<p>25% of this cost covered through YCK annual rent payments to the Council</p>	<p><u>Council income =</u></p> <p>-</p> <p>£10,000</p>
<p>Net Council Budget allocated</p>	<p>=</p> <p>£30,000 per annum</p>
<u>Notes and assumptions</u>	
<ul style="list-style-type: none"> <li>➤ This financial support arrangement is only valid for YCK first team games played at Bootham Crescent.</li> <li>➤ Financial support arrangement for the 2019 Rugby League season up until the new Stadium is operational, anticipated from July 2019.</li> <li>➤ The Council capped cost (£40,000) is based on the assumption of 13 YCK home games played at Bootham Crescent in the period January 2019 to July 2019, this allowing for league games, cup run &amp; friendlies.</li> <li>➤ YCK will continue to pay their annual rent in monthly instalments, to ensure they meet 25% of the associated playing costs as a minimum at Bootham Crescent.</li> <li>➤ Should YCK not pay their monthly rent instalments the Council reserves its right to cease all ongoing financial support. At this point all Bootham Crescent match-day costs would become the direct responsibility of YCK.</li> <li>➤ YCK must offer incentives / free entrance for children at promotional periods within each Rugby League season that Council financial support is provided.</li> </ul>	

- The Council financial support would only be valid whilst the YCK foundation is in operation and continues to work in partnership with the Council to improve local health and wellbeing in the City.
- The Council financial support does not include YCK match day catering which is for YCK to arrange and pay for directly with third parties.

42. In considering making this financial support available, as with the original financial support, the Council has had to satisfy itself that it does not amount to unlawful State Aid. Appropriate internal and external legal advice has therefore been sought on this matter that provides Officers with assurance that the financial support proposed at table one above would be lawful.

### **Community / Local Partners**

#### York Teaching Hospital NHS Foundation Trust (“NHS”)

45. The NHS will occupy space within the Community Hub where it will deliver a range of outpatient services in high quality modern accessible premises. The NHS will also have use of the Stadium hospitality areas for staff training and development activities. The Agreements for Lease between the Council and the NHS relating to these areas were signed in November 2017.

#### York Against Cancer

46. The Agreement For Lease with York Against Cancer for them to take space within the Community Hub in the form of a retail unit, office and meeting space was signed in October 2017.

#### Explore Library

47. On 21st June 2018, the Executive agreed to re-procure the Council’s Library and Archives service, as the current contract with “Explore York” ends on 31st March 2019.
48. An EU procurement process is currently under way and the Council will award this contract by the end of 2018. This will allow the successful library operator to work with the Council and GLL to deliver the new library facilities in the Community Hub of the Stadium.



49. The vision for the library facility at the Stadium remains the same, with a new type of library offer aimed at accessing new users & groups, allowing users to access books, IT equipment, free Wi-Fi and a range of learning activities.

#### New Partner – Little Gym

50. Officers are pleased to update the Executive of a new partner joining the YSLC, this being a franchise of The Little Gym. The Little Gym Group International have centres worldwide and operate locally currently in Leeds and Harrogate.
51. The Little Gym will be taking space within the second floor of the New Leisure Centre offering a diverse line up of classes, camps and parties filled with movement, music, learning and laughter. Classes will range for all stages of a child's development, from 4 months to 12 years.
52. Heads of Terms have already been agreed with The Little Gym, with work currently ongoing to finalise internal design layouts. Once complete a formal Agreement for Lease between the Council and The Little Gym will be entered into.

#### **YSLC Commercial Development**

53. All legal agreements between the Council and Legal & General (the "Investment Fund") for the Commercial Development associated with the YSLC were signed in November 2017.
54. The Commercial Development outputs proposed at the YSLC site, which are being brought forward by Wrenbridge Sport (the "Developer") on behalf of the Investment Fund, remain in principle the same as those set out in detail in the March 2016 Executive Report.
55. Since the last Project Executive report in October 2017, the Developer has let the two Restaurant Units located in the Southern Block (next to the Cinema entrance). These units will be occupied by national restaurants chains, one of which being TGI Fridays.
56. The Developer is actively marketing, and in detailed positive discussions, with end tenants for the remaining vacant units across the Commercial Development, this includes three East Stand

Restaurant Units located in the Stadium. The Developer still anticipates that all units will be let before the opening of the YSLC.

57. Executive are reminded of the risk noted and accepted in the October 2017 Executive report, this being that should the Developer not have let two of the three East Stand Restaurant Units located in the Stadium by the time of Practical Completion is reached a reduced Capital Receipt would be received.

### **Stadium Naming Rights Sponsorship**

58. Previous external advice provided around Stadium Naming Rights Sponsorship had highlighted that sponsorship packages are far more marketable once actual stadium construction is in progress and a firm completion dates can be given to prospective sponsors.
59. Therefore, with construction on the Stadium now well under way work has re-started to find a Stadium Naming Rights Sponsor. Officers have been liaising with experts in this field of sponsorship and speaking with many of the major companies working within the city.
60. At this time the Council are in positive discussions with two major companies to be the Stadium Naming Rights Sponsor. Discussions at this stage are very promising but not to a position where draft legal agreements have been instructed with any party.

### **Project Financials update**

61. No changes are required in the overall budgets agreed previously by Council.
62. The capital cost of the Project remains within budget and as outlined in the July 2017 Executive Report.
63. The Construction Cost for the YSLC is a fixed price under the DBOM Contract. This cost is within the overall Project budget along with a small Project contingency for formal construction changes.
64. As set out in detail in the July 2017 Executive Report, the YSLC is to be funded by a mix of Council capital funding (borrowing), s106 funds (from the Vangarde Retail Park development), a contribution from YCFC and funds arising from the Commercial Development.

65. The only remaining funding variance relates to the Commercial Development Capital Land Receipt, as detailed in the October 2017 Executive Report.

### **Project Timetable for NSLC Delivery**

66. The current scheduled opening date for the York Stadium Leisure Complex is from July 2019.
67. The key Project milestones from Financial Close up until the opening of the York Stadium leisure Complex are set out in table two below.

*Table 2 - Current Project timetable:*

<b>Indicative Date</b>	<b>Milestone</b>
November 2017	<b>Financial Close</b> - DBOM Contract, Commercial Development Agreements and ancillary legal documents signed
December 2017	<b>Construction site mobilisation</b> - Period for Building Contractor following Financial Close to mobilise the YSLC site and complete remaining required construction design work before full construction works commence.
December 2017	<b>DBOM Contract live</b> - GLL operation of Energise and Yearsley commences.
January 2018	<b>YSLC full construction works commence</b> - Full works commence following site mobilisation.
May 2019	<b>YSLC construction complete</b> - All New Facilities built by the Building Contractor and handed over to GLL. - At this point the Building Contractor reaches 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.
May 2019 -	<b>YSLC construction complete</b>

June 2019	<ul style="list-style-type: none"> <li>- Final fit out across the YSLC site takes place by GLL, Stadium Operator and Community Partners.</li> <li>- Stadium Operator to gain all required safety &amp; licensing certification for the Stadium to be operational. Several public Stadium test events will be held through June 2019 in this period.</li> </ul>
From July 2019	<p><b>YSLC facilities operational</b></p> <ul style="list-style-type: none"> <li>- YSLC facilities (Stadium, Community Hub and New Leisure Centre) available for use and operational following all required GLL &amp; Stadium Operator fit out.</li> </ul>

### **Project communications**

68. With the Project now in its delivery phase of the YSLC, Officers are able to provide far greater Project communications. Regular Project facts, news and YSLC construction updates are posted through the Project's dedicated social media accounts and on the dedicated YSLC website (hosted by GLL).
69. Working with the Building Contractor Officers have been able to provide great insight to the progress taking place behind the site hoardings, including the fantastically well received monthly drone video footage recorded from above the site.
70. A detailed Project communications strategy and timetable of events plan are both in place for the remainder of the YSLC construction, through up until the opening of the New Facilities.
71. Preparation works are already underway with regards the communications and public events for the opening of the New Facilities in summer 2019. Details of these will be presented back to the Executive in a future report ahead of the New Facilities opening.

### **Risk Management**

72. Many of the previous Project risks set out in Executive reports, especially those Executive reports between March 2016 and October

2017, related to risks associated with reaching DBOM Financial Close.

73. Since DBOM Financial Close was reached in November 2017 and we have now entered the construction delivery phase of the Project many of those risks are now longer applicable.
74. Officers continually review and update the Project risk register and have held specific risk workshops around the construction delivery phase of the Project.
75. A summary of the key Project risks through until build completion and the YSLC opening are detailed in table three below.

Table 3 – Summary of current key Project risks

<b>Summary of current key Project risks</b>	
<b>Risk title</b>	<b>Risk detail</b>
Delay in the completion of the YSLC construction	Unforeseen delay in the completion of the construction on the YSLC results in the New Facilities not being ready for a summer 2019 public opening.
Additional construction costs exceed budget	Additional construction costs (through formal DBOM Contract changes) exceed Project approved budget.
Commercial Development Capital Land Receipt associated with the East Stand Restaurant Units	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 the maximum £10.76m across the whole Commercial Development deal. The impact if it were to materialise in full (no East Stand Restaurant Units lets) would be a shortfall in capital funding of C.£1.4m.
Stadium Naming Rights Sponsor	No Stadium naming Rights Sponsor in place before opening of the Stadium and/or sponsor found but financial deal does not meet that assumed income in the revenue budget.
Tenant for the Leisure Unit in Southern Block	No tenant signed up for the Council Leisure Unit in the Southern Block before the opening of the New Facilities and/or a tenant is found but the financial

	deal does not meet that assumed income in the revenue budget.
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### Financial Implications

76. The specific financial implications of this report relate to the financial support to YCK, as set out at table two of this report, this financial support can be met from the Project budget.

### Legal Implications

77. No specific implications.

### Report Annexes and Information

#### Annexes

Annex A – YSLC site construction images.

#### Background Executive Reports

Date	Report Title
12 <sup>th</sup> July 2018	Delivering improved Sport & Active Leisure facilities at Burnholme
21 <sup>st</sup> June 2018	The Library & Archives Service: Procurement of Operator
19 <sup>th</sup> Oct 2017	Community Stadium & Leisure Facilities Update Report
27 <sup>th</sup> July 2017	Community Stadium & Leisure Facilities Update Report
16 <sup>th</sup> March 2017	Community Stadium & Leisure Facilities Update Report
7 <sup>th</sup> Dec 2016	Community Stadium & Leisure Facilities Update Report
17 <sup>th</sup> March 2016	Community Stadium & Leisure Facilities Update Report

<b>Authors:</b>	<b>Chief Officer Responsible for the report:</b>			
Mark Wilson & Paul Forrest  <i>Stadium Project Officers</i>	<b>Ian Floyd</b> Deputy Chief Executive & Director of Customer Business Support Services			
	<b>Report Approved</b>	✓	<b>Date</b>	14/09/18
<b>Specialist Implications Officer(s)</b> List information for all Patrick Looker, Finance Manager / Andy Docherty, Legal Services.				
<b>Wards Affected:</b>			<b>All</b>	✓
For further information please contact the author(s) of the report				

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**Executive**

27<sup>th</sup> September 2018

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

**Community Stadium & Leisure Facilities Update Report**

**ANNEX A – YSLC site construction images**

Aerial image of the YSLC site from July 2018:



Stadium view from the Leisure Building roof:



Stadium Main / East Stand, view from Leisure Building Roof:



Stadium Main / East Stand, view from pitch side:



Stadium West Stand, view from pitch side:



Community Hub front / frame:



Main swimming pool in the Leisure Building – 1<sup>st</sup> water testing process:



Leisure Building glazing frame installation:





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**Executive****27 September 2018**

Report of the Director for Economy and Place

Portfolio of the Leader and the Executive Member for Economic Development and Community Engagement

**Supplementary Planning Documents to Support the Emerging York Local Plan****Summary**

The purpose of this report is to provide details of Supplementary Planning Documents referred to in the Local Plan and to prioritise their production to aid development management decisions. This report asks the Executive to consider the SPDs to be produced and the SPDs to deliver as a priority.

**Recommendation**

1. Executive are asked to:
  - (i) Consider the SPDs identified in this report and accept Officer's recommendations to progress interim SPDs to inform development management decisions in advance of the adoption of the York Local Plan prioritising two SPDs regarding Affordable Housing and Green Infrastructure.

Reason: So that work on interim draft Supplementary Planning Documents can be progressed prior to adoption of the York Local Plan

**Background**

2. In the absence of an adopted statutory development plan, development management decisions are necessarily made on a case by case basis, having regard to material planning considerations, including national policy, ministerial statements, emerging policy (and the evidence base

underpinning those policies). CYC presently also takes into consideration planning guidance adopted by CYC (available on the CYC website) in relation to the following: Affordable Housing, Open Space, Developer Contributions to educational facilities, Houses in Multiple Occupation, House Extensions and alterations and the sub-division of dwellings which were prepared to align with the 2005 draft Local Plan.

3. It is recommended that following the submission of the Local Plan (2018) for examination, the Council now starts preparation of draft SPDs to align with the 2018 Submission Local Plan, which would be capable of being a material consideration in development management decisions if adopted by the Council, and would update the current interim planning guidance documents.
4. Whilst such interim draft SPDs would not have the same status as formal SPDs, and thus be afforded less weight, it is considered they will aid in providing consistency, clarity and fairness to all parties in the planning process, particularly if they have been afforded the same level of consultation and scrutiny as required by the 2012 Regulations, pending adoption of the Local Plan policies.
5. Such an approach is not without risk, and there have been cases where the consideration of interim planning policy in development management decisions has been challenged [*R (Skipton Properties Ltd) v Craven District Council* [2017] EWHC 534 (Admin)]<sup>1</sup>. However, it is considered appropriate having regard to the particular circumstances in York and the stage that the emerging Local Plan has reached, together with the extensive up to date evidence base that underpins the Local Plan policies, that such an approach is taken.

### **Supplementary Planning Documents**

6. Supplementary Planning Documents ('SPDs') are intended to add further details to policies within a Development Plan Document such as a Local Plan. They can be used to provide further guidance for

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<sup>1</sup> This judge in this case upheld that the interim guidance regarding affordable housing should be dealt with through the Local Development Document (LDD) and could not be implemented through a guidance note or SPD given that the subject matter fell within the categories in Regulation 5(1)(a) of the 2012 Town and Country Planning Regulations. He said that this was an objective test to be determined by the Court and could not be avoided by the Council calling their guidance an 'approach' or by stating that it was not 'policy'. Mr Justice Jay found that the guidance covered 'development and use of land' that the Council wished to 'encourage' (being either affordable housing or residential development including affordable housing) and so fell within Regulation 5(1)(a)(i), and/or it was guidance which set out 'development management policies' that would be used to determine planning applications and so fell within Regulation 5(1)(a)(iv).

development on specific sites or on particular issues such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the Development Plan itself.

7. SPDs are intended to expand on high level 'strategic' policies contained within DPDs such as the emerging York Local Plan in order to guide development management officers, developers and development site landowners and their professional consultants. An SPD does not set policy itself but provides a framework for the implementation of policy.
8. An SPD must be produced under the provisions of the Planning and Compulsory Purchase Act 2004 and the Town and country Planning (Local Planning) England, Regulations 2012, and in accordance with the National Planning Policy Framework (NPPF). These regulations set out the process that the production of a SPD must follow which includes a requirement for the SPD to not be in conflict with an adopted Development Plan Document, to contain a reasoned justification of the policies contained within it and that before a SPD can be adopted it must prepare a statement setting out how the Local Planning Authority has consulted on the SPD, a summary of the main issues raised and how those issues have been addressed.

### **Draft Interim Supplementary Planning Document**

9. The Local Plan was submitted for examination on 25<sup>th</sup> May 2018 but until such time as there is an adopted development plan in York, any draft SPD (even if consulted upon and approved by the Council to inform development management decisions) would only have the status of interim planning guidance and not have the same legal status of formal SPD in that decision making process. A draft SPD would be capable of being a material planning consideration, but the weight that could be attached to it would be more limited than that of formal SPD.
10. We currently have a number of draft SPDs including the Sub-division of Dwellings Draft SPD and the Houses in Multiple Occupation Draft SPD. Such draft SPDs seek to provide a framework for implementation of those policies within the Local Plan that has been submitted for examination. In the event that changes are made to any of the Local Plan policies through the examination process, SPDs will need to be reviewed to align with those policies.
11. In order to produce a draft interim SPD and for it to be adopted by the Council as interim planning guidance it is recommended that it be

considered by Local Plan Working Group and Executive prior to undertaking a city wide consultation in line with the requirements of the adopted Statement of Community Involvement (SCI, 2007). Following the consultation a report would be brought back to LPWG and Executive with the final draft interim SPD along with an accompanying statement detailing the comments received, a summary of main issues raised and how these issues have been taken into account. The draft interim SPD would then be published on the Council's website and would be capable of being a material consideration in planning decisions.

12. Once the Local Plan policies are formally adopted, it is anticipated that the preparation and consultation already undertaken to create the interim SPDs, (subject to reviewing whether any changes made to the Local Plan during the examination process affect the relevant SPDs in which case further changes and consultation would be required), will enable such SPDs to be adopted in accordance with the 2012 Regulations.

### **Proposed Interim Draft SPDs**

13. The submitted Local Plan sets out that a number of SPDs will be produced in order to support and add detail to the Local Plan policies themselves. The following list indicates those SPDs that are currently referenced in the Local Plan:
  - Strategic Site SPDs (for each of the strategic development sites);
  - Sustainable Transport for Development;
  - Health and Well-being;
  - Cultural Well-being;
  - Green Infrastructure;
  - Affordable Housing;
  - Gypsy and Travellers and Travelling Showpeople;
  - Lower Derwent Valley;
  - Low Emission;
  - Sustainable Design and Construction;
  - Managing Environmental Quality;
  - Local Heritage List;
  - Self Build and Custom Build Housing; and
  - The review of existing draft SPDs including HMOs, Sub-division of dwellings and house extensions.



14. Following the submission of the Local Plan the Forward Planning Team has started to look at the progression of draft interim SPDs to help support the Local Plan strategic policies and to provide a more detailed framework to assist in the decision making process. Officers consider that given the other key priorities for the Forward Planning Team over the next 6 months which include the Local Plan examination, the progression of a number of neighbourhood plans and the waste and minerals plan examination, along with policy advice on planning applications that it is unable to progress more than two draft SPDs within existing resources.
15. We have therefore identified which SPDs officers consider to be of the highest priority to progress, subject to Member agreement. The initial view is that in order to provide a more consistent framework for planning decisions it would be helpful to progress the Affordable Housing Draft SPD and Green Infrastructure Draft SPD. Both these SPDs have also been highlighted previously by members as being key priorities in order to support the Local Plan policy position.
16. The Affordable Housing Draft SPD would seek to provide additional detailed guidance for developers on the affordable housing targets for development and an explanation of the site viability process. It would build on the policy framework of policy H10 (Affordable Housing) of the submitted Local Plan. In order to acknowledge changes in national policy the SPD would include clarification on tenure provision, transfer values and the application of vacant building credit. It will also consider inclusion and space standards and the calculation of off site financial contributions where appropriate.
17. It is anticipated that the Green Infrastructure Draft SPD would identify for protection and enhancement a connected network of green and blue infrastructure across the city. The SPD would sit beneath and help to implement the Local Plan policies setting out requirements for new development and best practice planning guidance to help inform decision making, explaining how green infrastructure should be a guiding principle for the design of new development and in planning for sustainable development. The production of this SPD also responds to Members request "*That Officers be instructed to prepare a report for a future Executive meeting providing a wider re-assessment of green space across the council's holdings*" as instructed at Executive Call-in on 23<sup>rd</sup> November 2017.

18. It is envisaged that the SPD would set out a clear vision for delivering a range of benefits including enhancing the physical, social and mental health of residents, making York a better place to live, work, invest, learn and play and seeking to join existing and new communities together by enhancing existing and creating new green links across the city. It would seek to address the need for a long term strategic investment framework and mechanisms for delivery identifying issues and opportunities for future management, creation and enhancement of green infrastructure assets.

### **Consultation**

19. The production of SPDs will require city-wide consultation to be undertaken as set out in the Council's adopted Statement of Community Involvement. The Forward Planning Team will work with the Communications Team in order to undertake effective consultation and engagement.

### **Options**

- (i) Consider the SPDs identified in this report and accept Officer's recommendations to progress interim SPDs to inform development management decisions in advance of the adoption of the York Local Plan prioritising two draft SPDs regarding Affordable Housing and Green Infrastructure.

*Reason: So that work on interim draft Supplementary Planning Documents can be progressed prior to adoption of the York Local Plan*

- (ii) Consider the SPDs identified in this report and advise alternative SPDs which should be identified as priorities for the Council to progress as interim SPDs to inform development management decisions in advance of the adoption of the York Local Plan.

*Reason: So that work on interim draft Supplementary Planning Documents can be progressed prior to adoption of the York Local Plan*

- (iii) Consider the SPDs in this report and advise Officers to not progress any SPDs in advance of the Local Plan.

*Reason: To avoid potential risks of implementation prior to the adoption of the Local Plan.*

## **Options Analysis**

20. Officers have considered the production of SPDs to aid decision-making and have identified that it would be most helpful to progress the Affordable Housing Draft SPD and Green Infrastructure Draft SPD in order to update the current interim guidance. Both these SPDs have also been highlighted previously by members as being key priorities in order to support the Local Plan policy position. Although officers have highlighted that the risk experienced elsewhere in the adoption of interim guidance, it is considered that the evidence base underpinning these topics and the advanced stage of the Local Plan provides robust rationale for their implementation. Officers therefore recommend to Members to progress Option 1.
21. Members can also identify alternative SPDs for officers to prioritise as per option 2. This report identifies for Members consideration the SPDs set out in the Local Plan and existing draft SPDs which could be subject to review. As above, Members have previously expressed that Affordable Housing and Green Infrastructure as key priorities. Members should be aware that the preparation of SPDs is subject to the Examination of the Local Plan and available resources. In identifying more than two priority SPDs, the process of preparation may be elongated to allow all priorities to be actioned simultaneously or incur financial costs in relation to staffing.
22. Option 3 allows Members to choose to not progress any SPDs prior to the adoption of the Local Plan. This option takes consideration of the potential risk of implementing interim guidance prior to the adoption of the Local Plan as detailed under paragraph 5 of this report.

## **Next Steps**

23. Following Members recommendations to Executive and Executive agreement, the Forward Planning will commence production of the SPDs agreed.

## **Implications**

24. The following implications have been assessed:

- **Financial** – The work on the Local Plan is funded from specific budgets set aside for that purpose. The production of SPDs will require resources to prepare the SPD, including research, development and consultation thus incurring financial costs, which will need to be funded for the duration of their development.
- **Human Resources (HR)** – The production of an SPD 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.
- **Equalities** – An Equalities Impact Assessment, including the Better decision-making tool, is attached as annex A
- **Legal** – The procedures which the Council is required to follow when producing a Supplementary Planning Document (SPD) derive from the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012. The Council also has other legal duties including compliance with the Duty to Co-operate.
- **Crime and Disorder** – N/a
- **Information Technology (IT)** – N/a
- **Property** – N/a
- **Other** – None

**Contact Details**

**Author:**

Rachel Macefield  
Forward Plan Manager  
Tel: (01904) 551356

**Chief Officer Responsible for the report:**

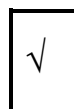
Neil Ferris  
Director of Economy and Place

Alison Cooke  
Local Plan Project Officer  
Tel: (01904) 551467

**Executive Members Responsible for the Report:**

Cllrs I Gillies, K Aspden and P Dew

**Report  
Approved**

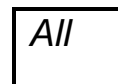


**Date** 03/09/18

**Specialist Implications Officer(s):**

Alison Hartley - Senior Solicitor, Planning

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



**Annexes:**

Annex A: Better Decision Making Tool

**Abbreviations:**

SPD – Supplementary Planning Document  
DPD – Development Plan Document  
LPWG – Local Plan Working Group  
SCI – Statement of Community Involvement

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## 'Better Decision Making' Tool

Informing our approach to sustainability, resilience and fairness

The 'Better Decision Making' tool should be completed when proposing new projects, services, policies or strategies.

This integrated impact assessment tool was designed to help you to consider the impact of your proposal on social, economic and environmental sustainability, and equalities and human rights. The tool draws upon the priorities set out in our Council Plan and will help us to provide inclusive and discrimination-free services. The purpose of this new tool is to ensure that the impacts of every proposal are carefully considered and balanced and that decisions are based on evidence.

**Part 1** of this form should be completed as soon as you have identified a potential area for change and when you are just beginning to develop a proposal. If you are following the All About Projects Framework it should be completed before going through Gateway 3.

**Part 2** of this form should be filled in once you have completed your proposal and prior to being submitted for consideration by the Executive. If you are following the All About Projects Framework it should be completed before going through Gateway 4. Your answer to questions 1.4 in the improvements section must be reported in any papers going to the Executive and the full 'Better Decision Making' tool should be attached as an annex.

Guidance to help you complete the assessment can be obtained by hovering over the relevant text or by following this link to the 'Better Decision Making' tool on Colin.

Guidance on completing this assessment is available by hovering over the text boxes.

**Please complete all fields** (and expand if necessary).

## Introduction

<b>Service submitting the proposal:</b>	Strategic Planning
<b>Name of person completing the assessment:</b>	Alison Cooke
<b>Job title:</b>	Development Officer
<b>Directorate:</b>	Economy and Place
<b>Date Completed:</b>	12th September 2018
<b>Date Approved:</b> form to be checked by service manager	

## Part 1

## Section 1: What is the proposal?

1.1	<b>Name of the service, project, programme, policy or strategy being assessed?</b>
	SUPPLEMENTARY PLANNING DOCUMENTS TO SUPPORT THE EMERGING YORK LOCAL PLAN
1.2	<b>What are the main aims of the proposal?</b>
	The report presents the Supplementary Planning Documents (SPDs) set out in the Local Plan and seeks to prioritise 2 SPDs regarding Affordable Housing and Green Infrastructure. This report also sets out the process for progressing SPDs as interim and adopted guidance in line with the Town and Country Planning Regulations (2012, as amended).
1.3	<b>What are the key outcomes?</b>
	This report aims to brief Members on the productions of Supplementary Planning Documents (SPDs). SPDs aid planning decisions by providing more detail to the policies set out in the Local Plan. Each SPD focuses on a specific topic to provide further clarity for applicants and decision-makers. Each SPD will also be subject to formal consultation and adoption by the Council as planning policy to be considered in addition to the Local Plan in line with the Town and Country Planning Regulations 2012 (as amended).

**Section 2: Evidence**

2.1	<p><b>What data / evidence is available to understand the likely impacts of the proposal?</b> (e.g. hate crime figures, obesity levels, recycling statistics)</p> <p>The Local Plan sets out the overarching strategic policies to be considered in more detail by the SPDs. Each of these policy areas is underpinned by relevant evidence base as set out in the Local Plan. In undertaking the SPD, further research will be undertaken to inform the detailed approach. This will be presented within or alongside the draft SPDs through public consultation. Where applicable, the SPD may be subject to Sustainability Appraisal incorporating Strategic Environmental Assessment which will identify key sustainability issues, the impacts of the SPD and suggest mitigation where required.</p>
2.2	<p><b>What public / stakeholder consultation has been used to support this proposal?</b></p> <p>The Local Plan process has been subject to several consultations, the latest of which was the Regulation 19 Publication Draft Local Plan consultation held between 21st February- 4th April 2018. Following this consultation and Members agreement at Council (17th May 2018) the Local Plan was submitted to the Secretary of State for public examination. We have been appointed two planning inspectors who will proceed with an examination in public in the form of public hearings wherein registered parties can contribute to the debate. The outcomes of examination will inform the content of SPD should amendments be made to applicable strategic policies.</p> <p>In line with the regulations, SPDs are also subject to their own formal consultation prior to their adoption as formal planning policy. Each SPD will therefore be subject to a citywide consultation enabling members of the public and interested parties to comment and inform their contents.</p>
2.3	<p><b>Are there any other initiatives that may produce a combined impact with this proposal?</b> (e.g. will the same individuals / communities of identity also be impacted by a different project or policy?)</p> <p>Supplementary Planning Documents provide more detail to policies set out in the Local Plan. The outcomes of Local Plan examination will inform the content of SPD should amendments be made to applicable strategic policies. Although SPDs can become interim guidance prior to adoption of the Local Plan, further consultation would be required post Local Plan adoption to enable the SPD to be fully adopted planning policy guidance.</p>





**Part 1**

**Section 3: Impact on One Planet principles**

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 the 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	<b>Impact positively on the business community in York?</b>	Positive	The policies of the Local Plan support the delivery of the city's economic objectives and will enable York to realise its economic growth ambitions as set out in the city's economic strategy (2016). Although the list of SPDs to be produced are not directly related to the economic policies set out in the plan, many may indirectly support economic aspirations as they will clearly define details of planning policy to aid applicants and decision-makers. Applicable SPDs may include: - Strategic Site SPDs which will set out the details for each of the largest development sites proposed in the Local Plan; and - Sustainable Transport for Development SPD which will aid movement of people around the city.
3.2	<b>Provide additional employment or training opportunities in the city?</b>	Neutral	Whilst the Local Plan supports employment and training opportunities, it is not anticipated that the SPDs will influence these opportunities.
3.3	<b>Help individuals from disadvantaged backgrounds or underrepresented groups to improve their skills?</b>	Neutral	Whilst the Local Plan supports the development and maintenance of sustainable communities, it is not anticipated that the SPDs will influence these opportunities.

### Health & Happiness

Does your proposal?		Impact	What are the impacts and how do you know?
3.4	<b>Improve the physical health or emotional wellbeing of staff or residents?</b>	Positive	A specific SPD is proposed for Health and Well-being providing further detail to the Local Plan policies (in Section 6) relating to provision of community facilities, provision of healthcare facilities and creating healthy places. In addition, the production of Green Infrastructure SPD will add detail to policies relating to provision of openspace also supporting overall health and well-being.
3.5	<b>Help reduce health inequalities?</b>	Positive	The community facilities section of the Local Plan (Section 6) has a focus on health and wellbeing. A specific SPD is proposed to supplement these policies to support overall health and well-being. This will aid applicants and decision-makers to reduce health inequalities through (re)development.
3.6	<b>Encourage residents to be more responsible for their own health?</b>	Neutral	The Local Plan and SPDs will encourage healthy lifestyles through the safeguarding and provision of different types of openspace and recreational opportunities. The Local Plan includes policies to conserve and enhance York's green infrastructure, providing opportunities for a healthy lifestyle and optimising its role in contributing to York being a healthy city. The SPDs will support this agenda by providing more detailed planning policy advice for applicants and decision-makers.
3.7	<b>Reduce crime or fear of crime?</b>	Positive	The Local Plan includes a placemaking policy which seeks to balance the needs of urban design principles for good design against 'secured by design' principles to design out crime, helping to deliver the City of York Streetscape Strategy Guidance (2014). A further SPD to provide further detail in relation to Sustainable Design and Construction is proposed to add detail to the proposed policies. This SPD could have a positive influence on designing out crime in future development, subject to the contents of the SPD.
3.8	<b>Help to give children and young people a good start in life?</b>	Neutral	Whilst the Local Plan supports the provision of education, no specific SPD is proposed in relation to Education. However, the proposed SPDs to be produced for each of the Strategic Sites may indirectly support educational provision where the site is required to provide new school places.

### Culture & Community

Does your proposal?	Impact	What are the impacts and how do you know?
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3.9	<b>Help improve community cohesion?</b>	Neutral	Community cohesion and the development of strong, supportive and durable communities is promoted through the creation of sustainable, low carbon neighbourhoods. Indirectly some of the SPDs proposed will contribute to community cohesion through opportunities for health and well-being and cultural opportunities to be specified in more detail.
3.10	<b>Improve access to services for residents, especially those most in need?</b>	Positive	A specific SPD regarding Sustainable Transport for Development is proposed to supplement transport policies in the Local Plan which aim to tackle existing gaps and prevent gaps from being created in the provision of key services and public transport, supporting the Council's Transport Plan 2011-2031.
3.11	<b>Improve the cultural offerings of York?</b>	Positive	An SPD regarding Cultural well-being is proposed through the report. This would add detail to Local Plan policies supporting development proposals where they are designed to sustain, enhance and add value to the special qualities and significance of York's culture.
3.12	<b>Encourage residents to be more socially responsible?</b>	Positive	Communities will be able to comment on the content of each SPD through citywide consultation. This allow members of the public to shape the future of development in line with the Council's Statement of Community Involvement (2007).

#### Zero Carbon and Sustainable Water

Does your proposal?		Impact	What are the impacts and how do you know?
3.13	<b>Minimise the amount of energy we use, or reduce the amount of energy we will use/pay for in the future?</b>	Positive	An SPD is proposed to add detail to policies in the Local Plan relating to Sustainable Design and Construction. Subject to the contents of the SPD, this will help to encourage the sustainable use of resources in, and as a result of, development. The Local Plan and SPDs do support development overall which may have a general negative effect on use of resources.
3.14	<b>Minimise the amount of water we use or reduce the amount of water we will use/pay for in the future?</b>	Positive	An SPD is proposed to add detail to policies in the Local Plan relating to Sustainable Design and Construction. Subject to the contents of the SPD, this will help to encourage the sustainable use of resources in, and as a result of, development. The Local Plan and SPDs do support development overall which may have a general negative effect on use of resources.
3.15	<b>Provide opportunities to generate energy from renewable/low carbon technologies?</b>	Positive	An SPD is proposed to add detail to policies in the Local Plan relating to Sustainable Design and Construction. Subject to the contents of the SPD, this will help to encourage the delivery of renewable energy in new development.

**Zero Waste**

Does your proposal?		Impact	What are the impacts and how do you know?
3.16	<b>Reduce waste and the amount of money we pay to dispose of waste by maximising reuse and/or recycling of materials?</b>	Neutral	No SPD is proposed in relation to waste as policy relating to Waste management has been revised into the Local Plan in line with the emerging Joint Minerals and Waste Local Plan being prepared by North Yorkshire County Council, City of York Council and North York Moors National Park.

**Sustainable Transport**

Does your proposal?		Impact	What are the impacts and how do you know?
3.17	<b>Encourage the use of sustainable transport, such as walking, cycling, ultra low emission vehicles and public transport?</b>	Positive	A specific SPD regarding Sustainable Transport for Development is proposed to supplement transport policies in the Local Plan which aim to tackle existing gaps and prevent gaps from being created in the provision of key services and public transport, supporting the Council's Transport Plan 2011-2031. In addition a further 'Low Emission' SPD is proposed to support policies in relation to how to consider and how applicants should approach, planning applications that could have an impact on air quality.
3.18	<b>Help improve the quality of the air we breathe?</b>	Positive	The Local Plan supports measures to help reduce the emissions of Nitrogen Dioxide, Particulate, Carbon Dioxide and other greenhouse gases from both transport and other sources helping to deliver the Council's Low Emission Strategy (2012). A 'Low Emission' SPD is proposed to support policies in relation to how to consider and how applicants should approach, planning applications that could have an impact on air quality.

**Sustainable Materials**

Does your proposal?		Impact	What are the impacts and how do you know?
3.19	<b>Minimise the environmental impact of the goods and services used?</b>	Mixed	Development advocated by the Local Plan will have an inevitable impact on the use of resources and waste. However, sustainable design and construction principles will be embedded in new developments through policy. An SPD is proposed to add detail to policies in the Local Plan relating to Sustainable Design and Construction. Subject to the contents of the SPD, this will help to encourage the sustainable use of resources in, and as a result of, development.

**Local and Sustainable Food**

Does your proposal?		Impact	What are the impacts and how do you know?
3.20	<b>Maximise opportunities to support local and sustainable food initiatives?</b>	Neutral	n/a

### Land Use and Wildlife

Does your proposal?		Impact	What are the impacts and how do you know?
3.21	<b>Maximise opportunities to conserve or enhance the natural environment?</b>	Positive	York's Green Infrastructure, including open space, landscape, geodiversity, biodiversity and the natural environment will be both conserved and enhanced. This is a key consideration in the Local Plan and evidence base such as the Green Infrastructure and Openspace Study (2014, Openspace update 2017). An SPD relating to Green Infrastructure is advised to be prioritised through the report to enable more clarity on its maintenance, creation and use for applicants and decision-makers.
3.22	<b>Improve the quality of the built environment?</b>	Positive	The Local Plan will help York to safeguard its outstanding heritage for future generations by promoting development which respects the city's special character and culture and encourages opportunities for rediscovering and reinterpreting those assets which make it an attractive, beautiful and accessible city. Further to the policies set out in the plan, an SPD will be prepared setting the Local Heritage List. This will have a positive impact on the built environment by identifying heritage assets. Furthermore, other SPDs will also indirectly support the quality of the built environment by providing further clarity in relation to delivery of development, such as requirements for Green Infrastructure.
3.23	<b>Preserve the character and setting of the historic city of York?</b>	Neutral	No specific SPD is proposed in relation to the historic character and setting. However, the Local Plan sets out detailed policies and is underpinned by evidence base to help preserve the historic character and setting of York.
3.24	<b>Enable residents to enjoy public spaces?</b>	Positive	The Local Plan states that development will not be permitted which would harm the character of or lead to the loss of open space of environmental and or recreational importance unless it can be satisfactorily replaced. All residential development should contribute to the provision of open space for recreation and amenity. This is a key consideration in the Local Plan and evidence base such as the Green Infrastructure and Openspace Study (2014, Openspace update 2017). An SPD relating to Green Infrastructure is advised to be prioritised through the report to enable more clarity on its maintenance, creation and use for applicants and decision-makers.

3.25

Additional space to comment on the impacts

Empty comment box area.

## Part 1

## 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?	Relevant quality of life
4.1	Age	Neutral	None deemed likely	n/a
4.2	Disability	Neutral	None deemed likely	n/a
4.3	Gender	Neutral	None deemed likely	n/a
4.4	Gender Reassignment	23rd January 2018	None deemed likely	n/a
4.5	Marriage and civil partnership	Neutral	None deemed likely	n/a
4.6	Pregnancy and maternity	Neutral	None deemed likely	n/a
4.7	Race	Positive	Overall the Local Plan aims to meet Gypsy, Traveller and Travelling Showpeople's accommodation needs, supporting the outcomes of the Gypsy and Traveller Accommodation Assessment (2017). An SPD will be produced to clarify details of accommodation delivery to supplement Policy H5 and H6 in the Local Plan.	Comfortable standard of living
4.8	Religion or belief	Neutral	None deemed likely	n/a
4.9	Sexual orientation	Neutral	None deemed likely	n/a
4.10	Carer	Neutral	None deemed likely	n/a
4.11	Lowest income groups	Positive	An SPD is proposed to cover the issue of delivering Affordable Housing in more detail to supplement Policy H10 in the Local Plan. This will clarify and give detail to applicants and decision-makers regarding applicable requirements through development. Consequently this SPD is likely to have a positive influence for lower income groups.	Comfortable standard of living

4.12	Veterans, Armed forces community	neutral	None deemed likely	n/a
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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	neutral	None deemed likely
4.14	Right not to be subjected to torture, degrading treatment or punishment	neutral	None deemed likely
4.15	Right to a fair and public hearing	neutral	None deemed likely
4.16	Right to respect for private and family life, home and correspondence	neutral	None deemed likely
4.17	Freedom of expression	neutral	None deemed likely
4.18	Right not to be subject to discrimination	neutral	None deemed likely
4.19	Other Rights	neutral	None deemed likely

4.20	Additional space to comment on the impacts



**Part 1**

**Section 5: Developing Understanding**

Based on the information you have just identified, please consider how the impacts of your proposal could be improved upon, in order to balance social, environmental, economic, and equalities concerns, and minimise any negative implications.

It is not expected that you will have all of the answers at this point, but the responses you give here should form the basis of further investigation and encourage you to make changes to your proposal. Such changes are to be reported in the final section.

5.1	<p><b>Taking into consideration your responses about <u>all of the impacts</u> of the project in its <u>current form</u>, what would you consider the overall impact to be on creating a fair, healthy, sustainable and resilient city?</b></p> <p>Given the wide range of policy areas covered by the Supplementary Planning Documents alongside the Local Plan, which respond to issues, opportunities and challenges facing the city, it is considered that the overall they will have a strongly positive impact overall on creating a healthy, sustainable and resilient city.</p>
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5.2	<p><b>What could be changed to improve the impact of the proposal on the <u>One Planet principles</u>? (please consider the questions you marked either mixed or negative, as well as any additional positive impacts that may be achievable)</b></p> <p>Preparation of the Local Plan and associated Supplementary Planning Documents (SPDs) is part of an ongoing process that involves monitoring the success and progress of its policies. The process will make sure it is achieving its objectives and making necessary adjustments to the plan if the monitoring process reveals that changes are needed. This enables the plan to maintain sufficient flexibility to adapt to changing circumstances. Furthermore, the plan is subject to ongoing Sustainability Appraisal incorporating the requirements of Strategic Environmental Assessment which appraises the plan and site allocations against a bespoke social, economic and environmental objectives to understand how the plan is contributing the sustainable development objectives for York. SA/SEA will also be carried out where necessary for Supplementary Planning Documents.</p>
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5.3	<p><b>What could be changed to improve the impact of the proposal on <u>equalities and human rights</u>? (please consider the questions you marked either mixed or negative, as well as any additional positive impacts that may be achievable)</b></p> <p>No mixed or negative impacts on equality and human rights are considered likely.</p>
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**Section 6: Planning for Improvement**

23rd January 2018

6.1	<p><b>What further evidence or consultation is needed to fully understand its impact?</b> (e.g. consultation with specific communities of identity, additional data)</p> <p>The Local Plan process has been subject to several consultations, the latest of which was the Regulation 19 Publication Draft Local Plan consultation held between 21st February- 4th April 2018. Following this consultation and Members agreement at Council (17th May 2018) the Local Plan was submitted to the Secretary of State for public examination. We have been appointed two planning inspectors who will proceed with an examination in public in the form of public hearings wherein registered parties can contribute to the debate. The outcomes of examination will inform the content of SPD should amendments be made to applicable strategic policies.</p> <p>In line with the regulations, SPDs are also subject to their own formal consultation prior to their adoption as formal planning policy. Each SPD will therefore be subject to a citywide consultation enabling members of the public and interested parties to comment and inform their contents.</p>
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6.2 **What are the outstanding actions needed to maximise benefits or minimise negative impacts in relation to this proposal?** Please include the action, the person(s) responsible and the date it will be completed (expand / insert more

Action	Person(s)	Due date
The report presents the Supplementary Planning Documents (SPDs) set out in the Local Plan and seeks to prioritise 2 SPDs		

6.3 **Additional space to comment on the impacts**

**Part 2**

**Section 1: Improvements**

Part 2 builds on the impacts you identified in Part 1. Please detail how you have used this information to make improvements to your final proposal.

**Please note that your response to question 1.4 in this section must be reported in the One Planet Council implications section of reports going to the Executive.**

1.1	<p><b>For the areas in the 'One Planet' and 'Equalities' sections, where you were unsure of the potential impact, what have you done to clarify your understanding?</b></p> <p>Given the wide ranging policy areas covered in the plan and the process taken so far in preparing the plan there are inherent links and good understanding of the one planet principles and equalities.</p>
1.2	<p><b>What changes have you made to your proposal to increase positive impacts?</b></p> <p>No changes considered necessary, however the monitoring element of the local plan process will ensure the success and progress of the policies are able to adapt to changing circumstances. For example, air quality will be monitored to ensure new development does not result in poorer air quality.</p>
1.3	<p><b>What changes have you made to your proposal to reduce negative impacts?</b></p> <p>No negative impacts anticipated.</p>
1.4	<p><b>Taking into consideration everything you know about the proposal in its revised form, what would you consider the overall impact to be on creating a fair, healthy, sustainable and resilient city?</b></p> <p>Your response to this question must be input under the One Planet Council implications section of the Executive report. Please feel free to supplement this with any additional information gathered in the tool.</p> <p>Given the wide range of policy areas covered by the Local Plan and its over all vision which responds to the issues, opportunities and challenges facing the city it is considered that the plan will have a strongly positive impact overall on creating a fair, healthy, sustainable and resilient city.</p>
1.5	<p><b>Any further comments?</b></p>



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**Executive****27 September 2018**

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

**Rufforth with Knapton Neighbourhood Plan – Examiner’s Report****Summary**

1. The Rufforth with Knapton Neighbourhood Plan Examiner’s Report is attached at Annex A to this report. Annex B sets out a Decision Statement which includes the Council’s proposed response to the Examiner’s recommended modifications. This report requests that the Executive agree the Examiner’s recommendations to enable the Neighbourhood Plan to proceed to Referendum. These issues were previously considered at Local Plan Working Group on 20 September 2018.

**Recommendations**

2. The Executive is asked to:
  - i) Agree the Examiner’s modifications and the consequential minor modifications set out at Annex B to the Rufforth with Knapton Neighbourhood Plan and that subject to those modifications the Neighbourhood Plan meets the Basic Conditions and other legislative requirements.

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

- ii) Agree that the Rufforth with Knapton Neighbourhood Plan as amended proceeds to a local referendum based on the geographic boundary of the parish of Rufforth with Knapton as recommend by the Examiner.

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

- (iii) To approve the Decision Statement attached at Annex B to be published on the City of York Council's website.

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 Rufforth with Knapton Neighbourhood Plan has been prepared by Rufforth with Knapton Parish Council with on-going engagement with the local community and City of York Council. Prior to Examination it has been through the following stages of preparation:
  - Designation as a Neighbourhood Area (July 2015)
  - Consultation on Pre-Submission version (7 July to 18 August 2017)
  - Submission to City of York Council (February 2018)
  - Submission consultation (19 March to 2 May 2018)
5. Following the close of Submission consultation and with the consent of the Parish Council, Mr Andrew Ashcroft BA (Hons) MA, DMS, MRTPI was appointed to undertake an Independent Examination of the Neighbourhood Plan. The purpose of the Examination is to consider whether the Plan complies with various legislative requirements and meets a set of "Basic Conditions" set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. The Basic Conditions are:
  - i) To have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - ii) To contribute to the achievement of sustainable development;
  - iii) To be in general conformity with the strategic policies contained in the development plan for the area; and

- iv) To not breach, and be otherwise compatible with, EU and European convention on Human Rights obligations.
- 6. The Examiner can make one of three overall recommendations on the Neighbourhood Plan namely that it can proceed to referendum (i) with modifications; (ii) without modification; or (iii) that the Plan cannot be modified in a way that allows it to meet the Basic Conditions or legal requirements and should not proceed to referendum.
- 7. Modifications can only be those that the Examiner considers are needed to:
  - a) make the plan conform to the Basic Conditions
  - b) make the plan compatible with the Convention rights
  - c) make the plan comply with definition of a neighbourhood plan and the provisions that can be made by a neighbourhood plan or
  - d) to correct errors.
- 8. If a recommendation to go to a referendum is made, the Examiner must also recommend whether the area for the referendum should go beyond the Neighbourhood Area, and if so what the extended area should be.
- 9. The Regulations presume that Neighbourhood Plans will be examined by way of written evidence only, with a requirement for a hearing only in cases where the Examiner feels the only way to properly assess a particular issue is via a discussion with all parties. The Examiner decided that examination by written representations was appropriate in this case and provided his final report on 17 July 2018.
- 10. Overall, the Report concluded that “On the basis of the findings in this report I recommend to the City of York Council that subject to the incorporation of the modifications set out in this report that the Rufforth with Knapton Neighbourhood Plan should proceed to referendum” and that “the neighbourhood area is entirely appropriate for the purpose of the referendum”.

### **Examiner’s Recommendations**

- 11. Annex A and B set out the Examiner’s detailed and minor consequential modifications to the Neighbourhood Plan. In summary, the key points relate to:

- Policy Rwk01: Draft Green Belt

12. A series of modifications are suggested in relation to Rwk01 (Draft Green Belt policy) to reflect the policy context of York's Green Belt. In particular, the modifications take account of national advice on the principle of the identification of detailed Green belt boundaries whilst safeguarding the general application of this important and nationally-recognised planning tool.
13. The Examiner recommends that the neighbourhood plan continues to apply the approach to the identification of the Green Belt as set out currently in the RSS and the Fourth Set of Changes Development Control York Local Plan (2005) on an interim basis until such times as the emerging Local Plan is adopted. He states that this will ensure that the preparation of the emerging Local Plan is used as the mechanism for the detailed identification of the York Green Belt boundaries in accordance with national planning policy. He also recognises that this will also provide full and proper opportunity for developers and land owners to contribute to this debate both in general terms and to provide the agreed levels of development for the City. The examiner also recommends that, with agreement from Rufforth with Knapton Parish Council, once the emerging Local Plan has been adopted the neighbourhood will be reviewed in order to ensure that the two elements of the development plan are consistent on this matter.

- Policy RK H1: Middlewood Close, Rufforth (Housing Allocation)

14. For the same reasons as set out within the context of Policy Rwk01, the Examiner states that it is not within the remit of the neighbourhood plan to allocate land within the general extent of the Green Belt for residential purposes. He makes it clear that this is properly a role for the emerging Local Plan.
15. The examiner recognises that the policy seeks to set out locally distinctive criteria intended to add value to the allocation of this site in the emerging Local Plan (Site H38 in the emerging Local Plan). The



examiner also recognises that allocating these housing sites in the neighbourhood plan would assist in boosting significantly the supply of housing land in the neighbourhood area and that based on a site visit to the area it is clear how the site has been chosen and would fit comfortably with the context of the village.

16. Nevertheless, the examiner recommends the deletion of the site from the Plan recognising that whilst the City of York Local Plan has now been submitted for examination there are still various procedural stages that need to be overcome before it is adopted, a key element being the merits or otherwise of the various sites proposed to meet the strategic housing requirements of the City. Some of those potential alternatives in the neighbourhood area have been included within the representations received on the submitted Rufforth with Knapton neighbourhood plan.
17. The report states that the deletion of the policy (RK H1) is consistent with the recommended modification in respect of policy Rwk01 on the green belt itself and has regard to paragraphs 83-85 of the National Planning Policy Framework (NPPF). These sections of national policy are clear that the identification and modification of green belt boundaries are matters for the Local Planning Authority to determine. By definition this approach also extends to the allocation of housing sites which are proposed to be released from the green belt at the same time.
18. The report also states that whilst it is recognised that this approach will be a disappointment to the Parish Council who have worked hard to produce a distinctive set of local criteria to underpin the site's development that in the event that the adopted Local Plan includes this site it could be incorporated at that point within a review of the neighbourhood plan – the Parish Council have already highlighted that they are committed to undertaking such a review.

- Policy RK H2 – Milestone Avenue, Rufforth

19. This policy proposes the allocation of a site for approximately 9 houses off Milestone Avenue and is not included in the emerging Local Plan as a housing allocation. The allocation of the site in the neighbourhood plan is associated with the construction of a footpath/cycle path linking the end of Milestone Avenue with the existing cycle path around Harewood Whin. For the reasons set out above at paragraph 16 of this report the examiner recommends the deletion of policy RK H2 from the neighbourhood plan.

- Policy RK H3 (Back Lane/Main Street, Knapton)

20. This policy offers support to the allocation of this site in the emerging Local Plan (Site H53). The examiner recognises that in doing so it sets out locally distinctive criteria that are intended to add value to the approach in the emerging plan and to boost significantly the supply of housing land in the neighbourhood area. The examiner however, recommends deletion of the site from the Plan based on the reasoning set out in paragraph 16 of this report. The examiner notes that in the event that the adopted Local Plan includes this site it could be incorporated at that point within a review of the neighbourhood plan.

21. There are a number of other minor modifications to policy wording advised which includes the amendment of some policies that the examiner does not consider to be land-use based. If a policy is not considered to be land-used based the examiner has recommended modifications so as to identify those aspects of the policies as 'community actions'.

### **Next Steps**

22. The next stage of the relevant legislation requires the Council to:

- Consider each of the recommendations made by the Examiner's Report (and the reasons for them), and
- Decide what action to take in response to each recommendation.

23. If the LPA is satisfied that the Neighbourhood Plan meets the Basic Conditions, is compatible with the Convention rights, and complies with the definition of an NP and the provisions that can be made by a NP or

can do so if modified (whether or not recommended by the Examiner), then a referendum must be held.

24. The Council must publish its decision and its reasons for it in a 'Decision Statement'. The Decision Statement must be published within 5 weeks beginning with the day following receipt of the Examiner's Report unless an alternative timescale is agreed with the Parish Council.
25. The Examiner's recommendations on the Neighbourhood Plan are not binding on the Council, who may choose to make a decision which differs from the Examiner's. However, any significant changes from the Examiner's recommendations would require a further period of public consultation, along with a statement from the Council setting out why it has taken this decision.
26. A decision to refuse the Neighbourhood Plan proposal could only be made on the following grounds:
  - the LPA is not satisfied that the Neighbourhood Plan meets the Basic Conditions;
  - the LPA does not believe that with modification Neighbourhood Plan can meet the Basic Conditions;
  - the LPA considers that the Neighbourhood Plan constitutes a repeat proposal; or
  - the LPA does not believe the qualifying body is authorised or
  - that the proposal does not comply with that authorisation.
27. The Examiner's Report concludes that the Neighbourhood Plan meets the Basic Conditions required by legislation, and that subject to the modifications proposed in his report, the Neighbourhood Plan should proceed to a referendum to be held within the Neighbourhood Area. Officers have considered all of the recommendations and the Examiner's reasons for them and have set out the Council's response as part of the Decision Statement in Annex B.
28. It is recommended that all of the Examiner's recommended modifications be made as set out in Table 1 at Annex B. The Officer recommendation is that subject to those modifications the Plan meets the Basic Conditions, is compatible with the Convention Rights and complies with the provisions that can be made by a neighbourhood

plan. Subject to the Executive's agreement of the Decision Statement, the Neighbourhood Plan will be amended accordingly and the Neighbourhood Plan will proceed to local referendum.

### **Referendum**

29. The Council must organise a referendum on any Neighbourhood Plan that meets the legislative requirements. This ensures that the community has the final say on whether a Neighbourhood Plan comes into force.
30. The Examiner's Report confirms that the referendum area should be the same as the Neighbourhood Area designated by the Council, which is the parish of Rufforth with Knapton. The Neighbourhood Planning (Referendum) Regulations 2012 as amended require the Local Planning Authority to hold the referendum within 56 days of the date that a decision to hold one has been made. Assuming the Executive endorse the recommendations in this report, it is anticipated that the referendum will be held on or before 20th November 2018, within the 56 day period set out in the amended Regulations. The date for the referendum and further details will be publicised once a date is set by the Council. This is currently being discussed with colleagues in Electoral Services.
31. If over 50% of those voting in the referendum vote in favour of the Neighbourhood Plan, then under the legislation the Council must bring it into force within 8 weeks of the result of referendum (unless there are unresolved legal challenges). If the referendum results in a "yes" vote a further report will be brought to Executive with regard to the formal adoption of the Neighbourhood Plan as part of the statutory Development Plan.

### **Decision making**

32. As the Plan is now at an advanced stage, its policies where relevant have legal weight in decision making with regard to any planning applications to be determined within Rufforth with Knapton parish. This is reflected in The Neighbourhood Planning Act 2017 which recognises that, when determining an application, a LPA must have regard to "a post examination draft neighbourhood development plan as far as material to the application". If a LPA make a decision to allow a draft neighbourhood plan with modifications to proceed to referendum, then the modifications recommended must also be taken into account.

## **Consultation**

33. As mentioned earlier in the report, the Rufforth with Knapton Neighbourhood Plan has been through several stages of consultation. These are: consultation on designation as a Neighbourhood Area (July 2015), consultation on a Pre-Submission version of the Plan (7 July to 18 August 2017), consultation on a Submission version (19 March to 2 May 2018).
34. A Consultation Statement accompanied the submission version of the Neighbourhood Plan and sets out all the consultation undertaken. All the consultation undertaken by City of York Council has been carried out in accordance with the Council's Statement of Community Involvement.

## **Options**

35. Officers request that Members:
  - i) endorse the recommendations in paragraph 2 of this report and agree with the Examiner's Recommendations and approve the Decision Statement attached at Annex B to enable the Rufforth with Knapton Neighbourhood Plan to proceed to Referendum.

## **Analysis**

36. The Examiner has concluded that the modifications will satisfy the Basic Conditions, the Council has an obligation, under Schedule 4B of the 1990 Town and Country Planning Act, to arrange a local referendum, unless the Examiner's recommended modifications and/or conclusions are to be challenged. The Officer recommendation to Members is that the modifications made by the Examiner are well justified and that, with these modifications, the Neighbourhood Plan proposals will meet the legislative requirements. The Council must organise a referendum on any Neighbourhood Plan that meets the legislative requirements. This will give the local community the opportunity to vote on whether they deem the Neighbourhood Plan to meet the needs and aspirations for the future of their neighbourhood.

## **Alternative Options and Reasons for Rejection**

37. The following alternative options have been identified and rejected for the reasons as set out below

- ii) *That the Executive provide modified recommendations to those made by the Examiner and, if considered to be significant, agree that these will be subject to further consultation along with a statement explain why the decision differs from the Examiner's;*

*This option is not considered appropriate as the proposed modifications make the Neighbourhood Plan more robust and enable it to meet the Basic Conditions.*

- iii) *That the Executive reject the Examiner's recommendations and refuse the Neighbourhood Plan proposal. This decision can only be justified on the grounds listed under paragraph 26.*

*This option can only be justified if the Examiner recommends that the Plan should not proceed to a referendum, or the Council is not satisfied that the plan has met the procedural and legal requirements. This option is not considered appropriate.*

## Financial Implications

38. The responsibility and therefore the costs of the Examination and Referendum stages of the Neighbourhood Plan production lie with the City of York Council. Table 1 below sets out a breakdown of the non-staffing costs of producing the Rufforth with Knapton Neighbourhood Plan to date and also sets out the costs associated with the Examination and Referendum.

**Table 1**

<b>Stage</b>	<b>Cost</b>
Designation consultation	£500
Submission consultation	£500
NP grant to Parish Council	£3000
Examination	Circa £7,000 (tbc)
Referendum	Circa £7,000 (tbc)
<b>Total</b>	<b>£18,000</b>

39. 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).

40. Financial support from Central Government is available for Local Planning Authorities (LPAs) involved with Neighbourhood Plans. Some LPAs can claim £5,000 for the designation of neighbourhood areas. Whilst this was claimed for the designation of the Rufforth with Knapton Neighbourhood Plan in 2015, it is no longer available for neighbourhood areas in York as more than 5 neighbourhood areas are designated. LPAs can also claim £20,000 once they have set a date for a referendum following a successful examination. This will be available for the Rufforth with Knapton Neighbourhood Plan.
41. The City of York Council Budget 2016/17 included a recurring budget item of £33,000 for Neighbourhood Planning which is to be distributed as £3,000 per Parish Council or Neighbourhood Forum to be used to develop a Neighbourhood Plan. This is for the neighbourhood planning body to spend independent to the Council.
42. Communities with Neighbourhood Plans in place can also benefit financially should York adopt a Community Infrastructure Levy (CIL). They can benefit from 25% of the revenues from the CIL arising from the development that takes place in their area.

## Implications

43. 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
  - **One Planet Council / Equalities** - Better Decision Making Tool attached at Annex D.
  - **Legal** - The Legal implications are set out within the body of this report. The decision to proceed to referendum is, like all decisions of a public authority, open to challenge by Judicial Review. The risk of any legal challenge to the Neighbourhood Plan being successful has been

minimised by the thorough and robust way in which it has been prepared and tested.

- **Crime and Disorder** - None
- **Information Technology (IT)** None
- **Property** - None
- **Other** – None

## **Risk Management**

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

- 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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**Report**  **Date** 13/09/2018  
**Approved**

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**Wards Affected:** Rural West



**For further information please contact the author of the report**

**Background Papers:**

Rufforth with Knapton Neighbourhood Plan documents:

[https://www.york.gov.uk/info/20051/planning\\_policy/1663/rufforth\\_and\\_knapton\\_neighbourhood\\_plan](https://www.york.gov.uk/info/20051/planning_policy/1663/rufforth_and_knapton_neighbourhood_plan)

**Annexes**

- Annex A Rufforth with Knapton Neighbourhood Plan Examiner's Report
- Annex B Decision Statement
- Annex C Rufforth with Knapton Neighbourhood Plan (Submission version)
- Annex D Better Decision Making Tool

**List of Abbreviations Used in this Report**

BA (Hons) MA, DMS, MRTPI – Bachelor of Arts, Masters, Diploma in Management Studies, Member of the Royal Town Planning Institute

EU – European Union

LPA – Local Planning Authority

NP – Neighbourhood Plan

SEA – Strategic Environmental Assessment

HRA – Habitats Regulation Assessment

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# **Rufforth with Knapton Neighbourhood Development Plan 2017-2033**

**A report to the City of York Council on the Rufforth  
with Knapton Neighbourhood Plan**

**Andrew Ashcroft  
Independent Examiner  
BA (Hons) MA, DMS, MRTPI**

**Director – Andrew Ashcroft Planning Limited**

### **Executive Summary**

- 1 I was appointed by the City of York Council in April 2018 to carry out the independent examination of the Rufforth with Knapton Neighbourhood Plan.
- 2 The examination was undertaken by written representations. I visited the neighbourhood plan area on 11/12 June 2018.
- 3 The Plan proposes a series of policies and seeks to bring forward positive and sustainable development in the plan area. Its focus is on facilitating housing growth whilst retaining the status and role of the York green belt. It also includes positive policies for the natural and built environment. It proposes the designation of a series of local green spaces.
- 4 The Plan has been significantly underpinned by community support and engagement. It is clear that all sections of the community have been actively engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood plan area.

**Andrew Ashcroft**  
**Independent Examiner**  
**17 July 2018**

## **1 Introduction**

- 1.1 This report sets out the findings of the independent examination of the Rufforth with Knapton Neighbourhood Plan 2017-2033 ('the Plan').
- 1.2 The Plan has been submitted to the City of York Council (CYC) by Rufforth with Knapton Parish Council in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework in 2012 and which continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether or not the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan can be narrow or broad in scope. Any plan can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The submitted plan has been designed to be distinctive in general terms, and to be complementary to the development plan in particular. It seeks to add local value to emerging City of York Local Plan.
- 1.6 Within the context set out above this report assesses whether the Plan is legally compliant and meets the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.7 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the plan area and will sit as part of the wider development plan.

## 2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by CYC, with the consent of the Parish Council, to conduct the examination of the Plan and to prepare this report. I am independent of both CYC and the Parish Council. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 35 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral System.

### *Examination Outcomes*

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan is submitted to a referendum; or
  - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
  - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

### *The Basic Conditions*

- 2.5 As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
  - contribute to the achievement of sustainable development; and
  - be in general conformity with the strategic policies of the development plan in the area; and
  - be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.
  - not be likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

I have examined the submitted Plan against each of these basic conditions, and my conclusions are set out in Sections 6 and 7 of this report. I make specific comments on the fourth and fifth bullet point above in paragraphs 2.6 to 2.11 of this report.

- 2.6 Since February 2015 the Neighbourhood Plan regulations require one of two reports to be an integral part of a neighbourhood plan proposal. Either an environmental

report should be submitted or a determination from the responsible body (in this case CYC) that the Plan is not likely to have significant environmental effects. In order to comply with the Basic Condition relating to European obligations the Parish Council has commissioned the preparation of a Strategic Environmental Assessment (SEA) of the Plan. The resulting SEA is very effective at mapping out the environmental circumstances affecting the neighbourhood area, in assessing the three proposed housing allocations and in addressing reasonable alternatives.

- 2.7 I am satisfied that the correct processes have been followed in this regard. The SEA strikes the correct balance between having the correct level of detail whilst at the same time as being proportionate to the task in hand. It addresses reasonable alternatives to the submitted Plan. The SEA work and the preparation of the Plan itself have been produced in tandem.
- 2.8 As part of the preparation of the Plan CYC has published a Habitat Regulations Screening Report (February 2018). It assesses whether there are likely to be any significant effects on the qualifying features of European sites as a result of the policies in the submitted Plan that would necessitate the production of a full Habitat Regulations Assessment. In doing so the screening report considered the effects on all European sites within 15 km of the CYC boundary together with any downstream sites that may be linked to the plan's zone of influence. As part of this process the screening report considered the likely effects of the submitted Plan on the following European sites: Strensall Common SAC, Kirk Deighton SAC, the River Derwent SAC, the Lower Derwent Valley SAC/SPA/Ramsar site and the Humber Estuary SAC/SPA/Ramsar site. All the proposed policies and site allocations in the submitted Plan were appraised against the features and vulnerabilities of the identified sites. Cumulative effects are also considered to understand whether the Plan would be likely to have significant effects in combination with other plans or programmes. The report concludes that none of the policies in the Plan are likely to have any significant effects on the identified European sites. In addition, no cumulative effects are identified. The Screening Report is very thorough and provides the appropriate assurances that this important matter has been properly addressed.
- 2.9 The Habitats Regulations Assessment Screening Report was produced in good faith before the Plan was submitted. Since that time a case in the European Court (People Over Wind and Peter Sweetman, April 2018) has changed the basis on which competent authorities are required to undertake habitats regulations assessments. CYC has given this matter due consideration and has produced an updated report. It comments that:
- Part 1 of the Screening Report assessed each policy in turn against the characteristics of the five identified sites. All policies are identified as having no likely significant effects on the site's qualifying features and there is no reference to mitigation in relation to the effects of the various policies; and
  - Part 2 addresses in combination effects and includes that of the emerging Local Plan. Nevertheless, the most recent version of the Local Plan HRA takes forward several matters to Appropriate Assessment stage.

In this context CYC concluded that the recent Sweetman judgement does not affect the integrity of its early screening work on this important matter. I am satisfied that full and proper attention has been given to this issue.

- 2.10 Having reviewed the information provided to me as part of the examination I am satisfied that a thorough, comprehensive and proportionate process has been undertaken in accordance with the various regulations. The various reports set out a robust and compelling assessment of the relevant information. They have been prepared and presented in a very professional fashion. The Habitat Regulations Screening Report and its recent update are particularly impressive. None of the statutory consultees have raised any concerns with regard to either the neighbourhood plan or to European obligations. In the absence of any evidence to the contrary I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.
- 2.11 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

*Other examination matters*

- 2.12 In examining the Plan I am also required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
  - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
  - the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.
- 2.13 Having addressed the matters identified in paragraph 2.12 of this report I am satisfied that all of the points have been met subject to the contents of this report.



### 3 Procedural Matters

- 3.1 In undertaking this examination I have considered the following documents:
- the submitted Plan.
  - the Basic Conditions Statement.
  - the Consultation Statement.
  - the Strategic Environmental Assessment.
  - the Habitats Regulations Screening Report.
  - the supplementary comments made by CYC on the Habitats Regulations Assessment (July 2018).
  - the representations made to the Plan.
  - the responses of the Parish Council to the Clarification Note.
  - the saved elements of the Regional Strategy for Yorkshire and Humber.
  - the City of York Draft Local Plan incorporating the Fourth Set of Changes Development Control Local Plan (April 2005).
  - the emerging City of York Local Plan 2017-2033.
  - the National Planning Policy Framework (March 2012).
  - Planning Practice Guidance (March 2014 and subsequent updates).
  - Relevant Ministerial Statements.
- 3.2 I carried out an unaccompanied visit to the Plan area on 11/12 June 2018. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. My site inspection is covered in more detail in paragraphs 5.9 to 5.16 of this report.
- 3.3 As part of my visit I attended a clarification meeting with CYC and the Parish Council. That meeting was organised at my request and allowed a discussion on factual matters surrounding the submitted Plan. It also provided an opportunity for CYC to provide me with a variety of documents relating to the development plan. Notes from that meeting are reproduced at Appendix 1 of this report.
- 3.4 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted plan, I was satisfied that the Plan could be examined without the need for a public hearing. I advised CYC of this decision early in the examination process.

## 4 Consultation

### *Consultation Process*

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 the Parish Council has prepared a Consultation Statement. This statement is both detailed and proportionate to the Plan area and its range of policies. It also provides specific details on the consultation process that took place on the pre-submission version of the Plan. The Statement helpfully sets out how the emerging plan took account of the various comments and representations.
- 4.3 The Introduction of the Statement sets out details of the wider consultation events that has been carried out as part the evolution of the Plan. Details are provided about:
- The questionnaire circulated to all households in the Parish
  - The residents meeting to discuss proposed policies for Harewood Whin (November 2015)
  - A consultation on the draft housing allocations (August 2016)
- 4.4 The Consultation Statement provides very useful information on the consultation exercise on pre-submission version of the Plan (July to August 2017). Table 1 helpfully summarises all the comments received and the extent to which they were addressed in the submission Plan.
- 4.5 It is clear that consultation has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation. Consultation and feedback has been at the heart of the Plan throughout the various stages of its production.
- 4.6 Consultation and engagement has been maintained into the submission phase of the Plan. This is reflected in the number of representations received to the submitted plan (see 4.8 below). Several of the representations were from local people offering support to the Plan. There were also representations from landowners and proposed developers to this and other policies.
- 4.7 From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive and comprehensive approach to seeking the opinions of all concerned throughout the process. There is a very clear and transparent relationship between the consultation process and the Plan itself. CYC has carried out its own assessment to the extent that the consultation process has complied with the requirements of the Regulations.

*Representations Received*

4.8 Consultation on the submitted plan was undertaken by the City Council for a six-week period and which ended on 2 May 2018. This exercise generated comments from various persons and organisations as follows:

- Highways England
- Novus Investments Limited
- Mike Wood
- Mr and Mrs Watson
- Alan and Alison Hodgson
- Rufforth with Knapton Parish Council
- The Coal Authority
- Christine Ross
- Helen Beeley
- Hugh Bardell
- John Beeley
- KCS Developments
- Robert Errington
- Rufforth Church
- Roger Lee
- Historic England
- City of York Council
- North Yorkshire County Council
- Dr Lawson
- Linden Homes
- David and Marion Wright

## 5 The Plan Area and the Development Plan Context

### *The Neighbourhood Area*

- 5.1 The Plan area covers the parish of Rufforth with Knapton. Its population in 2011 was 1027 persons living in 420 houses. It was designated as a neighbourhood area on 6 July 2015. The neighbourhood area is located to the immediate west of York. It is a very interesting and challenging area within which to prepare a neighbourhood plan. A significant proportion of its area is rural in character and is largely in agricultural use.
- 5.2 The neighbourhood area is particularly sensitive. In addition to its proximity to the western extent of the York built up area to the east it is well-connected to the York Ring Road (A1237) by the B1224 which runs between York and Wetherby. The area lies within the Green Belt. The central parts of the neighbourhood area are occupied by the Harewood Whin land fill and waste disposal site to the immediate north of the B1224. The Rufforth Airfield lies to the south of the B1224. It is the home to various commercial operations.
- 5.3 The two separate and yet related settlements of Rufforth and Knapton account for the majority of the population of the neighbourhood area. They have their separate and distinctive characters. Rufforth is the larger of the two settlements. It is located approximately 2kms to the west of the A1237 and is a linear settlement based on the B1224. In recent years a number of cul-de-sacs have been developed from former farmyards and paddocks. Knapton is tucked between the York built up area to the east and the A1237 to the west. Nonetheless it has retained its rural character and appearance. It has a single principal street (Main Street).

### *Development Plan Context*

- 5.4 The development plan context is both complex and unusual. The development plan consists of two saved policies from the Regional Spatial Strategy for Yorkshire and Humber as follows:
- Policy YH9: Green Belts – the definition of the inner boundaries of the Green Belt around York
- Policy Y1: York sub area – the definition of detailed boundaries of the outstanding sections of the green belt and the inner boundary and the protection and enhancement of the historical and environment character of York
- These saved policies will apply in the Plan area until they are replaced by the emerging City of York Local Plan.
- 5.5 The CYC does not have a formally adopted Local Plan. The City of York Draft Local Plan incorporating the Fourth Set of Changes Local Plan (April 2005) was approved for development management purposes. Its policies are capable of being material planning considerations in the determination of planning applications where policies

relevant to the application are consistent with those in the NPPF. This has proved to be particularly useful in the application of Green Belt policy.

- 5.6 The Basic Conditions Statement highlights the policies in the development plan and how they relate to policies in the submitted Plan. This is good practice. It also explains the complicated context within which the neighbourhood plan has been prepared
- 5.7 The emerging city of York Local Plan 2017 to 2033 was making good progress at the time of this examination. It was submitted for its own examination on 25 May 2018.
- 5.8 The submitted Plan has been designed to run concurrently with the emerging York Local Plan. This follows important national advice in Planning Practice Guidance.

#### *Site Visit*

- 5.9 I carried out an unaccompanied visit to the neighbourhood area on 11/12 June 2018. I approached the area along the A1237 from the south. This helped me to understand its strategic position within the City area in general, and its position within the Green Belt in particular.
- 5.10 I initially looked around Knapton. It presented a calm and relaxed character. I looked at the proposed housing site at the north eastern end of Main Street. In particular I looked at its relationship with the open landscape to the east. I walked around Back Lane and saw the extensive views to York to the east. In doing so I saw the sensitive nature of the Green Belt in this part of the City area.
- 5.11 I then walked along the footpath to the west of the village so that I could see the allotments and the recreation ground. I saw that they were both beautifully maintained in their separate ways.
- 5.12 Thereafter I drove to Rufforth. I saw the attractiveness and vibrancy of the village based on the Church, the Village Tea Rooms and the Memorial Hall.
- 5.13 In the village I attended a clarification meeting that I had organised with CYC and the Parish Council. Information about that meeting is provided in paragraph 3.3 of this report.
- 5.14 I was able to see the proposed local green spaces in the village together with the two proposed housing allocations.
- 5.15 I then took the opportunity to see the former airfield to the east of the village and the Harewood Whin Waste Disposal Site. In doing so I was able to see its obvious significance in the neighbourhood area.
- 5.16 In order to get a full impression of the Plan area I drove around some of the surrounding main and minor roads and walked along several footpaths. This gave me

an excellent opportunity to understand the Green Belt context and setting of the two villages.

## **6 The Neighbourhood Plan as a whole**

6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has been helpful in the preparation of this section of the report. It is an informative document and addresses the relevant details in a very professional way.

6.2 The Plan needs to meet all the basic conditions to proceed to referendum. This section provides an overview of the extent to which the Plan meets three of the five basic conditions. Paragraphs 2.6 to 2.10 of this report have already addressed the issue of conformity with European Union legislation.

### *National Planning Policies and Guidance*

6.3 The key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in March 2012.

6.4 The NPPF sets out a range of core land-use planning principles to underpin both plan-making and decision-taking. The following are of particular relevance to the Rufforth with Knapton Neighbourhood Plan:

- Being genuinely plan-led to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. In this case there is a particular significance to the relationship between the submitted Plan and the emerging Local Plan;
- recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
- Promoting the vitality of main urban areas;
- Protecting the Green Belt around the main urban areas (in this case York);
- proactively driving and supporting economic development to deliver homes, businesses and industrial units and infrastructure;
- Conserving heritage assets in a manner appropriate to their significance; and
- Seeking to secure high quality design and good standards of amenity for all existing and future occupants of land and buildings

6.5 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development, which is identified as a golden thread running through the planning system. Paragraph 16 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.6 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and relevant ministerial statements.
- 6.7 Having considered all the evidence and representations available as part of the examination I am satisfied that the submitted Plan has regard to national planning policies and guidance in general terms. It sets out clear ambitions for new development whilst at the same time maintaining the attractiveness and settings of the villages in their agricultural context and their proximity to the York urban area. Within the context available it safeguards the general extent of the Green Belt. It proposes detailed policies both to celebrate and to safeguard rich built heritage of the two villages.
- 6.8 At a more practical level the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraphs 17 and 154). This was reinforced with the publication of Planning Practice Guidance in March 2014. Its paragraph 41 (41-041-20140306) indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.9 As submitted the Plan does not fully accord with this range of practical issues. Several of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

*Contributing to sustainable development*

- 6.10 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear that the submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension the Plan includes policies to promote new residential development (RK H1/H2/H3). It also provides a positive context for employment related development (RwK 16). In the social role, it includes a policy on community amenities (RwK11) and on Housing Mix (RwK12). In the environmental dimension the Plan positively seeks to protect the natural, built and historic environment of the parish. In particular, it proposes a policy to protect the Green Belt (RwK01). It also includes a policy for local green spaces (RwK02) and to ensure good design (RwK10).

*General conformity with the strategic policies in the development plan*

- 6.11 I have already commented in detail on the development plan context in the wider York City Council area in paragraphs 5.4 to 5.8 of this report.
- 6.12 I consider that the submitted Plan delivers a local dimension to this strategic context and supplements the detail already included in the development plan. I am satisfied

that the submitted Plan is in general conformity with the strategic policies in the development plan subject to the modifications recommended in this report.

## **7 The Neighbourhood Plan policies**

- 7.1 This section of the report comments on the range of policies in the Plan. In particular, it makes a series of recommended modifications to ensure that the various policies have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is thorough and distinctive to the Plan area. The wider community and the Parish Council have spent considerable time and energy in identifying the issues and objectives that they wish to be included in their Plan. This gets to the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (41-004-20170728) which indicates that neighbourhood plans must address the development and use of land. In some cases, I have concluded that elements of certain policies are not land use based. I have recommended that they are identified as such in the Plan. They would not form part of the development plan in the event that the neighbourhood plan is 'made'.
- 7.5 I have addressed the policies in the order that they appear in the submitted plan. In some cases, there are overlaps between the different policies.
- 7.6 For clarity this section of the report comments on all policies whether or not I have recommended modifications in order to ensure that the Plan meets the basic conditions.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

### *The initial sections of the Plan (sections 1-7)*

- 7.8 These introductory elements of the Plan set the scene for its range of policies. They do so in a concise and proportionate way. The Plan is well- presented and arranged and it is supported by maps and diagrams. There is a clear distinction between the policies and the supporting text.
- 7.9 The first four sections set out some detail on the production of the Plan and its planning policy context. They describe how a made neighbourhood plan would sit within the wider planning system. Sections 5 and 6 provide helpful information on the parish and the two separate villages. Section 7 helpfully describes the Plan's Vision – 'To sustain the distinctive rural character and identity of the Parish whilst encouraging



a vibrant environment and community for families and people of all ages to live and work within a thriving local economy'. In doing so it articulates how the Plan seeks to deliver sustainable development that is relevant to its context and setting.

- 7.10 Thereafter Section 8 provides detailed commentary on a series of policies that arise from the Vision and Aims of the Plan. On this basis the remainder of this section of the report addresses each policy in turn in the context set in paragraphs 7.5 to 7.7 in this report.

Policy RwK 01: Draft Green Belt

- 7.11 This policy reflects the importance of the Green Belt to the preparation of the Plan and to the wider community.
- 7.12 As I set out in Section 5 of this report the planning policy position in York City Council is complex. The general extent of the Green Belt is particularly complex. This has generated a challenging context within which the Plan has been prepared.
- 7.13 Sections 8.1.1 to 8.1.24 of the submitted Plan set out its strategic approach on the Green Belt. In summary, the Plan proposes:
- that it is appropriate for the Plan to define the 'inner' Green Belt boundary within the neighbourhood area;
  - a specific policy to guide development within its defined green belt area;
  - Green Belt should be retained between York and the villages of Rufforth and Knapton;
  - that it is appropriate for the Plan to allocate land for development where it is consistent with the emerging Local Plan; and
  - the proposed modifications to the extent of the green belt do not undermine its purpose or character.

- 7.14 CYC has made its own representations to the Plan about the ability or otherwise of a neighbourhood plan to define Green Belt boundaries. That representation is entirely consistent with national planning policy. Paragraphs 83-85 of the NPPF are clear that the identification and modification of Green Belt boundaries are matters for the local planning authority to determine. In this case that authority is the City of York Council. Furthermore, these paragraphs identify that these processes should be undertaken as part of the preparation or review of a local plan. In this case, this would be through the vehicle of the preparation of the emerging City of York Local Plan.

- 7.15 In the meantime however it is necessary for the submitted Plan to be in general conformity with the strategic policies of the development plan. These are two saved policies from the Regional Spatial Strategy for Yorkshire and Humber as follows:

Policy YH9: Green Belts – the definition of the inner boundaries of the Green Belt around York

Policy Y1: York sub area – the definition of detailed boundaries of the outstanding sections of the green belt and the inner boundary and the protection and enhancement of the historic and environment character of York

- 7.16 The two saved policies from the RSS are instructive policies and set out how the Green Belt boundaries are to be defined in the development plan. This process is now well underway. The environmental assessment process for the RSS abolition highlighted that York did not have a local plan in place at that time. It also indicated that revocation of York Green belt policies before an adopted local plan was in place could lead to a significant negative effect upon the special character and setting of York. As such the government concluded that the York Green Belt policies that were part of the RSS should be retained
- 7.17 As identified in Section 5 of this report whilst significant progress has now been made the CYC does not yet have an adopted Local Plan. The City of York Draft Local Plan incorporating the Fourth Set of Changes Development Control Local Plan (April 2005) was approved for development control purposes. Amongst other things this draft local plan provides a spatial context for the Green Belt. What is now the draft Local Plan was placed on deposit in May 1998. A very tight Green Belt was put forward on the basis that there would be a need for an early review in the light of new information at that time on development requirements after 2006. The Council subsequently published two sets of proposed changes, one in March 1998 and one in August 1999. Neither set of changes had any significance for the general extent of the Green Belt. The Council published its third set of changes in February 2003 after receiving the Planning Inspector's provisional findings. It then approved a fourth set of changes for development control purposes.
- 7.18 Whilst the Council decided not to proceed with the fourth set of changes it continues to use them for development management decisions. The effect of this process is that decisions on planning applications falling within the general extent of the Green Belt (as defined in the RSS) are taken on the basis that land is treated as Green Belt.
- 7.19 Within this context, the importance of retaining York's Green Belt is evident both in day-to-day development management decisions and in associated appeal decisions. Plainly these circumstances will be clarified once the emerging Local Plan is adopted. Nevertheless, that Plan it is not at a sufficiently-advanced stage to provide any clarity or certainty for the examination of this neighbourhood plan. In particular the package of proposals for defining Green Belt boundaries and the strategic release of land for housing purposes has yet to be tested. At the same time other potential alternative sites have not been tested. Some of those sites fall within the neighbourhood area.
- 7.20 I recommend a series of modifications to this policy to reflect this rather complicated background. In particular, the modifications take account of national advice on the principle of the identification of detailed Green belt boundaries whilst safeguarding the general application of this important and nationally-recognised planning tool. I recommend that the neighbourhood plan continues to apply the approach to the identification of the Green Belt as set out currently in the RSS and the Fourth Set of Changes Development Control Local Plan (2005) on an interim basis until such time as the emerging Local Plan is adopted. This will ensure that the preparation of the emerging Local Plan is used as the mechanism for the detailed identification of the York Green Belt boundaries in accordance with national planning policy. It will also provide full and proper opportunity for developers and land owners to contribute to

this debate both in general terms and to provide the agreed levels of development for the City. I recommend modifications to the existing text and additional wording to clarify this matter. The particular effect of this recommended modification is that the proposed interim village envelope boundaries would need to revert to those identified in the 2005 Plan.

- 7.21 The recommended modifications to this policy also have consequential implications on the three proposed housing allocations in the submitted Plan (RK H1/H2/H3). They are addressed separately later in this report. Plainly the submitted Plan has been prepared in good faith and has sought to be developed in parallel with the emerging Local Plan. The procedural issues around the identification of Green Belt boundaries has made this ambition more complicated than would otherwise be the case. During the examination of the Plan the Parish Council accepted the implication of these procedural issues and undertook to carry out an early review of the neighbourhood plan once the Local Plan is adopted.
- 7.22 I also recommend a modification to the details of the policy wording so that it properly has regard to the NPPF.

**Replace the policy with the following:**

**The general extent of the York Green Belt within the Plan area is shown on the Policies Map and in Figures (b) and (c).**

**Within the general extent of the Green Belt inappropriate development will not be supported except in very special circumstances. New buildings are regarded as inappropriate development and will not be supported other than in the circumstances identified in paragraph 89 of the National Planning Policy Framework.**

**Proposed developments for the following uses will be supported provided that they preserve the openness of the general extent of the Green Belt and do not conflict with the purposes of including land in the Green Belt:**

- **Minerals extraction;**
- **Engineering operations;**
- **Local transport infrastructure that can demonstrate a requirement for a Green Belt location;**
- **The re-use of buildings provided that the buildings are of permanent and substantial construction; and**
- **Development brought forward under a Community Right to Build Order**

*Identify the general extent of the Green Belt on the Policies Map and on Figures b and c in an identical format to that displayed on the Proposals Map associated with the Fourth Set of Changes Development Control Local Plan (2005).*

*Replace paragraphs 8.1.3/8.1.4 with:*

*'The neighbourhood plan has been produced within the context of the preparation of the emerging City of York Local Plan (2017-2033). The Local Plan will establish detailed Green Belt boundaries. This approach follows the advice in paragraphs 83-85 of the NPPF that the identification and modification of green belt boundaries are*

*matters for the local planning authority to determine. At the same time the neighbourhood plan needs to be in general conformity with the strategic policies of the development plan. In this case, these are policies YH9 and Y1 of the Yorkshire and Humber Regional Spatial Strategy. These identify the general extent of the York Green Belt and set out its national significance. Whilst not forming part of the development plan the City of York Draft Local Plan incorporating the Fourth Set of Changes Development Control Local Plan (April 2005) was approved for development control purposes. The effect of this process is that decisions on planning applications falling within the general extent of the Green Belt (as defined in the RSS) are taken on the basis that land is treated as Green Belt.*

*In these circumstances the submitted plan continues to apply the approach to the identification of the Green Belt as set out currently in the RSS and the Fourth Set of Changes Development Control Local Plan (2005) on an interim basis until such time as the emerging Local Plan is adopted. This will ensure that the preparation of the emerging Local Plan is used as the mechanism for the detailed identification of the York Green Belt boundaries in accordance with national planning policy. It will also provide the proper opportunity for developers and land owners to contribute to this debate both in general terms and to provide the agreed levels of development for the City. Once the emerging Local Plan has been adopted the neighbourhood plan will be reviewed in order to ensure that the two elements of the development plan are consistent on this important matter’.*

*Replace paragraph 8.1.10 with the earlier deleted paragraph 8.1.4*

*Replace 8.1.24 with: ‘The interim village envelopes have been the subject of much local debate. They are included within this plan to reflect the procedural circumstances already addressed in paragraphs 8.1.3/4 of this report. They will be reviewed once the Local Plan has been adopted’.*

#### Policy Rwk 02 – Local Green Space

- 7.23 This policy reflects the very important role of open and green spaces within both Rufforth and Knapton. In doing so it proposes the designation of Local Green Spaces (LGSs) as set out in paragraphs 76-78 of the NPPF. The analysis of the proposed LGSs against the criteria set out in the NPPF is included within Appendix VII of the Plan. The Parish Council provide additional reassurance on the details within the Appendix as part of the Clarification Note process.
- 7.24 However within this positive context both the policy and its associated maps (Figures d) and e)) are somewhat confusing. The policy lists only some of the proposed LGSs and includes elements of background which are more supporting text than policy. In addition, the two figures make an unnecessary distinction between green spaces proposed in the emerging Local Plan and those proposed in the submitted Plan. Figure d) also shows a Site of Local Interest which refers to an unrelated matter.
- 7.25 To address these matters I recommend modifications both to the policy and to the figures. In both cases I recommend that they simply refer to the seven proposed LGSs assessed as part of the preparation of the neighbourhood plan. In relation to the policy I recommend that it is replaced by a simpler version that directly refers to the approach identified in the NPPF.

**Replace the policy to read:**

**‘The following areas as shown on Figures d and e are designated as Local Green Spaces:**

**[List the various sites as specified in Appendix VII]**

**New development will not be supported on land designated as local green space except in very special circumstances.’**

*In figures d and e show all the relevant sites as Local Green Spaces. In figure d remove reference to the shown Site of Local Interest.*

## Policy Rwk 03 – Heritage

- 7.26 This policy has two separate parts. The first identifies that an ongoing programme to maintain and enhance identified facilities will be implemented. I raised this matter with the Parish Council. It was accepted that the matter was more of a community action than a land use policy. I recommend accordingly.
- 7.27 The second part of the policy comments that development proposals that would have significant adverse effects on listed buildings, significant parish features and Sites of Local Interest would not be supported. I recommend two modifications to this part of the policy. The first clarifies that the policy applies to the various heritage assets identified in paragraph 8.3.2 of the Plan. The second is to ensure that the policy has regard to national policy. Paragraphs 128 to 136 of the NPPF set out a close and functional relationship between the status of the heritage asset and the scale and degree of harm that would be brought about by the proposed development.

**Delete the first paragraph of the policy****In the second paragraph of the policy:**

- **insert ‘as listed in paragraph 8.3.2 of the Plan’ after ‘Interest’.**
- **replace ‘would not be supported’ with ‘will be assessed on the basis of the relationship between the impact of the proposed development and the importance of the heritage asset in accordance with paragraphs 133 to 136 of the NPPF’.**

*Replace the deleted first paragraph of the submitted policy as a community action shown in a separate box in a different colour from the land use policies*

## Policy Rwk 04 – Biodiversity

- 7.28 This policy encourages proposals that conserve or enhance wildlife, hedgerows and trees. The generality of the policy meets the basic conditions.
- 7.29 Nevertheless I recommend that ‘encouraged’ is replaced with ‘supported’. The latter provides far greater certainty to the decision-maker than the former.

**Replace ‘encouraged’ with ‘supported’**

## Policy Rwk 05 – Footpaths and Cycleways

- 7.30 This policy celebrates the importance of footpaths and cycleways in the neighbourhood area. It has three related parts. The first part looks to secure

opportunities to improve the network including developer contributions. The third identifies that all public rights of way should be kept free and legally defined. The Parish Council now acknowledge that these elements of the policy are not land use based. I recommend that they are identified separately as non-land use community actions.

- 7.31 The second part of the policy comments that development proposals that would result in the loss of footpaths or which would have a significant adverse effect on the existing network of footpaths and bridleways will not be supported. This approach meets the basic conditions.

**Delete the first and third parts of the policy.**

*Replace the deleted first and third paragraph of the submitted policy as separate community actions shown in separate boxes in a different colour from the land use policies.*

Policy RwK 06 – Traffic Management

- 7.32 The policy addresses traffic movements in the neighbourhood area. It has two parts. The first suggests that traffic management measures should be implemented in the neighbourhood area. The Parish Council clarified that this part of the policy relates to the schemes set out in paragraph 8.6.7. It also acknowledged that this part of the policy was not land use based. I recommend accordingly. In doing so I identify that the Parish Council with need to work with the authorities concerned to secure the implementation of such measures.

- 7.33 The second part of the policy seeks to secure an appropriate relationship between new development and the ability for its associated traffic to be incorporated satisfactorily in the highways network. As submitted this part of the policy is more a statement of intent ('development proposals should be able to demonstrate') rather than a policy identifying what will and will not secure support. I recommend accordingly.

**Delete the first paragraph of the policy.**

**In the second part of the policy replace 'should be able.... proposal does' with 'will be supported where its generated traffic movements do'**

*Replace the deleted first paragraph of the submitted policy as a community action shown in a separate box in a different colour from the land use policies. In doing so insert 'The' at the beginning. Insert 'as listed in paragraph 8.6.7' between 'movement' and 'especially' and replace 'should be implemented' with 'will be assessed with the relevant bodies and implemented as funding becomes available'.*

Policy RwK 07 – Public Transport

- 7.34 This policy supports the wider development of public transport to reduce the neighbourhood area's dependence on the private motor car.
- 7.35 Its intentions are entirely appropriate. However, the policy is not land use based. As such I recommend accordingly.

**Delete the first paragraph of the policy**

*Replace the submitted policy as a community action shown in a separate box in a different colour from the land use policies.*

#### Policy Rwk 08 – Parking

- 7.36 The policy seeks to resist proposals that would result in the loss of car parking provision in the neighbourhood area. It is accompanied with criteria that provide for appropriate mitigation or for development proposals to provide alternative parking provision. These elements meet the basic conditions.
- 7.37 The third criterion of the policy comments that the Parish Council will work with other authorities to prevent on pavement car parking. This is not a land use policy. As with other such policies in the Plan I recommend that this aspect of the policy is retained as a community action.

#### **Delete the third criterion**

*Replace the third criterion of submitted policy as a community action shown in a separate box in a different colour from the land use policies*

#### Policy Rwk 09 – Drainage

- 7.38 The policy addresses a series of drainage issues. The first identifies that all parts of the drainage system are stretched and require regular maintenance and repairs. This is a community action rather than a policy. I recommend accordingly.
- 7.39 The other elements of the policy address sustainable drainage matters, the potential for flood attenuation measures to be used positively to enhance biodiversity and the potential relationship between landscaping and surface water issues. These matters meet the basic conditions in general terms. I recommend a modification to the third paragraph of the policy. Its approach that all new developments should be associated with a sustainable drainage system is both unreasonable and onerous.

#### **Delete the first paragraph of the policy.**

**In the third paragraph of the policy insert ‘Where appropriate and necessary to the proposal concerned’ and delete ‘all’**

*Replace the deleted first paragraph of the submitted policy as a community action shown in a separate box in a different colour from the land use policies.*

#### Policy Rwk 10 – Design

- 7.40 This policy is at the heart of the Plan’s approach to the environmental dimension of sustainable development. It identifies its expectations for high quality design in the Plan period. It is well-constructed and has two parts. The first identifies a series of general design matters. The second consolidates this approach by applying and extending a series of very specific design principles arising from the existing Rufforth and Knapton Design Statements.
- 7.41 I recommend a series of technical modifications to the policy. The first deletes the unnecessary cross references to other policies. I recommend however that the overlap is addressed in modifications to the supporting text.

- 7.42 I also recommend that the two sub-points in the first part of the policy simply sit as a free-standing element of the policy rather than appearing as criteria to its first paragraph.
- 7.43 I also recommend a modification to the seventh criterion of the second part of the policy to reflect that many proposals for satellite dishes may not need planning permission. As such permitted development cannot be brought back into the definition of development and to which a policy would apply.
- 7.44 Finally I recommend that the final criterion of the policy is deleted. It is already addressed by Policy Rk09.

**In the first part of the policy delete '(Heritage Policy Rwk 03)'**

**Alter the structure of the first part of the policy so that the two matters which appear as criteria together sit as a freestanding paragraph in the policy.**

**In the seventh criterion of the second part of the policy insert 'Insofar as planning permission is required' before 'satellite dishes'.**

**Delete the final criterion of the second part of the policy**

*At the end of paragraph 8.10.5 add 'Policy Rwk 10 overlaps with other policies in the Plan and with Policies Rwk 03 (Heritage) and Rwk 09 (Drainage) in particular'.*

**Policy Rwk 11 – Community Amenities**

- 7.45 This policy is at the heart of the Plan's approach to the social dimension of sustainable development. It seeks to safeguard a series of community amenities in the neighbourhood area.
- 7.46 The policy robustly identifies its approach whilst addressing a series of circumstances where the loss of a community facility might be justified. The range of facilities proposed to be protected is proportionate and reflects the nature of the health, leisure, social and recreational well-being of the neighbourhood area.
- 7.47 I recommend two modifications. The first deletes any direct reference to CYC and the two parish councils. Plainly any planning applications will be determined by the former. Within the development management process the latter would have the opportunity to provide commentary on the community's views about any such planning applications. The second is to provide clarity on the location of the various community amenities.

**Delete 'to the satisfaction.....Parish Council'**

**In the schedule of community amenities add (in brackets):**

**The primary school (Rufforth)**

**The Church (Rufforth)**

**The Chapel (Rufforth)**

**The Outreach Post Office (Rufforth)**

**Policy Rwk 12 – Housing Mix**



- 7.48 The policy addresses housing mix. It indicates that housing proposals should provide a mix of housing types and sizes to meet identified needs in the Parish. It suggests that priority should be given to families with young children and for older persons downsizing.
- 7.49 The policy is well-constructed and relies on appropriate information. I recommend that the ‘downsizing’ element is deleted. Plainly some older persons will be looking to do so. However, this will not always be the case. In any event it would be impractical to define downsizing either by price, size or condition of the houses concerned.

**Delete ‘who are downsizing’.**

Policy RK H1 – Middlewood Close Rufforth

- 7.50 This policy offers support to the allocation of this site in the emerging City of York Local Plan. In doing so it sets out locally-distinctive criteria that are intended to add value to the approach included in the Local Plan. These details address issues including the size of the houses, the need for off-road car parking and pedestrian access. The site is located on the eastern side of the village in the Green Belt.
- 7.51 The site is proposed to deliver approximately 28 houses. In doing so it would assist in boosting significantly the supply of housing land in the neighbourhood area. I looked at the site when I visited the neighbourhood area. I could see how it had been carefully chosen and how it would sit comfortably within the context of the village.
- 7.52 Nevertheless I am bound to recommend the deletion of the site from the Plan. Whilst the City of York Local Plan has now been submitted for examination there are various procedural stages that need to be overcome before it is adopted. A key element will be the merits or otherwise of the various sites proposed to meet the strategic housing requirements of the City. Some of the potential alternatives in the neighbourhood area have been included within the representation received on the submitted neighbourhood plan.
- 7.53 This deletion of the policy is consistent with recommended modification in respect of Policy RwK 01 on the Green Belt itself. It has regard to paragraphs 83-85 of the NPPF. These sections of national policy are clear that the identification and modification of Green Belt boundaries are matters for the local planning authority to determine. By definition this approach also extends to the allocation of housing sites which are proposed to be released from the Green Belt at the same time.
- 7.54 I recognise that this approach will be a disappointment to the Parish Council. In particular I can see that it has worked hard to produce a distinctive set of local criteria to underpin the site’s development. Nevertheless, in the event that the adopted Local Plan includes this site it could be incorporated at that point within a review of the neighbourhood plan. Paragraph 7.21 of this report has already highlighted that the Parish Council intends to take advantage of that opportunity.

**Delete policy**

*Delete the supporting text (8.13.12)*

Policy RK H2 – Milestone Avenue Rufforth

- 7.55 This policy proposes the allocation of a site for approximately nine houses off Milestone Avenue. It is proposed as an additional site to the two housing sites identified within the neighbourhood area in the emerging Local Plan. It is associated with the construction of a footpath/cycle path linking the end of Milestone Avenue with the existing cycle path around Harewood Whin. The site is located on the eastern side of the village in the Green Belt.
- 7.56 For the reasons set out in Policy RK H1 above national policy is such that I must recommend the deletion of the site. In this case the site is not proposed as a housing allocation in the emerging Local Plan. The identification of revised Green Belt boundaries and any associated releases of land from the existing Green Belt are matters for the emerging Local Plan to determine.

**Delete policy**

*Delete supporting text (8.13.13)*

Policy RK H3 – Back Lane/Main Street, Knapton

- 7.57 This policy offers support to the allocation of this site in the emerging City of York Local Plan. In doing so it sets out locally-distinctive criteria that are intended to add value to the approach in the emerging Local Plan. These details address issues including the number of houses, the need for off-road car parking and access arrangements. The site is located on the eastern side of the village in the Green Belt.
- 7.58 The site is proposed to deliver approximately four or five houses. In doing so it would assist in boosting significantly the supply of housing land in the neighbourhood area. I looked at the site when I visited the neighbourhood area. I could see how it had been carefully chosen and would sit comfortably within the context of the village.
- 7.59 Nevertheless I am bound to recommend the deletion of the site from the Plan. Whilst the City of York Local Plan has now been submitted for examination there are various procedural stages that need to be overcome before it is adopted. A key element will be the merits or otherwise of the various sites proposed to meet the strategic housing requirements of the City. Some of the potential alternatives in the neighbourhood area have been included within the representation received on the submitted neighbourhood plan.
- 7.60 This approach is consistent with that which I have recommended in respect of Policy Rwk 01 on the Green Belt itself and that for Policy RK H1. It has regard to paragraphs 83-85 of the NPPF. These sections of national policy are clear that the identification and modification of Green Belt boundaries are matters for the local planning authority to determine. By definition this approach also extends to the allocation of housing sites which are proposed to be released from the Green Belt at the same time.
- 7.61 I recognise that this approach will be a disappointment to the Parish Council. In particular I can see that it has worked hard to produce a distinctive set of local criteria to underpin the site's development. Nevertheless, in the event that the adopted Local Plan includes this site it could be incorporated at that point within a review of the

neighbourhood plan. Paragraph 7.21 of this report has already highlighted that the Parish Council intends to take advantage of that opportunity.

### **Delete policy**

*Delete supporting text (8.13.14)*

Policy RwK 14 – Reuse of buildings

7.62 This policy addresses the re-use of buildings in the Green Belt. It has regard to wider Green Belt policy as captured in the NPPF.

7.63 Policy RwK 15 includes a section on barn conversions for residential use. I have recommended in that policy that its element on barn conversions relates better to the wider contents of this policy. The Parish Council agreed with this assessment in its response to my clarification note. I recommend accordingly. In doing so I also recommend detailed modifications to its content and details.

**Insert the second part of policy RwK15 as a second component to this policy with the following modifications:**

**Replace ‘considered.... such as’ with ‘will be supported subject to the following criteria**

- **in the second criterion insert ‘substantive’ and delete ‘for a considerable period of time’**
- **[Replace the third criteria with those below]**
- **The proposal does not unacceptably reduce the amenity of residential properties within the immediate locality; and**
- **The traffic generated by the proposal can be satisfactorily accommodated within the local highways network**

Policy RwK 15 – Infill

7.64 This policy addresses the matter of infill/windfall housing proposals within the built-up parts of the two villages. It has two parts. The first addresses the generality of the issue. The second addresses barn conversions.

7.65 The first part of the policy will assist with boosting the supply of housing land in the neighbourhood area. Nevertheless, I recommend a series of modifications to its criteria. I recommend the deletion of the first criterion that refers back to unspecified housing policies. I also recommend that the third criterion is replaced by one which addresses the rural character of the villages. As submitted its reference to the Green Belt status of the villages is unclear.

7.66 I have already recommended that the second part of the policy is incorporated within Policy RwK 14. I recommend a consequential modification to this policy.

**In the first part of the policy:**

- **delete the first criterion**
- **replace the third criterion with ‘is appropriate to the rural character of the village concerned’**

**Delete the second part of the policy**

## Policy RwK 16 – Small Scale Commercial Enterprises

- 7.67 This policy has a focus on proposals that would encourage a thriving rural economy. It offers support for such proposals subject to a series of criteria.
- 7.68 I sought clarification from the Parish Council on the incorporation of agriculture in the policy given that many elements of this type of development do not need planning permission. I was advised that the intention was to highlight the importance of agricultural development in securing the attractiveness and the maintenance of the Green Belt.
- 7.69 I recommend three modifications to the policy. The first relates to the opening part of the policy and its reference to agricultural development. It addresses the point that many such proposals may not need planning permission. As such permitted development cannot be brought back into the definition of development and to which a policy would apply.
- 7.70 The second identifies the types of development that would be supported. As submitted the Plan implies that such proposals are for employment generating uses (paragraph 8.16.1) but does not provide this clarity in the policy. The third removes the word ‘generally’ from the final paragraph. It adds nothing to the submitted Plan and has a potential to reduce its clarity.

**Replace the opening part of the policy with: ‘Insofar as planning permission is required proposals for agricultural development and the change of use of existing buildings for employment-generating development (Classes B1/B2/B8) will be supported subject to the following criteria:**

**In the sixth criterion replace ‘Generally, respects’ with ‘They respect’**

## Policy RwK 17 – Harewood Whin

- 7.71 This policy addresses Harewood Whin. It is both a landfill site and a waste transfer station. It sits within the Green belt. In its responses to my Clarification Note the Parish Council has clarified the importance that the site has with the local community.
- 7.72 The policy addresses the footprint of the site and a series of site operational issues. The importance of the Yorwaste Liaison Committee is emphasised.
- 7.73 I acknowledge the importance of the site to the local community. Nevertheless, minerals and waste matters are ‘excluded development’ for neighbourhood plan purposes as highlighted in paragraph 2.12 of this report. As such I have no option other than to recommend the deletion of the policy. However, given the size of the site and the direction of travel of the collaborative approach adopted I recommend that it is safeguarded as a community action.

**Delete policy**

*Replace the deleted submitted policy as a community action shown in a separate box in a different colour from the land use policies.*

## Monitoring and Review

- 7.74 Paragraphs 7.21/7.54/7.61 have addressed comments made by the Parish Council during the course of the examination. They are based on its intentions to carry out an immediate review of the neighbourhood plan after the emerging Local Plan is adopted. On this basis I recommend that an additional Section is included within any 'made' Plan to address this matter.

*Include an additional Section of the Plan to read as follows:*

*'9. Monitoring and Review of the Plan*

*The Plan has been prepared within the context of the emerging City of York Local Plan 2017-2033. Paragraphs 83-85 of the NPPF are clear that the identification and modification of Green Belt boundaries are matters for the local planning authority to determine. In this case that authority is the City of York Council. Furthermore, these paragraphs identify that these processes should be undertaken as part of the preparation or review of a local plan. In this case, this would be through the vehicle of the preparation of the emerging City of York Local Plan.*

*It is on this basis that the neighbourhood plan does not seek to amend the working Green Belt boundaries from the interim Local Plan 2005. On the same basis it does not propose housing allocations. Nevertheless, the Parish Council and the local community has already carried out significant work on these matters. In particular there is local support for the Green Belt boundaries and the two housing allocations in the submitted Local Plan within the neighbourhood area.*

*These matters would form the basis for an immediate review of the neighbourhood plan once the Local Plan has been adopted. In particular the review process would provide the opportunity to include locally-distinctive criteria for the allocated housing sites in the Local Plan that sit within the neighbourhood area'.*

Other Matters

- 7.75 This report has recommended a series of modifications both to the policies and to the supporting text in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modification to the policy concerned I have highlighted them in this report. However other changes to the general text may be required elsewhere in the Plan as a result of the recommended modifications to the policies. It will be appropriate for CYC and the Parish Council to have the flexibility to make any necessary consequential changes to the general text. I recommend accordingly.

*Modification of general text (where necessary) to achieve consistency with the modified policies.*

## 8 Summary and Conclusions

### *Summary*

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2033. It is thorough and distinctive in addressing a specific set of issues that have been identified and refined by the wider community.
- 8.2 Following my independent examination of the Plan I have concluded that the Rufforth with Knapton Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.
- 8.3 This report has recommended a range of modifications to the policies in the Plan. Nevertheless, its structure and format remain largely unaffected.

### *Conclusion*

- 8.4 On the basis of the findings in this report I recommend to the City of York Council that subject to the incorporation of the modifications set out in this report that the Rufforth with Knapton Neighbourhood Development Plan should proceed to referendum.

### *Referendum Area*

- 8.5 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view the neighbourhood area is entirely appropriate for the purpose of the referendum. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as approved by the City Council on 6 July 2015.
- 8.6 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth and efficient manner. The Parish Council's responses to the Clarification Note and the CYC update on habitats issues were particular helpful.

**Andrew Ashcroft  
Independent Examiner  
17 July 2018**

## **Appendix 1**

### **Notes of Clarification Meeting – Rufforth with Knapton NDP**

#### **Rufforth Village Institute, Rufforth 11 June 2018**

##### Attendees:

Peter Rollings	Rufforth with Knapton Parish Council
Margaret Lee	Rufforth with Knapton Parish Council
Nick Murray	Rufforth with Knapton Parish Council
Jane Wright	Rufforth with Knapton Parish Council
Rebecca Harrison	City of York Council
Alison Cooke	City of York Council
Rachel Macefield	City of York Council
Andrew Ashcroft	Independent Examiner

##### *Purpose of the Meeting*

AA advised that the purpose of the meeting was to address a series of factual and procedural matters on the submitted Rufforth with Knapton Neighbourhood Plan. It was not an opportunity to debate any elements of the Plan or to consider any of the representations received.

CYC provided AA with a package of policy documents to assist with the examination process.

CYC also provided an update on progress of the emerging City of York Local Plan.

##### *Process Information*

AA advised the meeting on the examination process and its likely duration. In particular advice was given on the likely range of issues that would feature in a Clarification Note. He also advised on the particular aspects of the Plan that he had already looked at on 10 June and was intending to look at in the remainder of the unaccompanied visit.

*Strategic Matters and the Development Plan*

AA advised about the specific nature of Paragraphs 83-85 of the NPPF. There was discussion on the implications that this element of national policy on the examination.

*The submitted Habitats Regulations Assessment Screening Report*

There was a discussion on the implications of the recent People Over Wind/Peter Sweetman case in the European court on the HRA Screening Report. CYC agreed that it would revisit the matter during the examination.

*Clarification Note*

It was agreed that AA would send the Clarification Note to CYC and the Parish Council as soon as possible in order to keep up momentum on the examination. AA indicated that whilst the Clarification Note would identify a timetable for response the examination would proceed at a pace with which the Parish Council was comfortable.

*Actions*

1. AA to send the Clarification Note asap after the unaccompanied visit.
2. CYC to reassess its HRA Screening Report.

Andrew Ashcroft

Independent Examiner

Rufforth with Knapton Neighbourhood Development Plan

12 June 2018



**City of York Council****RUFFORTH WITH KNAPTON NEIGHBOURHOOD PLAN:  
POST- EXAMINATION DECISION STATEMENT****Regulation 18 of the Neighbourhood Planning  
(General) Regulations 2012 (as amended)**

This document is the decision statement required to be prepared under Regulation 18(2) of the Neighbourhood Planning Regulations 2012 (as amended). It sets out the Council's response to each of the recommendations contained within the Report to City of York Council of the independent examination of the Rufforth with Knapton Neighbourhood Plan ("the Plan") by independent Examiner Mr Andrew Ashcroft, which was submitted to the Council on 17<sup>th</sup> July 2018.

This decision statement, the independent Examiner's Report and the submission version of Rufforth with Knapton Neighbourhood Plan and supporting documents can be viewed on the Council's website: [www.york.gov.uk/neighbourhoodplanning](http://www.york.gov.uk/neighbourhoodplanning)

Paper copies of this decision statement and the independent Examiner's Report can be viewed during normal opening times at the following locations:

- City of York Council's West Offices,
- York Explore Library,
- The Chapel, Rufforth,
- Tearooms/Shop, Rufforth,
- Rufforth Primary School,
- The Red Lion, Knapton,

**1.0 BACKGROUND**

- 1.1 Under the Town and Country Planning Act 1990 (as amended), City of York Council ("the Council") has a statutory duty to assist communities in the preparation of neighbourhood (development) plans and to take plans through a process of examination and referendum. The Localism Act 2011 (Part 6, Chapter 3) sets out the Local Planning Authority's responsibilities under neighbourhood planning.
- 1.2 This statement confirms that the modifications proposed by the Examiner's Report have been considered and accepted and that subject to making the recommended modifications (and other minor modifications) the Plan may now be submitted to referendum.
- 1.3 The Rufforth with Knapton Neighbourhood Plan relates to the area that was designated by the Council as a Neighbourhood Area in July 2015. This area is

coterminous with the boundary of the parish of Rufforth with Knapton and is entirely within the Local Planning Authority's area.

- 1.4 Rufforth with Knapton Parish Council undertook pre-submission consultation on the draft Plan in accordance with Regulation 14, between 7<sup>th</sup> July to 18<sup>th</sup> August 2017.
- 1.5 Following the submission of the Rufforth with Knapton Neighbourhood Plan to the Council in February 2018, the Council publicised the draft Plan for a six-week period and representations were invited in accordance with Regulation 16. The publicity period ended at on 2<sup>nd</sup> May 2018.

## **2.0 INDEPENDENT EXAMINATION**

- 2.1 The Council appointed Mr Andrew Ashcroft BA (Hons) MA, DMS, MRTPI, with the consent of Rufforth with Knapton Council, to undertake the independent examination of the Rufforth with Knapton Neighbourhood Plan and to prepare a report of the independent examination.
- 2.2 The Examiner examined the Plan by way of written representations supported by an unaccompanied site visit of the Neighbourhood Plan Area on 11<sup>th</sup>/12<sup>th</sup> June 2018.
- 2.3 The Examiner's Report was formally submitted on 17<sup>th</sup> July 2018. The Report concludes that subject to making the modifications recommended by the Examiner, the Plan meets the basic conditions set out in the legislation and should proceed to referendum. The Examiner also recommends that the referendum area should be the same as the designated Neighbourhood Area, which is the same as the administrative boundary for Rufforth with Knapton parish.
- 2.4 Following receipt of the Examiner's Report, legislation requires that the Council consider each of the modifications recommended, the reasons for them, and decide what action to take. The Council is also required to consider whether to extend the area to which the referendum is to take place.

## **3.0 DECISION AND REASONS**

- 3.1 Having considered each of the recommendations made in the Examiner's Report and the reasons for them, the Council, has decided to accept all of the Examiner's recommended modifications to the draft Plan. These are set out in Table 1 below.
- 3.2 The Council considers that, subject to the modifications being made to the Plan as set out in Table 1 below, the Rufforth with Knapton Neighbourhood Plan meets the basic conditions mentioned in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended) is compatible with the Convention rights

and meets the requirements of paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

- 3.3 As a consequence of the required modifications, the Council will modify the Rufforth with Knapton Neighbourhood Plan accordingly, for it then to proceed to referendum.
- 3.4 The Examiner recommended that the Neighbourhood Plan should proceed to a referendum based on the designated Neighbourhood Area. The Council has considered this recommendation and the reasons for it, and has decided to accept it. The referendum area for the final Rufforth with Knapton Neighbourhood Plan will therefore be based on the designated Rufforth with Knapton Parish Neighbourhood Area.
- 3.5 This decision will be made at a meeting of the Council's Executive on 27<sup>th</sup> September 2018.
- 3.6 This decision statement will be dated 27<sup>th</sup> September 2018.

**Other information:**

The Neighbourhood Plan document will be updated to incorporate all the modifications required and re-titled Referendum Version. The date for the referendum and further details will be publicised shortly once a date is set by the Council.

Table 1: Examiner's Recommended Modifications

RwK Policy/ Para	Examiner's Report Reference	Recommended Modification	CYC Consideration/ Justification
RwK 01: Draft Green Belt	Para. 7.11- 7.22	<p><b>Replace the policy with the following:</b></p> <p><b>The general extent of the York Green Belt within the Plan area is shown on the Policies Map and in Figures (b) and (c).</b></p> <p><b>Within the general extent of the Green Belt inappropriate development will not be supported except in very special circumstances. New buildings are regarded as inappropriate development and will not be supported other than in the circumstances identified in paragraph 89 of the National Planning Policy Framework.</b></p> <p><b>Proposed developments for the following uses will be supported provided that they preserve the openness of the general extent of the Green Belt and do not conflict with the purposes of including land in the Green Belt:</b></p> <ul style="list-style-type: none"> <li>• <b>Minerals extraction;</b></li> <li>• <b>Engineering operations;</b></li> <li>• <b>Local transport infrastructure that can demonstrate a requirement for a Green Belt location;</b></li> <li>• <b>The re-use of buildings provided that the buildings are of permanent and substantial construction; and</b></li> <li>• <b>Development brought forward under a Community Right to Build Order</b></li> </ul> <p><i>Identify the general extent of the Green Belt on the Policies Map and on Figures b and c in an identical format to that displayed on the Proposals Map associated with</i></p>	<p>Agree with the modifications for the reasons set out in the Examiners Report.</p> <p>Map showing revised GB boundary to be included in the next version of the Plan.</p>

		<p><i>the Fourth Set of Changes Development Control Local Plan (2005).</i></p> <p><i>Replace paragraphs 8.1.3/8.1.4 with:</i></p> <p><i>'The neighbourhood plan has been produced within the context of the preparation of the emerging City of York Local Plan (2017-2033). The Local Plan will establish detailed Green Belt boundaries. This approach follows the advice in paragraphs 83-85 of the NPPF that the identification and modification of green belt boundaries are matters for the local planning authority to determine. At the same time the neighbourhood plan needs to be in general conformity with the strategic policies of the development plan. In this case, these are policies YH9 and Y1 of the Yorkshire and Humber Regional Spatial Strategy. These identify the general extent of the York Green Belt and set out its national significance. Whilst not forming part of the development plan the City of York Draft Local Plan incorporating the Fourth Set of Changes Development Control Local Plan (April 2005) was approved for development control purposes. The effect of this process is that decisions on planning applications falling within the general extent of the Green Belt (as defined in the RSS) are taken on the basis that land is treated as Green Belt.</i></p> <p><i>In these circumstances the submitted plan continues to apply the approach to the identification of the Green Belt as set out currently in the RSS and the Fourth Set of Changes Development Control Local Plan (2005) on an interim basis until such time as the emerging Local Plan is adopted. This will ensure that the preparation of the emerging Local Plan is used as the mechanism for the detailed identification of the York Green Belt boundaries in accordance with national planning policy. It will also provide the proper opportunity for developers and land owners to contribute to this debate both in general terms and to provide the agreed levels of development for the City. Once the emerging Local Plan has been adopted the neighbourhood plan will be reviewed in order to ensure that the two elements of the development plan are consistent on this important matter'.</i></p>	
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		<p><i>Replace paragraph 8.1.10 with the earlier deleted paragraph 8.1.4</i></p> <p><i>Replace 8.1.24 with: ‘The interim village envelopes have been the subject of much local debate. They are included within this plan to reflect the procedural circumstances already addressed in paragraphs 8.1.3/4 of this report. They will be reviewed once the Local Plan has been adopted’.</i></p>	
RwK 02 – Local Green Space	Para. 7.23 – 7.25	<p><b>Replace the policy to read:</b></p> <p><b>‘The following areas as shown on Figures d and e are designated as Local Green Spaces:</b></p> <p><b>[List the various sites as specified in Appendix VII]</b></p> <p><b>New development will not be supported on land designated as local green space except in very special circumstances.’</b></p> <p><i>In figures d and e show all the relevant sites as Local Green Spaces. In figure d remove reference to the shown Site of Local Interest.</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 03 – Heritage	Para. 7.26 – 7.27	<p><b>Delete the first paragraph of the policy</b></p> <p><b>In the second paragraph of the policy:</b></p> <ul style="list-style-type: none"> <li>• <b>insert ‘as listed in paragraph 8.3.2 of the Plan’ after ‘Interest’.</b></li> <li>• <b>replace ‘would not be supported’ with ‘will be assessed on the basis of the relationship between the impact of the proposed development and the importance of the heritage asset in accordance with paragraphs 133 to 136 of the NPPF’.</b></li> </ul> <p><i>Replace the deleted first paragraph of the submitted policy as a community action</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.

		<i>shown in a separate box in a different colour from the land use policies.</i>	
RwK 04 – Biodiversity	Para. 7.28 – 7.29	<b>Replace ‘encouraged’ with ‘supported’</b>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 05 – Footpaths and Cycleways	Para 7.30-7.31	<b>Delete the first and third parts of the policy.</b>  <i>Replace the deleted first and third paragraph of the submitted policy as separate community actions shown in separate boxes in a different colour from the land use policies.</i>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 06 – Traffic Management	Para 7.32 – 7.33	<b>Delete the first paragraph of the policy.</b>  <b>In the second part of the policy replace ‘should be able.... proposal does’ with ‘will be supported where its generated traffic movements do’</b>  <i>Replace the deleted first paragraph of the submitted policy as a community action shown in a separate box in a different colour from the land use policies. In doing so insert ‘The’ at the beginning. Insert ‘as listed in paragraph 8.6.7’ between ‘movement’ and ‘especially’ and replace ‘should be implemented’ with ‘will be assessed with the relevant bodies and implemented as funding becomes available’.</i>	Agree with the modifications for the reasons set out in the Examiners Report.

RwK 07 – Public Transport	Para 7.34 – 7.35	<b>Delete the first paragraph of the policy</b>  <i>Replace the submitted policy as a community action shown in a separate box in a different colour from the land use policies.</i>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 08 – Parking	Para 7.36 – 7.37	<b>Delete the third criterion</b>  <i>Replace the third criterion of submitted policy as a community action shown in a separate box in a different colour from the land use policies</i>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 09 – Drainage	Para 7.38 – 7.39	<b>Delete the first paragraph of the policy.</b>  <b>In the third paragraph of the policy insert ‘Where appropriate and necessary to the proposal concerned’ and delete ‘all’</b>  <i>Replace the deleted first paragraph of the submitted policy as a community action shown in a separate box in a different colour from the land use policies.</i>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 10 – Design	Para 7.40 – 7.44	<b>In the first part of the policy delete ‘(Heritage Policy RwK 03)’</b>  <b>Alter the structure of the first part of the policy so that the two matters which appear as criteria together sit as a freestanding paragraph in the policy.</b>  <b>In the seventh criterion of the second part of the policy insert ‘Insofar as planning permission is required’ before ‘satellite dishes’.</b>	Agree with the modifications for the reasons set out in the Examiners Report.



		<p><b>Delete the final criterion of the second part of the policy</b></p> <p><i>At the end of paragraph 8.10.5 add 'Policy Rwk 10 overlaps with other policies in the Plan and with Policies Rwk 03 (Heritage) and Rwk 09 (Drainage) in particular'.</i></p>	
RwK 11 – Community Amenities	Para 7.45 – 7.47	<p><b>Delete 'to the satisfaction.....Parish Council'</b></p> <p><b>In the schedule of community amenities add (in brackets):</b></p> <p><b>The primary school (Rufforth)</b></p> <p><b>The Church (Rufforth)</b></p> <p><b>The Chapel (Rufforth)</b></p> <p><b>The Outreach Post Office (Rufforth)</b></p>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 12 – Housing Mix	Para 7.48 – 7.49	<b>Delete 'who are downsizing'.</b>	Agree with the modifications for the reasons set out in the Examiners Report.
RK H1 – Middlewood Close Rufforth	Para 7.50 – 7.54	<p><b>Delete policy</b></p> <p><i>Delete the supporting text (8.13.12)</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
RK H2 – Milestone Avenue	Para 7.55 – 7.56	<p><b>Delete policy</b></p> <p><i>Delete supporting text (8.13.13)</i></p>	Agree with the modifications for the reasons set out in the Examiners

Rufforth			Report.
RK H3 – Back Lane/Main Street, Knapton	Para 7.57 – 7.61	<p><b>Delete policy</b></p> <p><i>Delete supporting text (8.13.14)</i></p>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 14 – Reuse of buildings	Para 7.62 – 7.63	<p><b>Insert the second part of policy RwK15 as a second component to this policy with the following modifications:</b></p> <p><b>Replace ‘considered.... such as’ with ‘will be supported subject to the following criteria</b></p> <ul style="list-style-type: none"> <li>• <b>in the second criterion insert ‘substantive’ and delete ‘for a considerable period of time’</b></li> <li>• <b>[Replace the third criteria with those below]</b></li> <li>• <b>The proposal does not unacceptably reduce the amenity of residential properties within the immediate locality; and</b></li> <li>• <b>The traffic generated by the proposal can be satisfactorily accommodated within the local highways network</b></li> </ul>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 15 – Infill	Para 7.64- 7.66	<p><b>In the first part of the policy:</b></p> <ul style="list-style-type: none"> <li>• <b>delete the first criterion</b></li> <li>• <b>replace the third criterion with ‘is appropriate to the rural character of the village concerned’</b></li> </ul>	Agree with the modifications for the reasons set out in the Examiners Report.

		<b>Delete the second part of the policy</b>	
RwK 16 – Small Scale Commercial Enterprises	Para 7.67 – 7.70	<b>Replace the opening part of the policy with: ‘Insofar as planning permission is required proposals for agricultural development and the change of use of existing buildings for employment-generating development (Classes B1/B2/B8) will be supported subject to the following criteria:</b>  <b>In the sixth criterion replace ‘Generally, respects’ with ‘They respect’</b>	Agree with the modifications for the reasons set out in the Examiners Report.
RwK 17 – Harewood Whin	Para 7.71 – 7.73	<b>Delete policy</b>  <i>Replace the deleted submitted policy as a community action shown in a separate box in a different colour from the land use policies.</i>	Agree with the modifications for the reasons set out in the Examiners Report.
Monitoring and Review	Para 7.74	<i>Include an additional Section of the Plan to read as follows:</i>  <i>‘9. Monitoring and Review of the Plan</i>  <i>The Plan has been prepared within the context of the emerging City of York Local Plan 2017-2033. Paragraphs 83-85 of the NPPF are clear that the identification and modification of Green Belt boundaries are matters for the local planning authority to determine. In this case that authority is the City of York Council. Furthermore, these paragraphs identify that these processes should be undertaken as part of the preparation or review of a local plan. In this case, this would be through the vehicle of the preparation of the emerging City of York Local Plan.</i>  <i>It is on this basis that the neighbourhood plan does not seek to amend the working Green Belt boundaries from the interim Local Plan 2005. On the same basis it does not propose housing allocations. Nevertheless, the Parish Council and the local</i>	Agree with the modifications for the reasons set out in the Examiners Report.

		<p><i>community has already carried out significant work on these matters. In particular there is local support for the Green Belt boundaries and the two housing allocations in the submitted Local Plan within the neighbourhood area.</i></p> <p><i>These matters would form the basis for an immediate review of the neighbourhood plan once the Local Plan has been adopted. In particular the review process would provide the opportunity to include locally-distinctive criteria for the allocated housing sites in the Local Plan that sit within the neighbourhood area'.</i></p>	
Other Matters		<p><i>Modification of general text (where necessary) to achieve consistency with the modified policies.</i></p>	<p>Agree with the modifications for the reasons set out in the Examiners Report.</p>



**RUFFORTH with KNAPTON  
NEIGHBOURHOOD PLAN**

**SUBMISSION VERSION**

GROUP MEMBERS

Peter Rollings-Chairman.

Jane Wright. Nick Murray. Liz Craven. Margaret Lee.

Julia Lawson. John Flynn. Anne Powell.

Helen Beeley. Wendy Coe. Chris Flanagan.

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*Sites / boundaries marked by RwK NP are for illustration only and are not intended to show precise planning application delineation.*

*The following Appendices can be found on our website [rufforth-knaptonplan.co.uk](http://rufforth-knaptonplan.co.uk)*

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## 1. WHAT IS THE RUFFORTH with KNAPTON NEIGHBOURHOOD PLAN?

1.1 Rufforth with Knapton Neighbourhood Plan is a new community led form of planning document for guiding the future development and growth of the Parish.

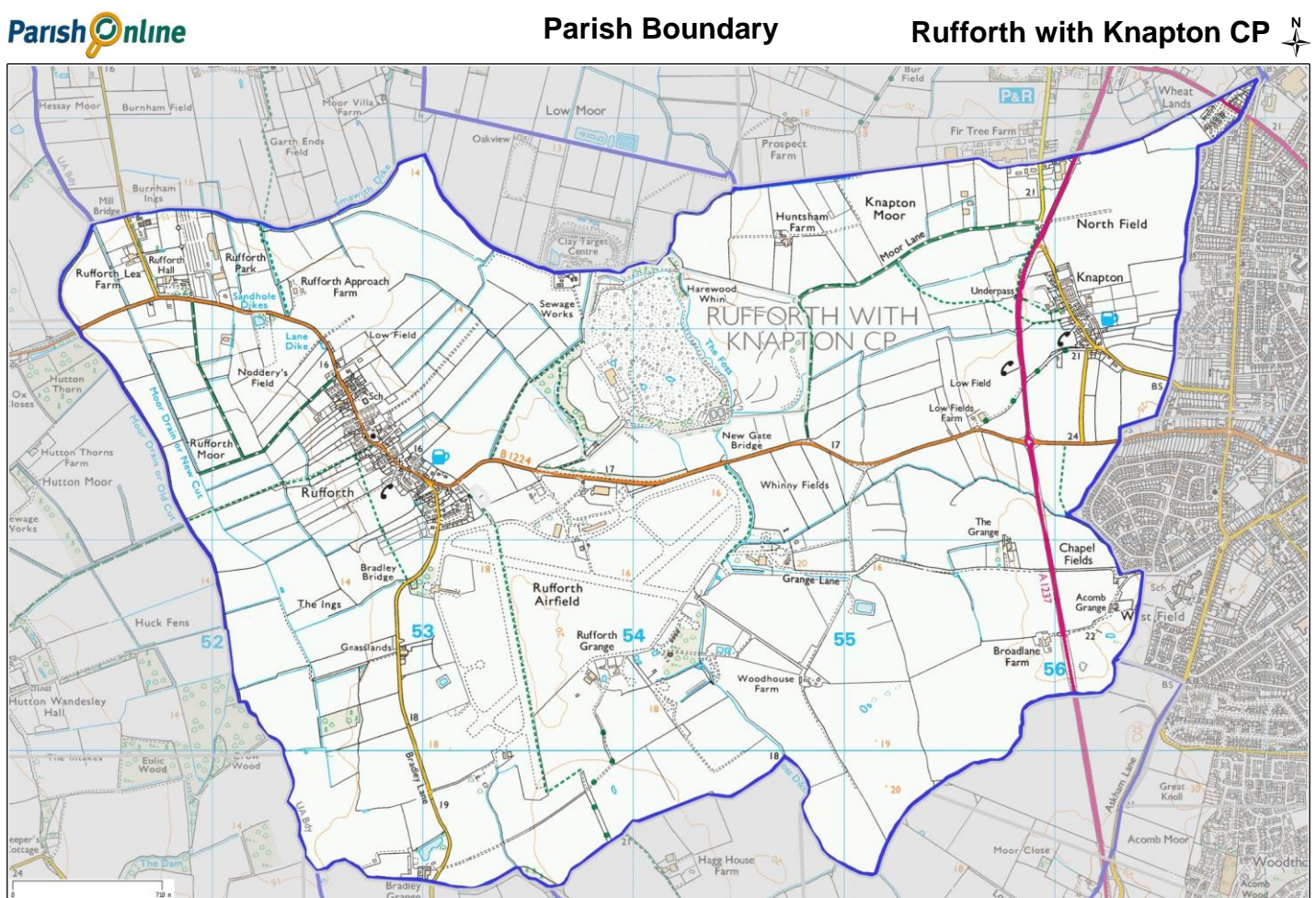
1.2 Neighbourhood Plans were introduced under the 2011 Localism Act to empower communities to better shape their places, to choose where they want new houses to be built, have a greater say on what these new buildings should look like and include measures to protect the landscape and character of the community.

1.3 It is based on extensive research and robust engagement with the local community. The Plan outlines a vision for the future of the Parish and sets out clear planning policies to help realise the vision. The Plan aims to ensure housing is located in the most sustainable locations, protecting the Green Belt and the open landscape surrounding the settlements. It will cover the period from 2017 to 2033.

1.4 A Neighbourhood Plan, once made, will form part of the statutory development plan for the area and its policies will be used to determine planning applications in the neighbourhood. The Plan will be kept under review and may change over time in response to new and changing needs and requirements.

1.5 The Plan has been prepared by the Rufforth with Knapton Parish Neighbourhood Plan Group, on behalf of Rufforth with Knapton Parish Council. The Plan Area covers the whole of the Parish of Rufforth with Knapton.

Figure a) Map of the Parish (a larger map appears in Appendix I)



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## 2. WHY HAVE WE DECIDED TO DEVELOP A NEIGHBOURHOOD PLAN?

2.1 There is currently no up to date adopted statutory development plan for the area. The City of York has been working on a Local Plan for a number of years, with various drafts having been produced. The current version of the Local Plan is timetabled for Publication consultation in February-March 2018 and submission for examination in May 2018. A Preferred Sites Consultation Document was issued in June 2016.

2.2 Following the publication of the City of York Council's Draft Local Plan in October 2014 a meeting was held in Rufforth Community Hall, attended by more than 100 residents who expressed major concerns regarding that Plan, specifically the proposed expansion of Harewood Whin into a waste transfer station and a potential Travellers' site adjacent to the B1224. The Draft Local Plan of 2014 has subsequently been revoked.

2.3 Given the concerns of residents it was felt that a Neighbourhood Plan would provide the opportunity for the community to take a positive approach and influence the future development in the Parish. Furthermore, the Plan and the policies it contains will be specific to the Parish and reflect the needs and aspirations of the community.

2.4 The Neighbourhood Planning Group has prepared this Plan on behalf of the Parish Council to guide future sustainable development that will maintain, wherever possible, the distinctive rural character and community spirit of the Parish whilst meeting future need in terms of housing, community facilities and the local economy.

2.5 The Plan has been informed by members of the community. The community has been clear in what they would like the policies in the Plan to deliver, i.e. future development that:

- Meets the local requirement for housing over the next 20 years (as identified in any future Local Plan).
- Protects the Green Belt and the open character of the countryside in the Parish.
- Prevents the coalescence of communities and especially, Knapton with the City of York.
- Maintains the identity and style of the villages and the community spirit of the Parish.
- Encourages young families to Rufforth, thus ensuring the sustainability of facilities and services such as the primary school, village shop, Village Institute, Church and Chapel.

2.6 The Neighbourhood Plan is an opportunity for the community to have a greater influence on future growth, ensuring that it protects and enhances the things people value most about the area.

### 3. HOW DOES THIS PLAN WORK WITHIN THE PLANNING SYSTEM?

3.1 This Plan has been produced under the powers of the 2011 Localism Act, giving communities the power to produce their own Neighbourhood Plans which will influence future development in their local area.

3.2 Neighbourhood Plans can be narrow or broad in scope and there is no requirement to include policies dealing with particular land use or development. The locally formulated policies will be specific to Rufforth with Knapton Parish and reflect the needs and aspirations of the community. Where there are national and district planning policies that meet the needs and requirements of the Parish, they are not repeated in the Plan.

3.3 The intention of the Localism Act is for communities to have a greater say and role in the planning system by shaping future development in their area. However, all neighbourhood plans must be prepared to comply with a set of Basic Conditions.

3.4 Firstly, neighbourhood plans must have regard to national policies. The Government's planning policy for England is set out in the National Planning Policy Framework (NPPF). The focus of this policy is the contribution that planning can make to sustainable development through the joint pursuance of economic, environmental and social improvement.

3.5 Secondly, the making of the Neighbourhood Plan must be in general conformity with the strategic policies contained in the development plan for the area. This requirement is somewhat complicated in the case of the Rufforth with Knapton Parish in that there is currently no adopted Local Plan. The City of York has been working on a Local Plan for several years, but progress has been stalled for a number of reasons. However, work on the proposed Local Plan (Publication Draft 2018) is now at an advanced stage. The City of York Draft Control Local Plan Incorporating the 4<sup>th</sup> Set of Changes (April 2005) is currently a material consideration for development control decisions.

3.6 National Planning Practice Guidelines states that *"where a Neighbourhood Plan is brought forward before an up-to-date Local Plan is in place, the qualifying body and the local planning authority should discuss and aim to agree on the relationship between policies in the emerging Neighbourhood Plan, the emerging Local Plan and the adopted development plan with appropriate regard to national policy and guidance."* The policies in the Draft Rufforth with Knapton Neighbourhood Plan have been developed with due consideration to the reasoning and evidence informing the emerging Local Plan and is in general conformity with the City of York Local Plan Publication Draft (February 2018).

3.7 Thirdly, in order to meet the basic conditions, Neighbourhood Plans must be compatible with EU and UK government obligations and contribute to the achievement of sustainable development. Of special relevance to neighbourhood planning is the assessment of certain plans on the environment (Strategic Environmental Assessments).

3.8 Within this Plan an Interim Draft Green Belt has been identified along with interim village envelopes. If a Neighbourhood Plan sets an interim boundary before the City of York Local Plan is adopted (which is the case here) the Neighbourhood Plan would effectively give way once the City of York Local Plan comes forward because it is the role of that plan to set the Green Belt boundary. The Interim Draft Green Belt as defined in the Plan is in general conformity with the Green Belt boundaries as set out in the City of York Local Plan Publication Draft (February 2018).

3.9 Once accepted, this Plan will form part of the statutory development plan for the Rufforth with Knapton Parish. Decisions on planning applications within the Parish will be made using both the Local Plan and the Neighbourhood Plan and any other material considerations.

## 4. THE PLAN PROCESS

4.1 On January 5<sup>th</sup> 2015 The Parish Council agreed to support in principle the production of a Neighbourhood Plan for the Parish subject to receiving sufficient support from residents. At a public meeting attended by some 60 residents this support was wholeheartedly given and the working group was formed, consisting of members of the community and Parish Councillors.

4.2 On 7<sup>th</sup> July 2015, Rufforth with Knapton Parish was officially designated by the City of York as a Neighbourhood Planning Area.

4.3 A Neighbourhood Plan must represent the views of the whole community and thus it was essential that full consultation was undertaken at all key stages of the Plan's development.

4.4 The first task was to conduct a survey of the views of residents, businesses and landowners in the Parish. A Questionnaire was sent to all 427 households in the Parish in June 2015. A 73% response rate was achieved and a detailed analysis of the results undertaken. A report on the results was circulated to residents during September 2015 and can be found in Appendix V. The Vision and Aims of the Plan along with the proposals contained therein are based on the findings of the survey. Progress updates were circulated to residents at which point further comments were encouraged. Details of proposed housing allocations were circulated in August 2016 and a 'drop-in' meeting held in order to hear the views of residents. The Questionnaire responses, the 2011 Census and feedback from public meetings and the web site form the basis of the Plan Vision and Objectives and subsequent policies.

4.5 A pre-submission consultation was conducted during 7<sup>th</sup> July to 18<sup>th</sup> August 2017. A copy of the Draft Plan was delivered to every household in the Parish and a 'drop-in' meeting held on 15<sup>th</sup> July. Copies of the Plan were also made available to official bodies, landowners and developers. 55 responses were received from residents, largely supportive of the Plan. Revisions to the Plan were made following this consultation and are incorporated in the Plan as submitted.

## 5. ABOUT RUFFORTH with KNAPTON PARISH

5.1 The Parish of Rufforth with Knapton lies within the Vale of York, approximately 5 miles west of the City of York. Rufforth is the larger village in the Parish and sits astride the B1224. The Parish also includes the village of Knapton, situated within the York outer ring road, scattered agricultural enterprises and a settlement off Boroughbridge Road.

5.2 Rufforth, Knapton and Acomb Grange are all mentioned in the Domesday Book. The Domesday survey indicates almost 1000 years of established settlement at what is now the villages of Rufforth and Knapton. Modern names found in and around Rufforth, such as Southfield, Lowfield and Nodderys (north) are all derived from the medieval field system. Similarly, Knapton, a hamlet in the middle ages, had open fields, evidence of which is preserved in the local names of Lowfield and Northfield. Acomb Grange was founded in the 1120's by the Master of St. Leonard's Hospital and became part of Rufforth Parish prior to 1520. It is connected with major events in England's history e.g. the Pilgrimage of Grace in Henry VIII's reign, the battle of Marston Moor in the English Civil War and with George Hudson, the "Railway King". Hudson built some railway sheds for his line from York to Leeds, near to Acomb Grange, but the railway line never materialised. Currently there are 3 other properties around the Grange, converted from its original farm buildings. Acomb Grange is a 5 van Camping and Caravanning Club certified site.

5.3 Both Rufforth and Knapton were historically Parishes within the West Riding of Yorkshire. In 1974 they were transferred to Harrogate Borough Council in the new County of North Yorkshire. In 1988 Knapton Parish was absorbed by Rufforth Parish and became the Parish of Rufforth with Knapton. The Parish was transferred to the City of York in 1996 and is part of the Rural West Ward.

5.4 Knapton has a single principal street (Main Street) and, on the east side, a Back Lane. It is likely that the village was originally laid out as a single sided village with the main street lined by houses and Back Lane by farm buildings, with easy access to the adjacent fields. Later expansion has taken place by new buildings on the west side of the Main Street but no back lane has been created there. Most building is contained within an interim envelope created by Main Street and Back Lane. Despite the proximity to the City of York the surrounding countryside has helped Knapton maintain its rural appearance.

5.5 Rufforth village is a linear settlement, stemming from a line of cottages and small holdings into the village it is today. A number of cul-de-sacs have developed from former farmyards and paddocks. The Village is a compact area of housing surrounded by open, largely flat countryside. Village boundaries are clearly defined by playing fields and burial grounds to the south east and allotments to the northwest. The allotments came from a scheme to give men returning from the First World War a small plot of land on which to grow vegetables and keep livestock.

5.6 For a more detailed history of the villages please refer to Appendix II.

### **Community Profile**

5.7 The Parish is predominantly rural and comprises the two villages of Rufforth and Knapton, a small settlement on the Boroughbridge Road and a very small area, Acomb Grange, on the city boundary at Chapelfields. Both Rufforth and Knapton villages have status within the Draft Green Belt.

5.8 The 2011 census showed the Parish to have a population of 1027 of which 633 lived in Rufforth. This compared to the 2001 census with a total population of 950 of which 560 lived in Rufforth, an increase of 8.1% overall and 13% in Rufforth.

The following tables showing an analysis of house sizes and age profile of the Parish. A full statistical profile can be found in Appendix VI.

**Household size by number of bedrooms (2011 Census)**

Bedrooms	Rufforth with Knapton		York	Yorks & Humb'side	Eng.
	No.	%	%	%	%
1 bedroom	13	3.1	10.7	10.2	12.0
2 bedrooms	65	15.5	31.4	28.4	27.8
3 bedrooms	169	40.2	36.8	43.7	41.2
4 or more bedrooms	173	41.2	21.1	17.7	19.0
All households	420	100.0	100.0	100.0	100.0

**Residents by age band (2011 Census)**

Age Band	Rufforth with Knapton	York	Yorks & Humb'side	England
	%	%	%	%
Aged 0-4	4.7	5.4	6.2	6.3
Aged 5-15	13.2	10.7	12.7	12.6
16-24	6.9	16.9	12.6	11.9
25-44	21.3	26.7	26.3	27.5
Aged 45-59	25.0	18.4	19.5	19.4
Aged 60+	28.8	22.7	22.7	22.4

5.9 This information has been used to help inform the Plan on future housing needs and the mix of housing required.

5.10 The housing stock in the Parish is generally good with the main tenure being owner occupation (90% vs 63% nationally). The area is strategically well located in relation to the national road network and there is some public transport provision by bus. There are very high levels of car ownership with 92% households owning a car (vs 74% both nationally and for the City of York).

5.11 Most of the facilities provided in the Parish are located in Rufforth. It has a primary school (new build in the 1970's by West Yorkshire County Council), Church, Chapel, pub, Village Institute, Community Hall, sports pavilion, allotments, playing fields (including tennis courts, football and cricket pitches and a children's play area and sports pavilion), Out Reach Post Office and the Old School has become a shop and tearoom. The Old School and Rufforth Institute are held in trust for the village.

5.12 Knapton has few amenities but has a thriving local pub, the Red Lion (a quintessential English Bistro), a recreation ground and allotments.

### **Economy**

5.13 The Parish was traditionally a farming community, but in the last 30 years the farms have been given up to small housing developments mainly in cul-de-sacs to maintain the linear aspect of both villages. One farm from Knapton and one from Rufforth have relocated on the edges of the villages. The Parish remains predominantly agricultural in nature but is also home to the Harewood Whin waste management site, two transport operations located on the old airfield plus a few other small rural businesses. On the edge of the village Rufforth Park is home to regular car boot sales and auto jumbles. Northminster Business Park borders the Parish to the north and is home to a wide range of small to medium size businesses.

5.14 However, there are limited employment opportunities in the Parish and though a growing number of people do work from home, most residents look to nearby York, Harrogate and Leeds for work. Currently a small number of residents commute to London but this is likely to increase with the introduction of HS2 reducing journey times between York and London.

## **6. WHAT MAKES THE PARISH SPECIAL?**

6.1 The community highlighted a number of key elements that they believed made the Parish a special place to live, some of which are shown below. It is these qualities that the Plan seeks to protect and further enhance:

- *"The Parish with its close proximity to York provides the advantage of living in the country but with the convenience of amenities close by. The modest size of the villages, support a strong community spirit and social capital. Everyone is welcoming, supportive and always on hand to help one another."*
- *"Knapton is a small hamlet surrounded by green fields, retaining its 'old fashioned' rural village feel and offers 'wild areas' essential to the conservation of wildlife."*
- *"Rufforth has a good range of facilities including a pub, village shop, sports facilities and a small 'outstanding' (OFSTED) school, all within walking distance to those who live in the village. It is great place to raise a family."*
- *"Boroughbridge Road Area provides a good balance between urban and rural appearance and atmosphere. The Area feels quiet and safe, despite being within the outer ring road of York City."*

## 7. VISION AND AIMS

7.1 The Questionnaire responses, the 2011 census and feedback from public meetings and the website form the basis of the Plan Vision and Aims and subsequent policies.

### 7.2 Vision

To sustain the distinctive rural character and identity of the Parish, whilst encouraging a vibrant environment and community for families and people of all ages to live and work within a thriving local economy.

### 7.3 Aims

- To protect the Green Belt.
- To ensure all new development maintains the physical separation of the Parish from the City of York.
- To ensure Rufforth is surrounded by green fields outside the ring road and that Knapton and Boroughbridge Road area are protected from coalescence with City of York.
- To support appropriate small scale residential development that meets local needs and is designed to enhance the character of the villages in which it is to be built.
- To encourage a mix of housing suitable for families and people of all ages. In particular, to enable young people to remain in the Parish if they so wish.
- To encourage a thriving rural economy by supporting agriculture and small scale commercial development where possible, including the potential conversion of existing buildings.
- To support and enhance facilities and services to meet local need.
- To protect, improve and, where necessary, extend the current network of footpaths and cycle ways to ensure good links between villages and in to the countryside.

7.4 The Vision and Aims will be realised by a small number of planning policies, which consultation shows matter most to the community, and to which the Plan can add the greatest additional value.

## 8. NEIGHBOURHOOD PLAN POLICIES

The following policies have been produced to manage the future development of Rufforth with Knapton Parish in accordance with the vision and objectives of the Neighbourhood Plan. The Plan does not duplicate national or district (i.e. City of York) planning policies. Its policies will work alongside these. Where there are national and City of York planning policies that meet the needs and requirements of the Parish they are not repeated in the Plan. It is important to note that when using the Plan to form a view on a development proposal, planning application or policy issue, the whole document and the policies contained in it should be considered together. While every effort has been made to make the main parts of this Plan easy to understand, the wording of the actual policies is necessarily more formal, so that it complies with statutory requirements.

### 8.1. DRAFT GREEN BELT

8.1.1 It is important to stress that the City of York Local Plan will not be **reviewing** the Interim Green Belt but will be **establishing** a Green Belt for the first time. It will be guided by The Regional Spatial Strategy (RSS) for Yorkshire and the Humber (Partial Revocation) Order of 2013 which contains the following retained policy references:

8.1.2 Policy YH9 of the Yorkshire and Humber Plan Regional Spatial Strategy to 2020 on Green Belts ...*“The detailed inner boundaries of the Green Belt around York should be defined in order to establish long term developments limits that safeguard the special character and setting of the historic York”*, and Policy Y1 York sub area policy ...*“plans...should in the City of York LDF (Local Development Framework), define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from the York city centre and the inner boundary in line with Policy YH 9.. protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.”*

8.1.3 The Neighbourhood Plan’s Interim boundary conforms to the Green Belt boundary as defined in the City of York Local Plan Publication Draft (February 2018) as it is a crucial role of that document to set a Green Belt.

8.1.4 Paragraph 80 of the National Planning Policy Framework (2012) sets out the five purposes of a Green Belt as follows:

1. To check the unrestricted sprawl of large built up areas.
2. To prevent neighbouring towns merging with one another.
3. To assist in safeguarding the countryside from encroachment.
4. To preserve the setting and character of historic towns.
5. To assist in urban regeneration by encouraging the recycling of derelict and other urban land.

8.1.5 The villages of Rufforth and Knapton were identified as “washed over” villages in the Draft Green Belt around York. In the City of York Draft Local Plan- Preferred Options April 2013 (Policy GB2 1.16) “washed over” villages are identified as contributing to the openness of the Green Belt. Development is only seen as acceptable/suitable if it is appropriate infilling and village envelopes are protected.

8.1.6 Village envelopes are a commonly used tool in planning documents such as Neighbourhood Plans, Local Plans and core strategies. They are used to define the extent of a built-up part of a settlement. They distinguish between areas where in planning terms, development would be acceptable in principle such as in the main settlements and where it would not be e.g. in the open countryside or in the Green Belt.

8.1.7 The Green Belt is primarily identified to protect the historic character and setting of York.

8.1.8 Currently, the general extent of the Draft Green Belt (the City of York Local Plan Publication Draft, February 2018) circles York at a radius of approximately 6 miles.

8.1.9 Even though York's Green Belt is still, technically, a Draft Green Belt, it has been in existence for several decades and has been reaffirmed in planning refusals and dismissals of planning appeals. Most recently, the "calling in" by the then Secretary of State of Yorwaste's extension plans for Harewood Whin ref.no.13/00041/FUL and the positioning of a site for show people in the Draft Local Plan Preferred Options 2013.

8.1.10 Knapton and the Boroughbridge Road area both sit within York's ring road A1237 whereas Rufforth lies some 2 miles outside it, all with Green Belt (the City of York Local Plan Publication Draft, February 2018) around them. In these circumstances, as there is no adopted strategic plan for the York Green Belt, Rufforth with Knapton's Neighbourhood Plan is the instrument for defining boundaries within an Interim Draft Green Belt. It will not undermine the 5 strategic purposes of a Green Belt as set out in the NPPF (see para.8.1.4).

8.1.11 Protecting the Green Belt, maintaining a clear and separate identity from the City of York, has been identified as an imperative by the residents of the Parish of Rufforth with Knapton. The results of the Neighbourhood Plan Questionnaire showed that residents rated the importance of the Green Belt at 9.6 from a possible maximum of 10.

8.1.12 The City of York Local Plan Publication Draft (February 2018) Green Belt currently surrounding the Parish plays a vital role in maintaining the identities, characters and settings of the three small communities within the Parish.

8.1.13 **Knapton** lies less than 4 miles to the west of York city centre. The village itself has a simple plan with a single principal street, Main Street, and on its eastern side by Back Lane. There has been small development to the north and south along these lines, with two outlying properties on the edges of these lines. All these in accordance with Knapton's "washed over" Green Belt status and purposes 1, 3 and 4 of a Green Belt.

8.1.14 The **Boroughbridge Road** area residents, especially the Trenchard Road community, in ex MoD housing, enjoy the "quiet, secure balance between the countryside and urban Greater York". (Neighbourhood Plan Questionnaire). This section of the Parish retains the rural setting of the City of York when viewed from the A1237 and A59 on the western approaches. The Boroughbridge Road area "warrants protection" according to the Historic Character and Setting Technical Paper Update June 2013, and the City of York Local Plan Publication Draft (February 2018) Green Belt around it serves purposes 1 and 3.

8.1.15 **Rufforth** is a linear settlement village along the B1224, five miles from York, 8½ miles from Wetherby and 20 miles from Leeds. It enjoys a strong sense of community around its village hall, shop, Churches, Chapel school and pub. Situated in the Vale of York, there are fine views of the Hambleton Hills, including the White Horse, the Wolds to the east and out to Menwith and beyond to the west.

8.1.16 York's previous Draft Local Plan Preferred Options 2013 drew on the earlier "Approach to Green Belt Appraisal 2003" and recognised *"that areas of land outside the built-up areas should be retained as open land as they prevent communities within the environs of York merging into one another and the City. These areas are considered to have a key role in preserving the identity of the settlements and villages around York."*

8.1.17 The Historic Character and Setting of York is not limited to the medieval walled city. It refers to a much wider concept which includes the open, flat vale around York, the approaches to the city and its relationship with its surrounding village parishes. The Natural England Character Area Profile for the Vale of York 2012 provides helpful analysis in regard to how the landscape can accommodate change. It identifies actions including *"ensuring development limits enhance the setting of York in the wider Vale maintaining the distinct form of linear developments"*.

8.1.18 On the western approaches to the city, the City of York Local Plan Publication Draft (February 2018) Green Belt around the Parish of Rufforth with Knapton enhances the position of York in the Vale and, especially, checks



the further sprawl into an area of open and low lying countryside where development would have an urbanising effect far beyond its immediate boundaries.

8.1.19 The Neighbourhood Plan Policies will encourage small, commercial development, with the emphasis on converted agricultural buildings. It will follow National Planning Policy Framework (NPPF) criteria and the Plan's criteria for change of use and will not undermine the strategic function of a Green Belt. The Plan will also promote small scale housing development in the same way, preserving the character and setting of the villages.

8.1.20 The City of York Local Plan Publication Draft (February 2018) omits the previously proposed Travellers' site alongside the B1224 as serving Green Belt purposes and therefore unsuitable for Travellers' site development. The Neighbourhood Plan fully supports the current plan for no Travellers' site in the Parish.

8.1.21 The Neighbourhood Plan's Interim Draft Green Belt will also prevent coalescence between Knapton, the Boroughbridge Road area and the main areas of urban York. It will seek to preserve the openness of the linear arrangement of Rufforth from the encroachment of non-residential use of land, as at Harewood Whin, and the transport depots on the eastern approaches to Rufforth, located on the airfield.

8.1.22 The Neighbourhood Plan's Interim Draft Green Belt seeks to preserve the agricultural character of the Parish. Arable farming, pasture land and thriving equine activities surround the villages. The land within the Parish is identified as Agricultural Land Classification grades 2 (very good) and 3 (good too moderate). Both villages are surrounded by arable farming, vital in contributing to the country's food security into the future. As well as cereals, potatoes and sugar beet are harvested across the Parish. Therefore, the area's soils should be valued as a finite multi-functional resource which underpins well-being and prosperity. Soil can be a store for carbon and water, a reservoir of bio-diversity and a buffer against pollution. The NPPF particularly paras.109 and 112, reflects the importance of the conservation and sustainable management of soils. Agricultural land in the Parish is generally grade 3 or higher and as such should be protected from development in the interests of the local rural economy and indeed the wider national economy (NPPF Para 17) Food security is likely to become a particularly important issue as a result of Brexit.

8.1.23 Village envelopes are a commonly used tool in planning documents such as Neighbourhood Plans and local plans or core strategies. They are used to define the extent of a built-up part of a settlement. They distinguish between areas where in planning terms development would be acceptable in principle such as in the main settlements and where it would not be (generally in the least sustainable locations) such as in the open countryside or in the Green Belt.

8.1.24 The Interim Village Envelopes (see figs b) and c)) were developed following consultation with residents and with due consideration to the reasoning informing the emerging City of York Local Plan and the Preferred Sites consultation 2016.



8.1.25 Focusing limited development in the Interim Village Envelopes may help to support the existing very limited services and facilities in the Villages and the wider Parish, such as pubs and the primary school, and protect the countryside from inappropriate development. It is acknowledged that the primary school is currently at capacity with circa 90 pupils of which approx. 50% are from outside the Parish. Although priority in the future will be given to children resident in the Parish, if more young families are attracted to the Parish then additional classroom capacity will be required, at least in the short term and potentially in the longer term, if parental choice over the wider area is to be maintained.

8.1.26 New infill within the interim village envelopes should not be so intensive as to change the open weave of the village's overall character.

8.1.27 For further information, as to what constitutes 'Appropriate' or 'Inappropriate' development in the Green Belt see Appendix VII.

***Policy No. Rwk 01 - Draft Green Belt - The Plan supports and re-affirms the continued designation of Green Belt land preventing coalescence with the main urban area of York and aims to preserve the character and setting of the three communities in the Parish.***

***The Plan supports the designation of the Interim Draft Green Belt and the Interim village envelopes as detailed on Maps Fig (b) & Fig (c). No development outside the Village Envelopes will be supported other than that considered appropriate in the Green belt as defined in the National Planning Policy Framework (NPPF).***

***The Plan's Interim Green Belt Policy aims to preserve the character and setting of the three communities in the Parish.***

***The Plan would only support the consideration of land use change if the permanency of the impact on soils has been assessed, with special attention paid to the eco-system it supports and especially its role in agriculture and food production.***

## **8.2. GREEN INFRASTRUCTURE**

8.2.1 The communities within the Parish of Rufforth with Knapton are each identified by the green spaces around them. Views over green fields, quick and easy access to the leisure amenities of walking and cycling, observing varied and interesting wildlife, enjoying a sense of peace and security are all highly valued across the Parish.

8.2.2 Modern conservation principles towards flora and fauna should be encouraged to retain as much green area and as many existing trees as possible in order to maintain a continued abundance of wildlife, to include protecting hedgerows, tree species and verges. The planting of native trees and shrubs, together with the reintroduction of hedges both within and on the periphery of the village should be encouraged as part of any landscape scheme to support wildlife, screen noise and maintain the natural landscape. Development proposals should be designed to retain trees and hedgerows of good arboricultural, ecological or amenity value.

8.2.3 National planning policy enables a Neighbourhood Plan to designate areas of 'Local Green Space' for special protection where for example the land is demonstrably special to a local community and is not an extensive tract of land. Where land is designated as a local green space, it is protected from development other than in very special circumstances.

8.2.4 The Neighbourhood Planning Group has carried out a review of the open spaces across the Parish. The spaces assessed were identified, by the community and the Neighbourhood Planning Group, as of special importance to the community and meet the criteria for designation as set out in national planning policy.

8.2.5 A full justification of the areas proposed for local green space designation is provided in Appendix VIII.

Figure d) Greenspace in Rufforth

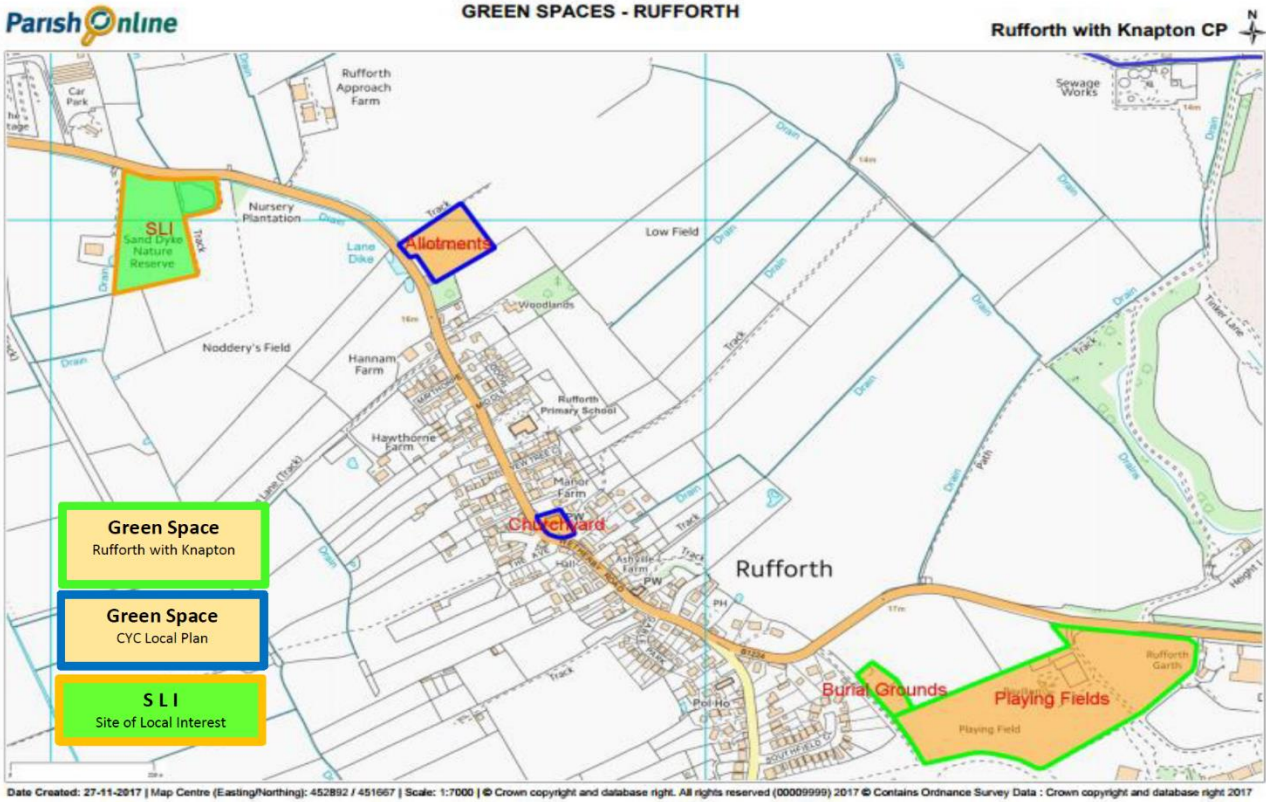
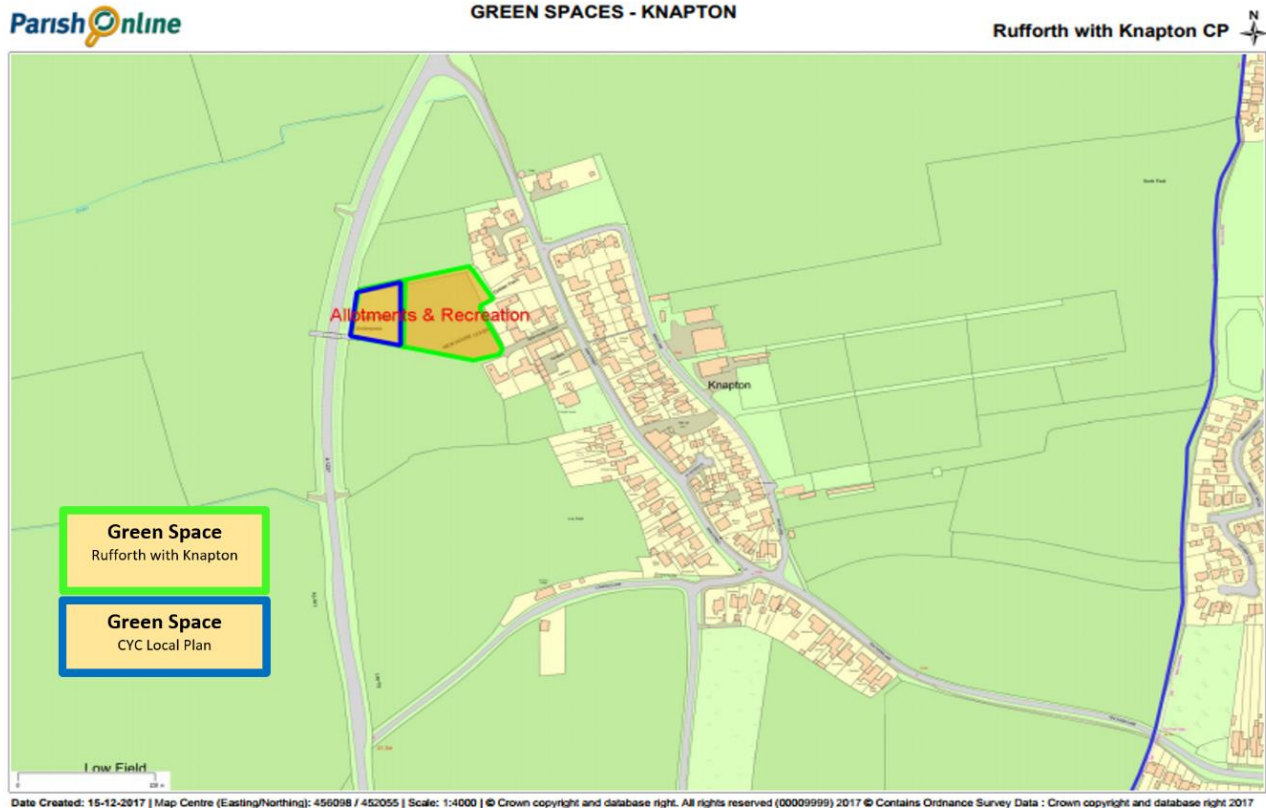


Figure e) Greenspace in Knapton



8.2.6 The Parish, set in Rural West York, has designated open spaces in the ward profile in the City of York's previous Draft Local Plan (2014) ... the allotments in Rufforth and Knapton which are both well used, adding to self-sufficiency and well-being. The children's play area and outdoor play facilities at Rufforth's primary school are also open space areas. The Parish Church's graveyard was designated open space and the Burial Ground along with the Natural Burial Ground on Southfield Lane are significant areas in the community. They are tranquil and beautifully cared for and visited by many. For these reasons, their designation as "open space" is important.

8.2.7 Rufforth also has extensive playing fields on the eastern edge of the village for football, tennis, cricket and informal village sports. It currently supports two senior football teams and one junior (Rufforth United), two cricket and eight tennis teams. It also has a newly renovated children's play area.

8.2.8 In 2008 a recreation field was created in Knapton village enhancing its Green Infrastructure.

***Policy No. RwK 02 - Local Green Space - Existing green spaces (as shown on Maps Fig d & e) and those identified below will be protected and where possible enhanced.***

***The following to be designated as green spaces under National Planning Policy Framework (NPPF 77) "where green areas are demonstrably special and hold local significance..." in Rufforth, the Burial Ground and Natural Burial Ground on Southfield Lane, and the playing fields. In Knapton, the recreational field.***

***Development proposals that would have an adverse effect on an identified Local Green Space will not be supported unless in very special circumstances in accordance with National and the City of York Council planning policies.***

### 8.3. HISTORIC CHARACTER

8.3.1 Fundamental to any future development will be the recognition and preservation of the historic character and features of the villages.

8.3.2 The Parish of Rufforth with Knapton contains 5 listed buildings - St. Peter's Farmhouse and the 2 adjoining cottages in Knapton; Pear Tree Farmhouse and All Saints' Church in Rufforth. In Rufforth, the village pump and trough and pinfold are also listed. The pond and Sand Dykes Nature Reserve, given to the Parish Council in the 19<sup>th</sup> century, are Sites of Local Interest. Of great significance to the historic character of the Parish are the red phone box, village garden, and the pinfold in Knapton.

8.3.3 The pattern of strip field farming is still evident around Rufforth and residents enjoy views through open countryside due north to the White Horse at Kilburn, eastwards to the Minster tower and across to Menwith Hill by Harrogate. The registered Battlefield of Marston Moor lies approximately 4kms to the west of the Parish. No development in the Plan area would be supported if it was likely to have an adverse impact on the setting of the Battlefield.

***Policy No. RwK 03 – Heritage - An ongoing programme of care to maintain and enhance the phone box, pump and pinfolds will be implemented.***

***Any development proposals that would damage, have significant adverse effects on any listed building, named significant Parish features or Sites of Local Interest would not be supported.***

## 8.4. BIODIVERSITY

8.4.1 In the open countryside around Rufforth, drainage dykes cross the land. Here there are kingfishers, pike and occasionally, otters.

8.4.2 The village pond and Sand Dykes Nature Reserve are designated as Sites of Local Interest (SLI). Over the arable fields and along the gliding club runway, curlew, skylarks, lapwing, buzzards and flocks of golden plover fly and brown hares run. Every species of British owl... tawny, barn, little, long and short-eared can be spotted too.

8.4.3 The open green spaces, mature trees, hedgerows and green routes combine to provide valuable green infrastructure which helps to deliver environmental sustainability; maintaining wildlife and bio-diversity, mitigating flood risk, reducing the impact of climate change and improving people's well-being.

8.4.4 The majority of the land in the Parish is productive agricultural land. Current national farming policies encourage biodiversity and these should be supported to provide a managed landscape which is both productive and environmentally sustainable.

**Policy No. RwK 04 - Biodiversity - Development proposals that conserve or enhance wildlife, wild flowers, hedgerows and trees will be encouraged.**

## 8.5. FOOTPATHS AND CYCLEWAYS

8.5.1 The Parish has a network of well used paths, green lanes and bridleways providing vital access to open countryside and green spaces within the communities.

8.5.2 Footpaths and green lanes link the Parish to the rural communities of Askham Richard, Askham Bryan, Hutton Wandesley, Long Marston and Hessay.

**Figure f) Footpaths in Knapton**

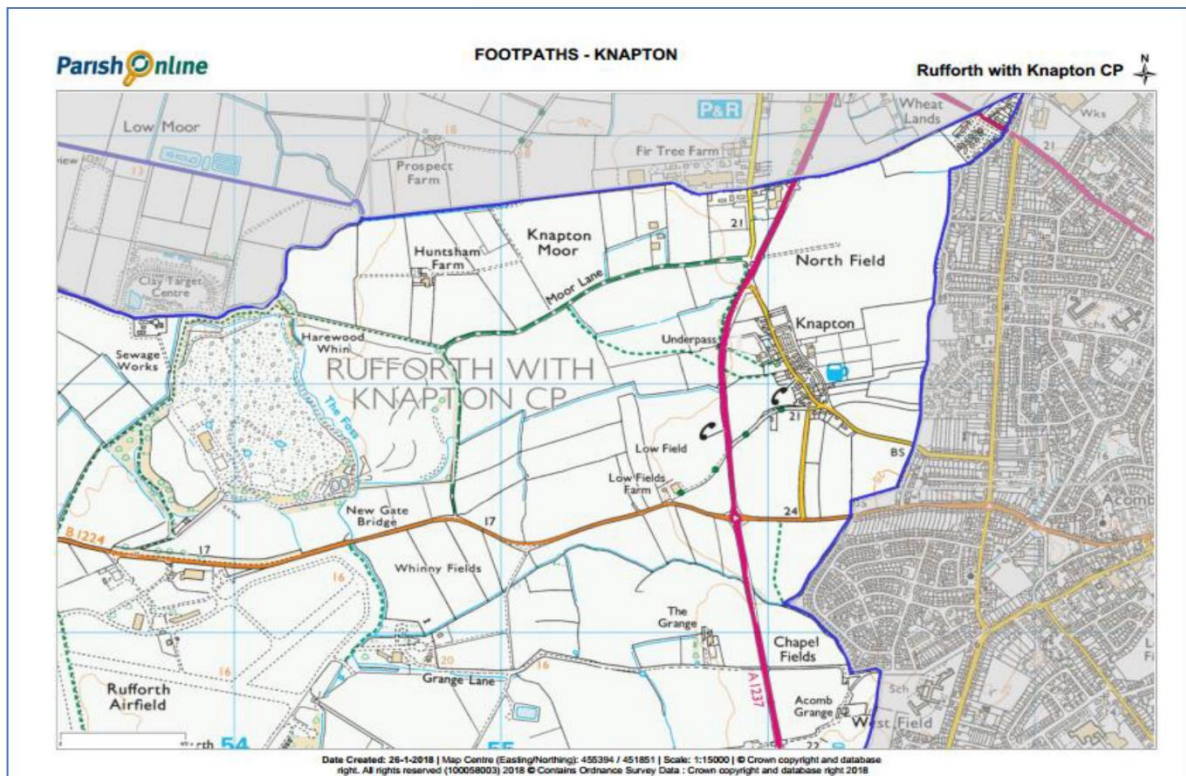
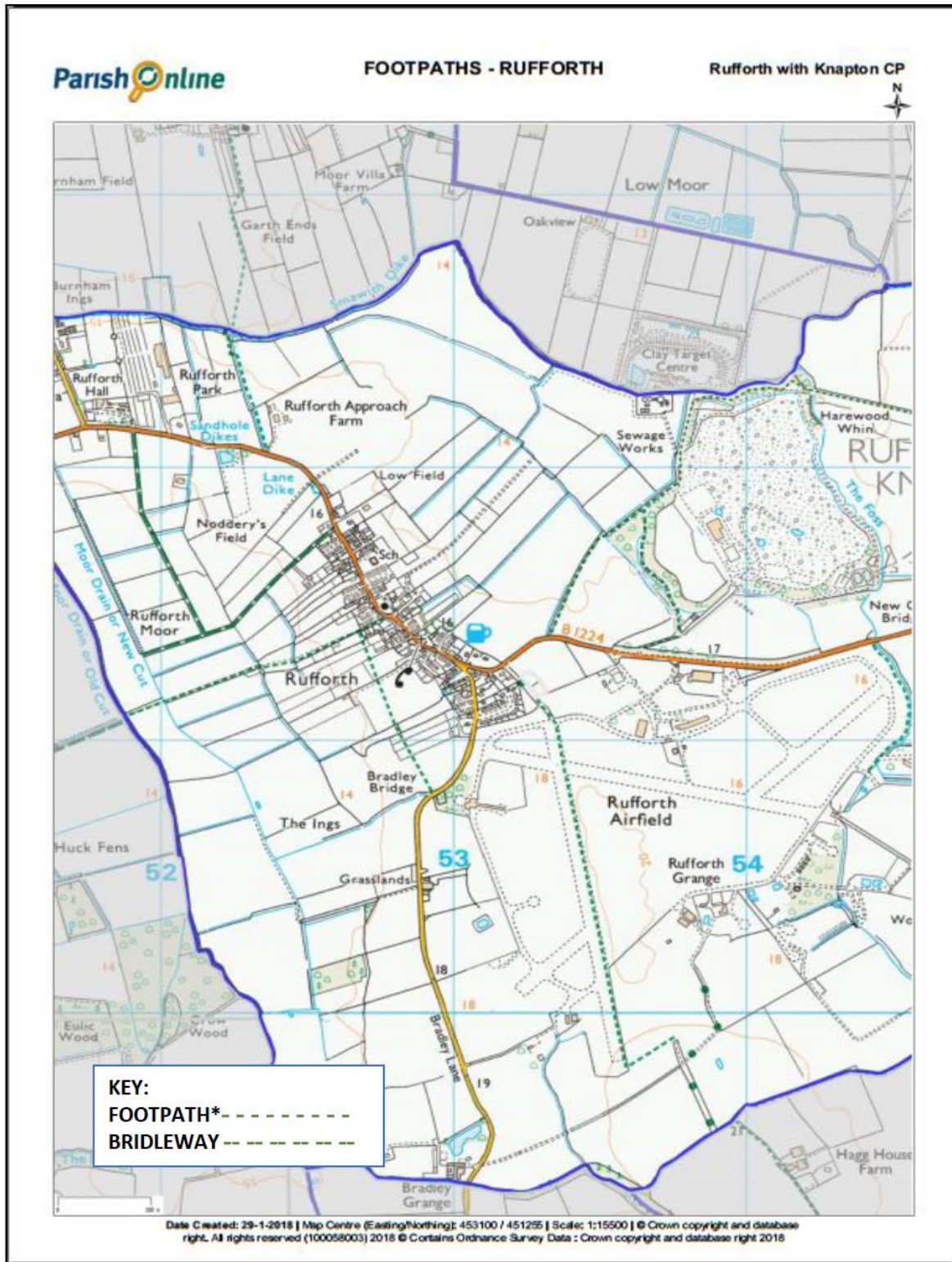


Figure g) Footpaths in Rufforth



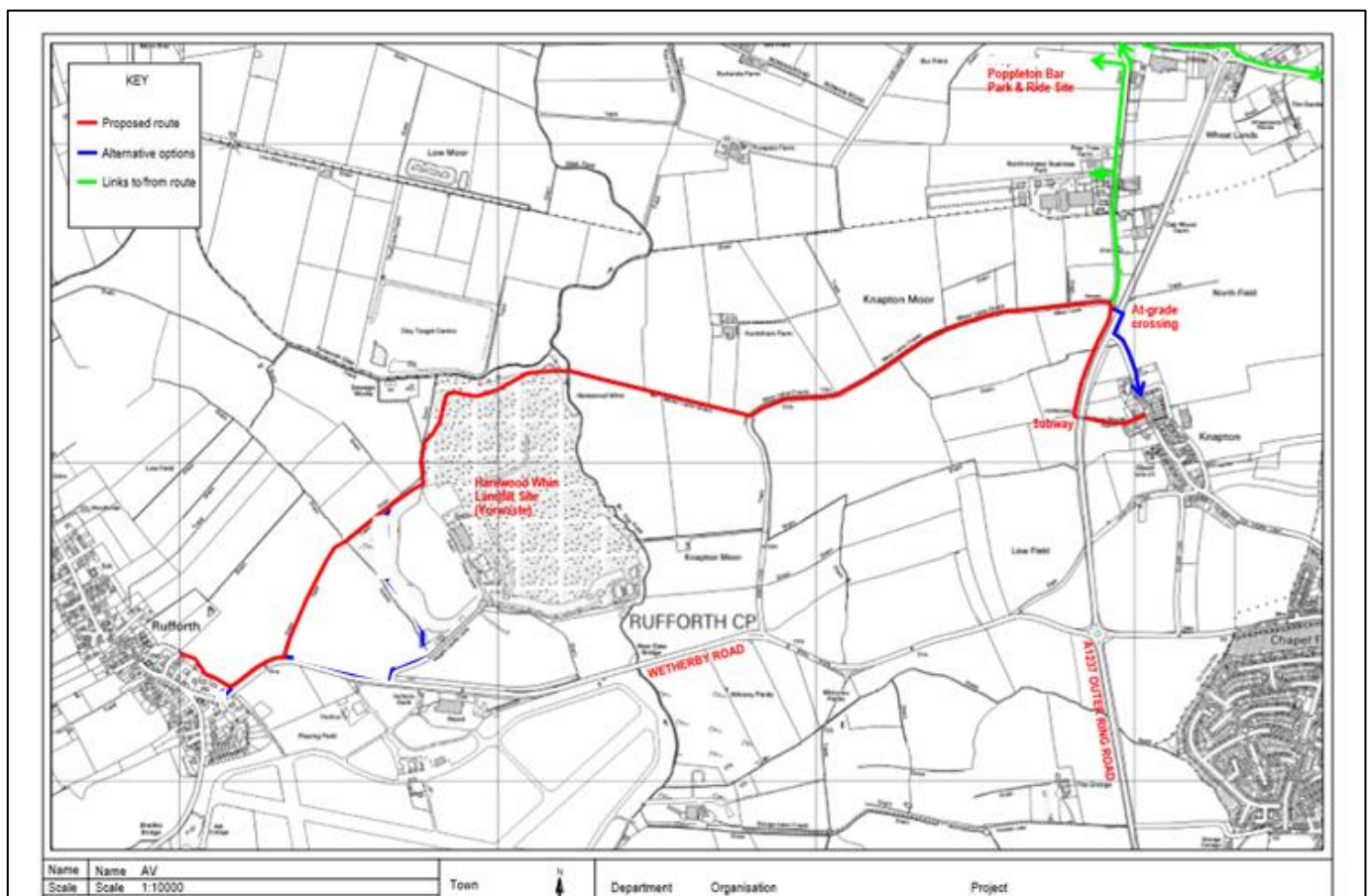
8.5.3 The village of Knapton is set within a Local Green Infrastructure Corridor, which extends along the A1237 to the A59, and to the south along A1237 beyond Askham Moor Lane Wood.

8.5.4 The City of York Draft Local Plan Preferred Options 2013 recognises green corridors as a fundamental element of green infrastructure in their role of supporting healthy communities, cultural value, and in aiding resilience to climate change.

8.5.5 The newly opened cycle path (2014) and bridleway provides an important leisure amenity used by residents of suburban York. It also links the two villages, Rufforth to Knapton, and further on, Boroughbridge Road to Acomb, Urban West York.

8.5.6 Options are currently being reviewed to complete the cycle path between the two villages (see Fig. h). Approval has been granted for the extension to Rufforth with the route being inside the hedge alongside the B1224 and behind the houses and pub to terminate at the end of Milestone Avenue. An extension in to Knapton is being reviewed but will depend on negotiations with landowners and availability of funding. Surface improvements will be required, particularly the Moor Lane section from Harewood Whin to Knapton, to enhance safety. It is an important piece of green infrastructure which the Parish is continuing to work on to complete. The City of York Council Open Space and Green Infrastructure Study 2014, encourages enhancement of the quality of green corridors and the linkage of natural/semi natural open space, promoting bio-diversity. Cycle route networks, are proved to maximise access to facilities for young people.

Figure h) Current and proposed cycle path





8.5.7 Consultations shows that these footpaths and cycle ways are highly prized and cherished by residents, who wish to see them protected and wherever possible enhanced.

***Policy No. Rwk 05 - Footpaths and Cycle Ways - Opportunities to secure improvements in the network of footpaths and cycleways should be encouraged, including through developer contributions. The Plan supports the implementation of improvements in the network of footpaths and cycle ways as outlined in figures f, g & h.***

***Development proposals that result in the loss of, or have a significant adverse effect on, the network of footpaths and bridleways will not be supported.***

***All Public Rights of Way (footpaths, bridleways, cycle ways and byways) should be legally defined, kept free from obstruction and their character maintained. Where applicable these should provide a valuable link with surrounding countryside, especially by creating safe access to land beyond the B1237, York's outer ring road.***

## 8.6. TRAFFIC

8.6.1 Consultation with residents has shown that the volume of heavy traffic, speed and pedestrian safety are of major concern.

8.6.2 Rufforth with Knapton Neighbourhood Planning Group (NPG) sought advice, including from an independent Consultant Highway Engineer, upon a variety of issues raised in the Neighbourhood Plan Survey (June 2015), this included:

- Speeding and parking in both Rufforth and Knapton.
- Traffic volumes, at peak times through Knapton and 'rat runs' through both villages.
- HGV volumes through Rufforth and any potential environmental impact.
- Perceptions of speeding agricultural vehicles.
- Effectiveness of current traffic calming measures.

8.6.3 There are no current restrictions on the weight of traffic through Rufforth or the A59 past the Boroughbridge Road area. A 7.5 tonne weight limit is signed through Knapton. As far as can be foreseen, no weight restrictions can be applied to the B1224 under existing regulations as the road is deemed capable of handling all types and weights of vehicle.

8.6.4 Of major concern is road and pedestrian safety in the Parish, especially in Rufforth. The Village has developed either side of the B1224, which is, primarily, a straight stretch of road with a significant 'S' bend in the centre, near the Church. The B1224 is well used by vehicles (including heavy goods vehicles) with few natural or other obstacles to slow down motorists. In many locations and in particular by the church in Rufforth the footpath is very narrow and hazardous to pedestrians and impacts on the ability of local children to walk to school. This is contrary to current "Walk to School" guidelines. In general, the narrow nature of existing pavements and in some cases, the absence of any paths in Knapton present safety hazards.

8.6.5 Traffic calming should be of a design and scale appropriate to the rural context and not visually intrusive, unless there are exceptional circumstances.

8.6.6 The design and scale of street furniture, such as signposts and road signs, road markings and lighting should be appropriate to a rural area and the character of the villages.

8.6.7 The following measures will be considered:

- Removal of chicanes in Rufforth.
- Install modern speed warning lights showing actual speed in red and green / smiley faces etc.
- Review speed restriction throughout both villages.
- Review and reduce proliferation of street furniture (road signs, etc.).
- Conduct regular traffic surveys to establish accurate data on type, speed and volumes of traffic, surveying B1224, Bradley Lane in Rufforth and Main Street in Knapton.
- Consider impact of vehicle parking in the villages and the effect this has on traffic flow.
- Improve areas for school drop-off parking and use of the cycle path amenity.
- Monitor and review future developments in traffic management systems.

***Policy No. Rwk 06 - Traffic Management - Traffic management measures to improve vehicular and pedestrian safety and movement, especially in Rufforth, should be implemented.***

***Development proposals should be able to demonstrate that any traffic generation created by the proposal does not result in severe direct or cumulative impact on congestion, or road and pedestrian safety, specifically in the village of Rufforth.***

## 8.7. PUBLIC TRANSPORT

8.7.1 Consultation via the Neighbourhood Plan survey showed that the use of public transport differs within the Parish, depending upon the availability of service. Residents living in the Boroughbridge Road area benefit from the Poppleton 'Park & Ride' and other services, and survey results indicated that they make far more use of public transport than those in Rufforth and Knapton, who have only the somewhat limited 412 service.

8.7.2 Take-up of the 412 service would appear to be hindered by the limited number of buses and lack of evening and Sunday services. Many comments concerning the unreliability and poor timekeeping were received. Regrettably, this service relies heavily upon local authority subsidies and may be vulnerable to further cuts, the impact of which may affect the ability of residents to get around. The older age profile of Knapton indicates a need to improve, rather than reduce, the availability of public transport. In general, the lack of good public transport has a negative impact upon the residents of Rufforth and Knapton.

8.7.3 For residents who, by age or disability, find taxis and buses difficult to use, York Wheels, a registered charity working on behalf of the City of York Council, provide car and minibus transport with limited availability.

8.7.4 Travel York provide 'Dial&Ride', a flexible door to door bus service which serves destination like supermarkets, shopping centres and York City centre.

8.7.5 It is the stated aim of both central government and the City of York Council to reduce the reliance on the motor car as a mode of transport. In a rural Parish such as Rufforth with Knapton with very limited services and amenities, this ambition can only be realistically achieved by the provision of reliable and frequent public transport. The increase in population anticipated in this Plan only serves to emphasise this requirement.

***Policy No. Rwk 07 - Public Transport - The Plan supports measures to reduce reliance on the motor car as a means of transport. This requires an improved availability and frequency of public transport and in particular bus services. This will require cooperation with the City of York Council, North Yorkshire County Council and other stakeholders.***

## 8.8. PARKING

8.8.1 On-street car parking is predominantly an issue in the village of Knapton with its narrow streets, in particular Back Lane, with the consequent detrimental effect on pedestrian and road safety and the ease by which they are able to travel safely within the Parish. The visual impact of the parked cars is also tainting the special character of Knapton. It will not be acceptable for developers to assume residents of any new development can use existing parking facilities.

***Policy No. Rwk 08 - Parking - Development proposals that result in the loss of car parking provision in the villages of Rufforth and Knapton will not be supported unless:***

- ***It can be demonstrated to the satisfaction of the Highway Authority in consultation with the Parish Council, that the loss of parking will not have a severe adverse impact on parking provision and road safety in the village.***
- ***Adequate garaging or off-road parking is provided to obviate the need for further on road parking.***
- ***The Parish Council will work with the relevant authorities to take measures to prevent "part on pavement parking".***

## 8.9. DRAINAGE

8.9.1 Over recent years there have been major issues with surface water drainage in both villages but especially in Rufforth, with a number of properties having been flooded after heavy rainfall. Problems have also been reported with the sewerage system although it is not totally clear how much this is related to surface water entering the system. The issue was raised by a large number of residents in our survey and both the Parish Council and the Neighbourhood Planning Group have held meetings with Yorkshire Water and the City of York Council as a result of which some work has been conducted.

8.9.2 It is clear that for any future development special measures will have to be taken to avoid any further pressure on the system. Broad assurances that the system will cope will not be considered satisfactory.

8.9.3 Surface water from parts of Rufforth, from the Church westward, drains in to Rufforth Pond, then follows the dyke alongside the B1224 before continuing through a system of dykes and drainage channels over the fields to the south. To the east of the Church, drainage is via a system of pipes culminating in a large pipe alongside Bradley Lane from where it discharges in to a drainage channel going westwards and then again south over the fields.

8.9.4 The Pond has been dredged and pipe repairs undertaken on the western side of the village. Extensive work has now been undertaken on the Eastern side of Rufforth, including cleaning of the pond behind The Tankard and the creation of an overflow ditch, down the fields behind Bradley Crescent. Further work is required, including lining of pipes alongside Bradley Lane, in an appropriate material to prevent further incursion of tree roots.

***Policy No. Rwk 09 - Drainage - All parts of the drainage system which is currently stretched will require regular maintenance and repairs. This will be achieved with the cooperation of the City of York council and Yorkshire Water.***

***All new development should be designed to maximise retention of surface water on the development site and to minimise 'run off'. Effective measures must be taken to ensure that such developments do not exert additional pressure on surface water and sewerage systems that are already at capacity. The most appropriate technical solution for each development must be implemented and is likely to incorporate Sustainable Drainage Systems (SuDS) with attenuation and storage. Such attenuation and storage measures must accommodate at least a 1 in 30-year storm. Any design should also ensure that storm water, resulting from a 1 in 100 year event, plus the additional flows from the latest climate change advice, to account for climate change and surcharging the drainage system, can be stored on the site without risk to people or property and without overflowing into a watercourse or adjacent areas.***

***Sustainable Drainage System (SuDS) methods of source control and water quality improvement should be utilised for all new development, to minimise the risk of pollution and to attenuate flood volumes. Such facilities should be provided on site, or where this is not possible, close to the site.***

***Existing land drainage systems should not suffer any detriment as a result of development.***

***Where required, flood attenuation features should be used positively to enhance biodiversity and the public domain.***

***Landscaping should be designed to reduce surface water flooding and to enhance local biodiversity. Areas of hardstanding such as driveways and parking areas should be minimised and porous materials used.***

## **8.10. DESIGN**

8.10.1 The approach to developing this policy endorses the results of the Rufforth with Knapton Neighbourhood Plan survey (2015), the Rufforth Village Design statement (2004) and the Knapton Village Design Statement (2006). It further recognises the historic nature of the Parish.

8.10.2 The Parish comprises a mix of different architectural styles, which reflect its incremental development over centuries. The buildings date from many different periods, providing a richness and variety of styles and materials, with individual buildings clustered around the historic cores of Rufforth and Knapton, and around former farm buildings.

8.10.3 The Parish, in the Vale of York, has three diverse areas. Rufforth, a linear settlement astride the B1224 York to Wetherby Road. Knapton, placed within the York outer ring road and surrounded by agricultural land, and an area on Boroughbridge Road, a small settlement adjacent to the A59, a major arterial road to York.

8.10.4 It is important that new development is designed sensitively to ensure that the generally high quality built environment of the Parish is maintained and enhanced, where proposals are located within or in close proximity to an historic feature or any other sensitive location.

8.10.5 It should respond in a positive way to the scale and character of buildings and the landscape in its immediate vicinity through careful and appropriate layout, use of materials and detail. Proposals should also demonstrate consideration of height, scale and massing, to ensure that new development makes a positive contribution to the street scene and adds value to the distinctive character of the area in which it is proposed to be situated.

**Residential Building**

8.10.6 New building, following a traditional design, might benefit from the inclusion of local vernacular features, for example window design, brickwork details, garden walls and railings. The height and pitch of roofs should be compatible with and sympathetic to surrounding property and designs exceeding two storeys will be discouraged. Wherever possible, new rooflines or dormer windows to historical buildings should be avoided where they are detrimental to the character of the building. The preferred building material should be a good quality brick chosen to blend with the character of the neighbouring buildings.

8.10.7 Half timbering or part stucco or rendering are not characteristic of the area and should generally be avoided in new designs. Materials should complement the age of the building, for example, traditional properties should use clay pantiles or Welsh Slate where appropriate. Windows in older properties should accord with the period style of those properties and replacements should accurately reflect the styles of the originals. The use of traditional materials is preferred.

8.10.8 Where possible, covenants should be placed on new build properties to prevent the future paving over of gardens.

**Policy No. RwK 10 - Design – Development proposals must demonstrate high quality design, form and layout that respects the distinctive character of the Parish having regard to scale, density, massing height landscape, materials and access as appropriate (Heritage Policy RwK 03).**

- *New development should make a positive contribution to the street scene and add value to the distinctive character of the immediate vicinity.*
- *Any future residential and commercial developments must retain the rural character of the villages and should be small in scale and complement existing density.*

**Proposals should have regard to the design principles set out in the Rufforth Village Design Statement and Knapton Village Design Statement, and:**

- *Should follow traditional design and the preferred building material should be a good quality, chosen to blend with the character of the neighbouring buildings.*
- *Extensions must be in keeping with the original building and building materials should complement the age of the building.*
- *The height of new development (including extensions) should be restricted to two storeys. This still permits loft extensions, providing they do not increase the height of the existing property.*
- *The existing roofline should be respected.*
- *Sources of alternative energy, such as solar panels, should be sympathetically installed so as not to damage the architectural integrity of the locality. Gardens and open spaces between buildings contribute to the rural charm of the villages and should be retained.*
- *Adequate off-street parking should be included in all new development and extensions should not be to the detriment of existing arrangements.*
- *New developments should install services such as electricity and telephone cabling underground. Satellite dishes should be located discreetly to avoid front elevations. They should also maintain informal building lines, front gardens and wide verges.*
- *Full consideration to be given to surface water drainage to avoid adverse impacts on an already stretched system (see RwK 09).*

## 8.11. COMMUNITY AMENITIES

8.11.1 The Parish has some valued community amenities. These include the pubs, allotments, recreational fields, Village Institute, Community Hall, school, shop, Church and Chapel. Special mention here should be made of Rufforth Airfield and the active Gliding Club. The Airfield is used by people from the wider area as an open space and for agriculture. These buildings, and the activities and services they support, play a vital role in meeting the health, sporting welfare and social needs of the residents of the Parish and the wider area, and act as the focal point for community life and activity.

8.11.2 The consultation shows that residents wish that every effort should be made to support and prevent the loss of these important community amenities.

***Policy No. RwK 11 - Community Amenities - Development proposals that would result in either the loss of, or have a significant adverse effect on, an identified important community amenity will not be supported unless it can be clearly demonstrated to the satisfaction of the City of York Council, in consultation with the Parish Council that its continued use is no longer viable, or it is no longer required by the community, or, equivalent or better alternative provision in terms of quantity and quality and in an equally suitable location in the Parish, can be provided. The following facilities have been identified as being especially important to the community:***

- ***The primary school.***
- ***The Church.***
- ***The Chapel.***
- ***The village shop.***
- ***The Village Institute.***
- ***The pubs (Tankard Inn and Red Lion).***
- ***The Playing fields in Rufforth and recreation ground in Knapton.***
- ***The allotments.***
- ***The Outreach Post Office.***

## 8.12. HOUSING MIX

8.12.1 A key objective of the Plan is to provide a mix of new homes that will contribute towards meeting the needs of the Parish.

8.12.2 The results of our survey indicated a clear preference amongst residents for future developments to be of 2 to 3 bedroom homes in order to meet the need to encourage more young families to the Parish. The City of York Local Plan Preferred Sites Consultation 2016 identifies a need for different size houses across the City as follows:

- 1 bedroom 15% (the 2011 Census for York (see page 7) shows a level of 10.7%)
- 2 bedroom 35% (the 2011 Census for York (see page 7) shows a level of 31.4%)
- 3 bedroom 35% (the 2011 Census for York (see page 7) shows a level of 36.8%)
- 4 bedroom 15% (the 2011 Census for York (see page 7) shows a level of 21.1%)

8.12.3 We have analysed housing characteristics for the Parish of Rufforth with Knapton from the 2011 Census (see [Household size](#) – Community profile). This shows an imbalance in the housing stock in the Parish – for example 40% of houses in the Parish are currently of 4 or more bedrooms and we have aimed to address this imbalance in our Plan.

***Policy No. RwK 12 - Housing Mix - Housing development proposals should provide a mix of housing types and sizes, specifically to meet an identified local need in the Parish. Priority should be given to smaller family homes suitable for families with young children and properties for older people who are downsizing.***

### 8.13. HOUSING

8.13.1 Government policy states that neighbourhood plans should positively support the strategic policies for the area and should not promote less development than is required by the Local Plan.

8.13.2 Within the City of York, the housing growth strategy is to direct the greatest share of new housing to within or on the edge of the City. Development in rural areas such as Rufforth with Knapton Parish will be severely restrained.

8.13.3 Furthermore, the designation of all of the undeveloped land within the Parish as Green Belt acts as a further constraint to development. This designation is intended to protect the open character of land designated as such. Within the Green Belt, development that is not appropriate to a rural area is only allowed in exceptional circumstances. It is accepted however, that some small scale, appropriately designed housing development to meet local needs, may be appropriate in the Green Belt.

8.13.4 The Plan supports the strategic housing policies of the Local Plan and that the Parish is unsuitable for large scale housing development.

8.13.5 It does however recognise the need for, and benefits of, limited and carefully controlled small scale housing development especially in the village of Rufforth to maintain a vibrant community of families and people of all ages and to ensure the sustainability of services and facilities.

- The Parish of Rufforth with Knapton is a rural community with limited services. The viability of those services depends on a thriving community of all ages and therefore a need to encourage families to our villages.
- Community spirit is very highly valued by residents. The Plan aims to create conditions where this spirit can continue to thrive and to do so requires a broad constituency of people of all ages.

8.13.6 This approach is supported by the findings from local consultation. Analysis from the survey of residents when asked about the desirability of small scale residential development (10 to 20 houses) shows an average score of 6.6 where 1 is undesirable and 10 is extremely desirable. Common views expressed included:

- *“the national and local requirement for more houses is recognised “*
- *“a desire in the Parish to ensure the communities within it stay alive “*
- *“the need to encourage families to come and live in the village to ensure that vital services and amenities, for example the school, are sustainable “*
- the Plan takes account of these views and recently published Government guidelines encouraging *“affordable to buy houses and allowing Neighbourhood Plans to include some small-scale development on Green Belt land”*

8.13.7 The Plan allocates three sites for housing development (see PROPOSALS AND ASSESSMENT OF POTENTIAL SITES). It also recognises that limited ‘windfall’ housing development may take place over the Plan Period.

8.13.8 Windfall sites are small infill or redevelopment sites, normally for a single dwelling, that come forward unexpectedly and have not been specifically identified for new housing in a Neighbourhood Plan, Local Plan or any other planning document. Such sites have made a regular, modest contribution towards the housing supply in the Parish.

8.13.9 This is in accordance with national planning policy which permits, in principle, windfall housing development in the Green Belt and the Plan does allow for limited further development on “windfall” or infill - sites which are not identified in the Plan.

### **Proposals and Assessment of Potential Sites for Housing**

8.13.10 In assessing the suitability of potential sites for residential development the plan takes account of:

- the local requirement for additional housing over the next twenty years, as identified in the City of York Local Plan Publication Draft, (February 2018)
- the need to maintain the identity and style of the villages and the community spirit within the Parish
- the need, as identified by residents in our survey, in Rufforth to encourage young families to the village in order to ensure the sustainability of facilities and services such as the Primary School, the village shop, the village hall and the Church
- the importance (ranked highest of all in our survey) of protecting the Green Belt and the open character of the countryside in the Parish and preventing the coalescence of communities and maintaining a green barrier between Knapton and the City of York
- priority to be given to homes of 2 to 3 bedrooms suitable for young families or older people downsizing
- any development must have no adverse impact on an already stretched sewerage and drainage system
- suitable traffic access, with appropriate consideration for all health and safety issues, must be available and in the main existing roads and cul-de-sacs should be utilised
- design of housing must meet the standards set out in the Village Design Policy
- sufficient off road parking to be provided

8.13.11 The process for selecting potential sites was as follows:

Landowners in the Parish were written to asking them to submit any potential sites for consideration. Any such sites were subjected to a vigorous review. Firstly, did the site meet with the requirements of the Plan's Interim Draft Green Belt Policy i.e. is it within the interim village envelopes as defined in this Plan? If the answer was no, the site was rejected. Sites that passed this initial requirement were assessed against a set of criteria based on those used in the City of York Draft Local Plan 2014 and are detailed in Appendix IX.



## Allocated Site RK H1

8.13.12 This Plan is fully supportive of the housing proposals relating to the Parish of Rufforth with Knapton as set out in the City of York Local Plan Publication Draft, (February 2018), namely Middlewood Close (RK H1) (See Fig. i) below).

**Allocated Site RK H1 - The Plan supports the proposal for approximately 28 houses on this site at the end of Middlewood Close and on land extending behind the primary school and behind houses on the northern side of Middlewood Close (see Fig i below) subject to the following:**

- **Properties to be predominantly 2, 3 and small 4 bedroom houses.**
- **Adequate off-road parking or garaging to be provided thus obviating the need for residents parking on the roads.**
- **A rear pedestrian entrance to the school to be provided to encourage parents to use this new access and thus alleviate the current parking pressure at school opening and closing times in Middlewood Close and Yew Tree Close. New perimeter fencing will be required.**
- **Attenuation tanks for both sewerage and surface water to be constructed to ensure pressure on the existing system is not increased and hopefully reduced.**
- **Covenants to be sought on properties to prevent further paving over of gardens.**

Figure i) Site RK H1



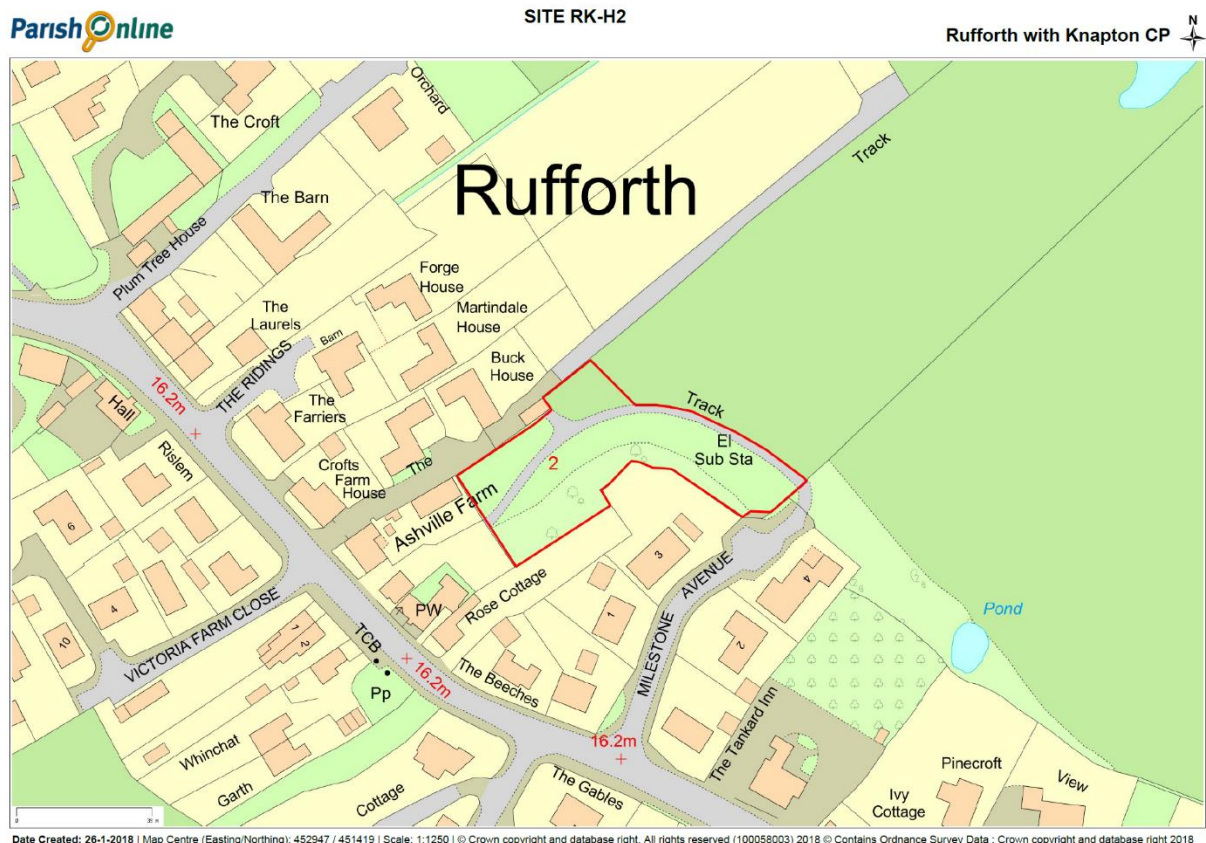
## Allocated Site RK H2

8.13.13 We include one additional site, that at the end of Milestone Avenue (RK H2) (See Fig. j) below). The landowner has agreed to lease land to the Parish Council to enable the construction of a footpath/cycle path linking the end of Milestone Avenue with the existing cycle path around Harewood Whin, and will accommodate properties to consist broadly of 3 terraced cottages, 2 three-bedroom detached houses and 4 bungalows with adequate off-road parking/garaging for the cottages and visitors.

**Allocated Site RK H2 - The Plan supports proposals of approximately nine properties on land at the end of Milestone Avenue (see Fig j below), converting the existing track to a road which in turn would form the site boundary, subject to the following:**

- Adequate off-road parking or garaging to be provided thus obviating the need for residents parking on the roads.
- Suitable measures to be taken to ensure that the development adds no further pressure to the sewerage and drainage system.

Figure j) Site RK H2



## Allocated Site RK H3

8.13.14 In Knapton the Plan would support very limited in-fill development within the interim village envelope as defined in the Plan. The site RK H3 at the junction of Back Lane and Main Street has been included in the City of York Local Plan Publication Draft, (February 2018). However, a planning application for the site has already been submitted and refused at the October 2016 planning committee meeting on the grounds of the site being in the Draft Green Belt. It seems likely that this site will remain in the emerging Local Plan and the Draft Green Belt boundary redrawn accordingly. As the site is within the interim village envelope, as defined in the Neighbourhood Plan, it is proposed to leave it in the Plan as an allocated site pending the outcome of a decision on the Green Belt Boundary in the York Local Plan.

***Allocated Site RK H3 - The site is within the interim village envelope of Knapton as defined in the Plan and the Plan supports its residential development in principle subject to the following:***

- ***A maximum of 4 to 5 properties.***
- ***Access should be on to Main Street.***
- ***Any houses should be of a size and type commensurate with other residential properties in the village of Knapton.***
- ***The development should comply with the standards as set out in the Neighbourhood Plan Design Policy.***
- ***Rooflines should be no higher than surrounding properties.***
- ***Adequate off-road parking to be provided to avoid the need for any on road parking.***

Figure k) Site RK H3



### ***Other sites***

8.13.15 Sites at Wheatlands, Chapelfields and three further sites in Rufforth were also put forward. These were assessed in line with the site selection criteria and details of all the assessments can be found in Appendix IX.

8.13.16 In summary, the plan proposes, allowing for some infill, the building of some 40 additional homes over the period of the Plan with the majority of these being 2, 3 and small 4 bedroom houses suitable for young families. This represents an increase of around 10% in the total households in the Parish thus making a sensible contribution to local and national housing needs and to the sustainability of services and facilities in the Parish.

## 8.14. RE-USE OF BUILDINGS

8.14.1 It is important that the re-use of buildings does not have an adverse effect on the Green Belt's openness or prejudice its purposes. It is therefore necessary to consider the impact of the proposed re-use in comparison with the existing use of the building. The buildings to be re-used must be permanent and of substantial construction, and be capable of the change without major reconstruction.

8.14.2 Within the Parish of Rufforth with Knapton demand potentially exists for the conversion of farm buildings to residential use, often in relatively remote locations. Proposals for residential conversion of farm buildings must be sympathetic to the original structure and setting of the building, be of permanent and substantial construction and meet the criteria defined in Policy Rwk 10. Proposals for residential conversion that would result in the building taking on a modern domestic appearance which could be seen as detrimental to the visual character of the locality will not be supported.

8.14.3 In accordance with Policy Rwk 03 any proposals for conversion that would damage or have significant adverse effects on any listed building or a building of historic interest will not be supported.

### ***Policy No Rwk 14 – Re-use of buildings***

***Outside defined settlement limits planning permission for the re-use of buildings within the Green Belt will be supported provided:***

- ***The re-use does not have a materially greater impact than the present use on the openness of the Green Belt.***
- ***The buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction.***
- ***The proposed re-use will generally take place within the fabric of the existing building and will not require extensive alteration, rebuilding or extension.***
- ***The form, bulk and general design of the buildings are in keeping with their surroundings and sympathetic to the character of the building.***
- ***Any residential buildings are not in close proximity to intensive livestock units or other uses that may result in a poor level of amenity for the occupier of the building.***
- ***There is already a clearly defined curtilage.***

## 8.15. INFILL

8.15.1 The minimum housing provision for the Parish for the period 2016 to 2032 has been met but it is accepted that there may be a case for limited windfall or infill development.

**Policy No. RwK 15 - Infill - Development proposals for small scale 'windfall', will be supported, provided it is within the Interim village envelopes as defined in the Plan and provided that it:**

- *Meets the criteria as set out in the Housing Policy above.*
- *Reflects the size, character, appearance and level of service provision and infrastructure in the settlement in which it is to be located and the wider Parish.*
- *Is appropriate to the Green Belt status of the villages.*
- *Informal building lines will be maintained and new infill should not be so intensive as to change the open weave or character of the villages.*
- *Does not reduce garden/green space to an extent where it would significantly adversely affect the rural character of the villages, or the amenity of the proposed occupiers of the new development or adjacent properties/uses.*

**Barn conversions for residential use will be considered in specific circumstances, such as:**

- *Any conversion must be within the dimensions of the existing building and be of a similar style.*
- *The building to be converted should be an agricultural building which has been in use for its intended purposes for a considerable period of time and is now redundant for that purpose.*
- *The criteria as stated for infill development should apply.*

## 8.16. SMALL SCALE COMMERCIAL ENTERPRISES

8.16.1 The Plan aims to encourage to a thriving rural economy which provides a level of employment for local people whilst at the same time protecting the Green Belt which is of such importance to the community.

**Policy No. RwK 16 - Small Scale Commercial Enterprises– Agricultural development, change of use and conversion of existing buildings will be supported subject to the following criteria:**

- *The proposed use should provide opportunities that meet local employment needs and be of a scale and type commensurate with a rural environment.*
- *There is no significant increase in air or noise pollution.*
- *There is no significant adverse impact of traffic movement, with regard to HGVs, or on road or pedestrian safety.*
- *Conversions are within the dimensions of the existing building and of a style sympathetic to existing buildings and the surrounding countryside.*
- *There are no significant adverse impacts on drainage.*
- *Generally, respects the character of its surroundings and Green Belt Location by way of its scale and design, is compatible with the surrounding landscape, and safeguards residential amenity and road safety.*

8.16.2 Agricultural buildings for both livestock production and to support arable farming are considered as appropriate development within the Draft Green Belt and will be supported dependant on the scale, design and exact location.

8.16.3 The Plan supports appropriate farm and rural diversification activity. In particular, barn conversions for office use or small units for small or "start-up" ventures will be encouraged subject to the criteria detailed above.

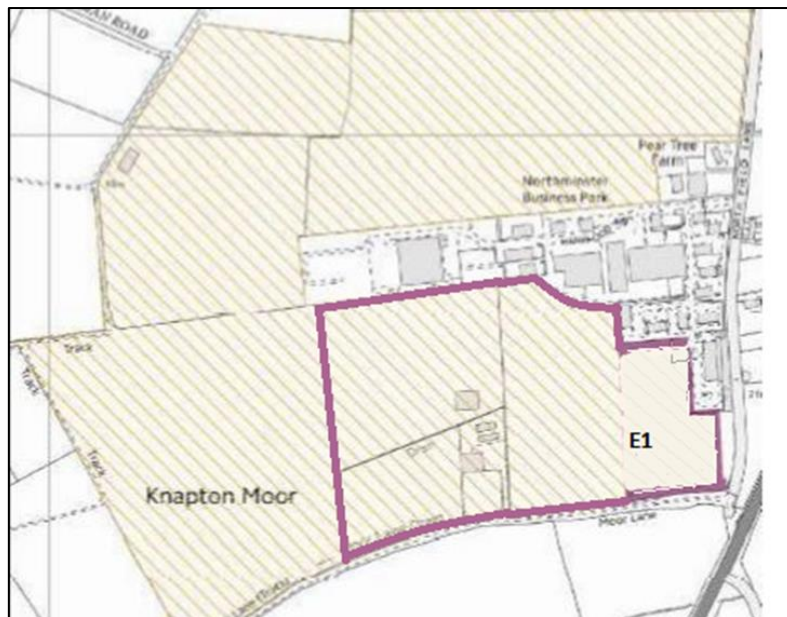
8.16.4 The Plan allows for the small-scale expansion of existing operations providing the criteria above are met. It is noted that these operations may be within the Interim Draft Green Belt and therefore any expansion must

be within the existing site curtilage and buildings must be of a size and nature commensurate with existing buildings on the site.

8.16.5 Change of use for existing commercial premises should only be agreed where the proposed new use meets the above criteria.

8.16.6 Site RK E1 – Northminster Business Park - It is noted that the City of York Local Plan Publication Draft (February 2018) proposes a major extension of Northminster business park (ST19). The land is prime agricultural land, approximately 50% of which is classified as grade 1. Planning policy states that prime agricultural land should not be used for development as it is essential for crops and would be lost forever. In addition, there are major access and traffic issues, particularly bearing in mind other significant proposed developments in the vicinity, affecting the A59/ A1237 junction.

**Fig. L) Site RK E1- Northminster Business Park.**



8.16.7 It is recognised that an extension to an already flourishing business park would offer significant employment opportunities for the wider area. However, it is felt that this development is too large and does not meet our definition for small scale commercial enterprises. Had the proposal been on a significantly smaller scale (as originally presented in the 2016 consultation), subject to certain specific criteria we would not have objected to proposals providing that:

- Development on the site provides suitable site access, ideally via Hackness Road and a sustainable transport approach.
- The site would require appropriate screening, as Knapton and the A1237 are part of the Draft Green Infrastructure Corridor around the City of York. Current high trees/hedging would serve this purpose. It will be important to ensure that the roofline does not protrude above the appropriate screening, again to prevent a negative impact on the green area.
- Care would need to be taken when planning unit type, to ensure there is not a detrimental impact on congestion accessing to the site. Types identified – B1b (business use for high technology), B1c (light industry), B2 general industry, B8 warehousing.

## 8.17. HAREWOOD WHIN

8.17.1 It is accepted that Waste Management is normally outside the remit of a Neighbourhood Plan. However, the Harewood Whin Waste Management site has for many years, due to its scale, had a major impact on the environment of the Parish and the lives of residents. It is recognised that Harewood Whin has been classified as a strategic waste management site in the emerging Minerals and Waste Joint Plan (being produced by the City of York Council, North Yorkshire County Council and the North York Moors National Park Authority) and in the City of York Local Plan Publication Draft (February 2018). Both of these Plans note that Harewood Whin is within the Green Belt and that any further expansion is therefore constrained.

8.17.2 The Landfill site at Harewood Whin was opened in 1988 following a prolonged period of protest and concerns by residents and a Public Inquiry. It was expected to have a lifespan of 20 years but since its inception many planning applications have been passed both extending the time period and allowing additional activities.

8.17.3 The current landfill capacity at Harewood Whin will be full by early 2018, but future plans for waste management in the City of York and North Yorkshire areas are centred on a move away from landfill and towards incineration at Allerton Park. Planning permission was granted in May 2016 (16/00357/FULM) for the building of a new waste transfer station and new office building within the current site operating boundary (see fig m) This will take local authority collected waste from the City of York area for onward transmission to Allerton Park. Recycling operations have been transferred from Hessay to Harewood Whin. Green waste will continue to be processed on site and wood will be collected on site for onward transmission for processing. The liquid treatment plant will remain on site but will handle additional volumes in order to fully utilise its capacity. Energy will continue to be produced on site using the gas produced by the landfill operation to generate electricity. Finally planning permission has been granted (variation of condition 1 of 12/01378/FUL) for an extension of landfill to provide a contingency should major issues occur at Allerton Park. However, as this involved diversion of the Foss watercourse details would be reviewed prior to any work being undertaken.

8.17.4 The planning permission (16/00357/FULM) is dependent on alterations being made to the site entrance to prevent HGVs turning right from the site and travelling through Rufforth and a section 106 agreement incorporating:

- Agreement not to implement any previous but unused planning permissions.
- The remaining land between the application site and the B1224 Wetherby Road remaining free from built development.
- CCTV control of the site entrance (to enable management to prevent vehicles entering the site doing so via the village of Rufforth).
- Commuted sum payment to enable the site entrance to be reconfigured to reduce the number of HGV movements through the village of Rufforth (in consultation with the Highway Officers).

8.17.5 An operating agreement has been signed by Yorwaste and the Parish Council setting out in clear and unambiguous terms commitments on site management issues. (see Appendix XII) This will be reviewed and enforced by a formal liaison and review committee consisting of representatives of both organisations and will be the vehicle for consultation on any proposed changes. Any changes to either volumes, or type of material, will be subject to consultation with this committee, even if formal planning permission is not required. Site management should ensure that by a combination of physical means and work instructions HGVs travelling to and from the site must not do so via the village of Rufforth other than in exceptional circumstances as defined by Yorwaste and the Parish Council.

8.17.6 The bulk of the existing landfill area will be reclaimed to the standards laid down in the original planning approval. Once this is completed the Plan supports the provision of a circular footpath and a viewing area. The Plan also supports a solar panel installation (if economic circumstances are favourable) providing its exact

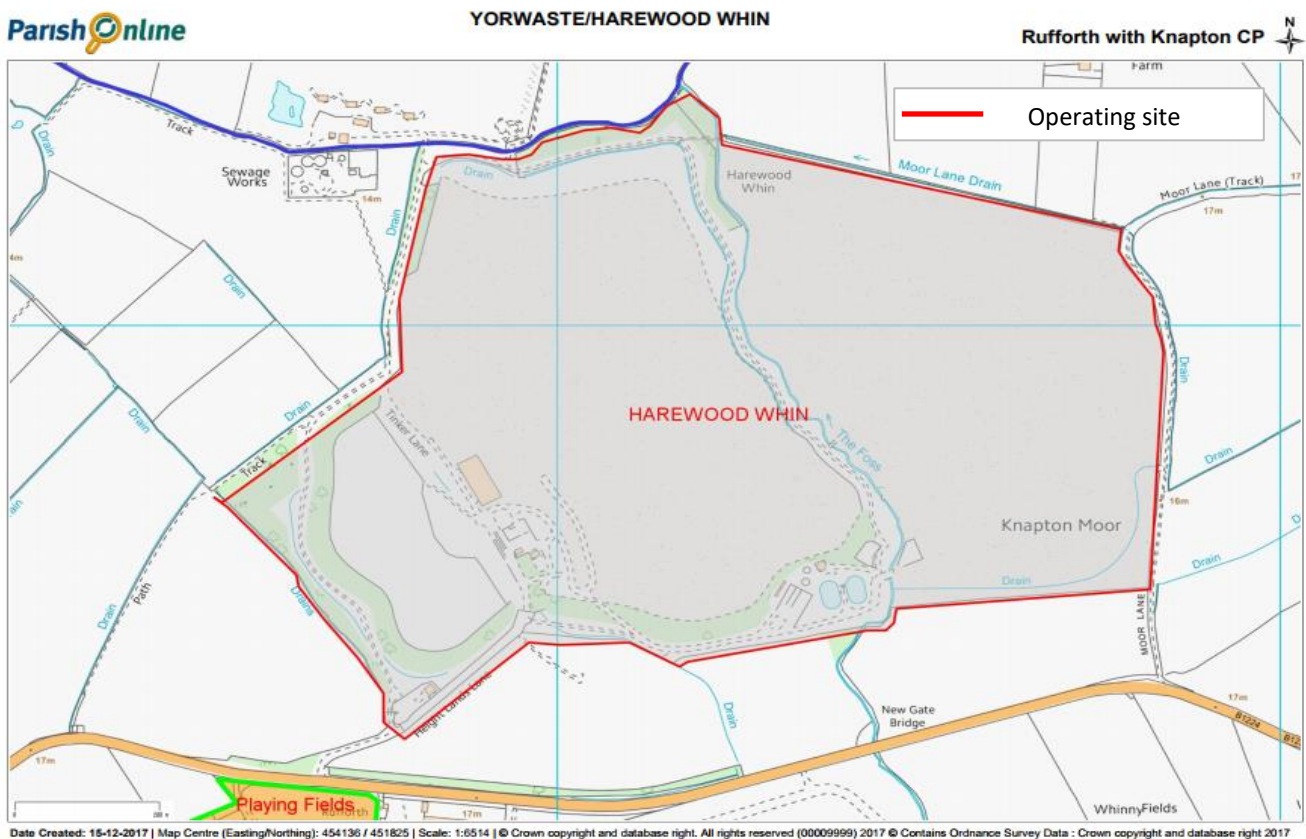
location does not have an adverse effect on the openness and character and setting of the Green Belt. Renewable energy is not considered as appropriate development in the Green Belt (NPPF) but being reclaimed landfill it is considered that special circumstances exist for such a project.

8.17.7 The plan acknowledges that the demands for waste management are constantly changing over time but seeks that the following key operating principles should be adhered to throughout the Plan period.

**Policy No. Rwk 17 - Harewood Whin - Operation of Harewood Whin Waste Management Site - All land surrounding the site is in the Green Belt as defined in the City of York Local Plan Publication Draft (February 2018) and this status is vital in protecting the character and setting of the village of Rufforth, and therefore any future development must be within the current operational site footprint. (see fig. m).**

- The Yorwaste Liaison Committee will ensure that the Harewood Whin site is operated to the standards set out in this Plan and in the Operating Agreement.
- Any future proposed changes to the operation of the Harewood Whin site will be reviewed by the Yorwaste Liaison Committee.

Fig. m) Yorwaste/Harewood Whin – Operating Site Boundary.



8.17.7 There was some discussion about the processing of Incinerator Bottom Ash at Harewood Whin. We are informed that there is no intention of progressing this proposal and it is our belief that this would be an inappropriate activity for a site situated within the Green Belt and does not meet the criteria of strategic waste management as set out in the Minerals and Waste Joint Plan.



## **8.18. TRAVELLERS SITE**

8.18.1 The City of York Draft Local Plan 2014 included a Travellers' site on a field adjacent to the B1224 (field 818). This has been omitted from the City of York Local Plan Publication Draft (February 2018) as meeting the future needs of Gypsies and Travellers in York can be achieved by identifying 3 additional pitches within the three existing Local Authority sites. We support this decision and the reasons for it. A full explanation of the issues involved can be found at Appendix XI.

8.18.2 The results of the Neighbourhood Plan Questionnaire proved that by far the least acceptable type of development across the Parish is a Travellers' site. It scored 1.3 on the scale of 1 (least preferred) to 10 (most preferred). NPPF Ch. 9 para 89 lists the type of development which may be appropriate in the Green Belt. This list does not include Travellers' sites.

8.18.3 As Travellers' Sites are inappropriate development in the Green Belt and as all land in the Parish outside the Interim village envelopes is in the Interim Draft Green Belt it follows that there are no appropriate locations for a Travellers' Site within the Parish.

## **8.19. DEVELOPERS CONTRIBUTIONS**

8.19.1 Development can bring significant benefits to the local community, including new homes and jobs. It can also have negative impacts, for example, where additional demand is placed on facilities and services which are already at or near capacity. Planning obligations (also known as Section 106 agreements) may be used to secure infrastructure or funding from a developer. For example, a planning obligation might be used to secure a financial contribution towards improving existing recreational facilities or affordable housing. However, planning obligations can only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

8.19.2 A new system is also being introduced alongside the use of planning obligations. This is known as the Community Infrastructure Levy (CIL) and it will require developers to make a payment to the City of York Council based on the size and type of development that is proposed. The proceeds of the levy will then be used to provide the infrastructure necessary to support growth across the district. A proportion of these CIL receipts will automatically be devolved to the relevant Parish Council for allocation to neighbourhood priorities. This proportion is set at 25% in areas where there is a Neighbourhood Plan in force. At this time the City of York Council is still considering whether to replace Section 106 agreements with CIL.

8.19.3 Through the preparation of the Plan, the Parish Council, in conjunction with the community and other stakeholders, has identified a small number of priority projects for which to secure funding (either in whole or in part) through the use of planning obligations.

8.19.4 The following areas should be priorities for any developer's contributions:

- Improvements and enhancement of Cycle paths.
- Sustainable drainage and sewerage systems (including the currently stretched infrastructure).
- Improvements in educational provision (potentially additional classroom facilities may be required at primary school to accommodate needs of additional families).
- Traffic management issues.
- Mobile and broadband communications.
- Community amenities.

**RUFFORTH with KNAPTON NEIGHBOURHOOD PLAN**

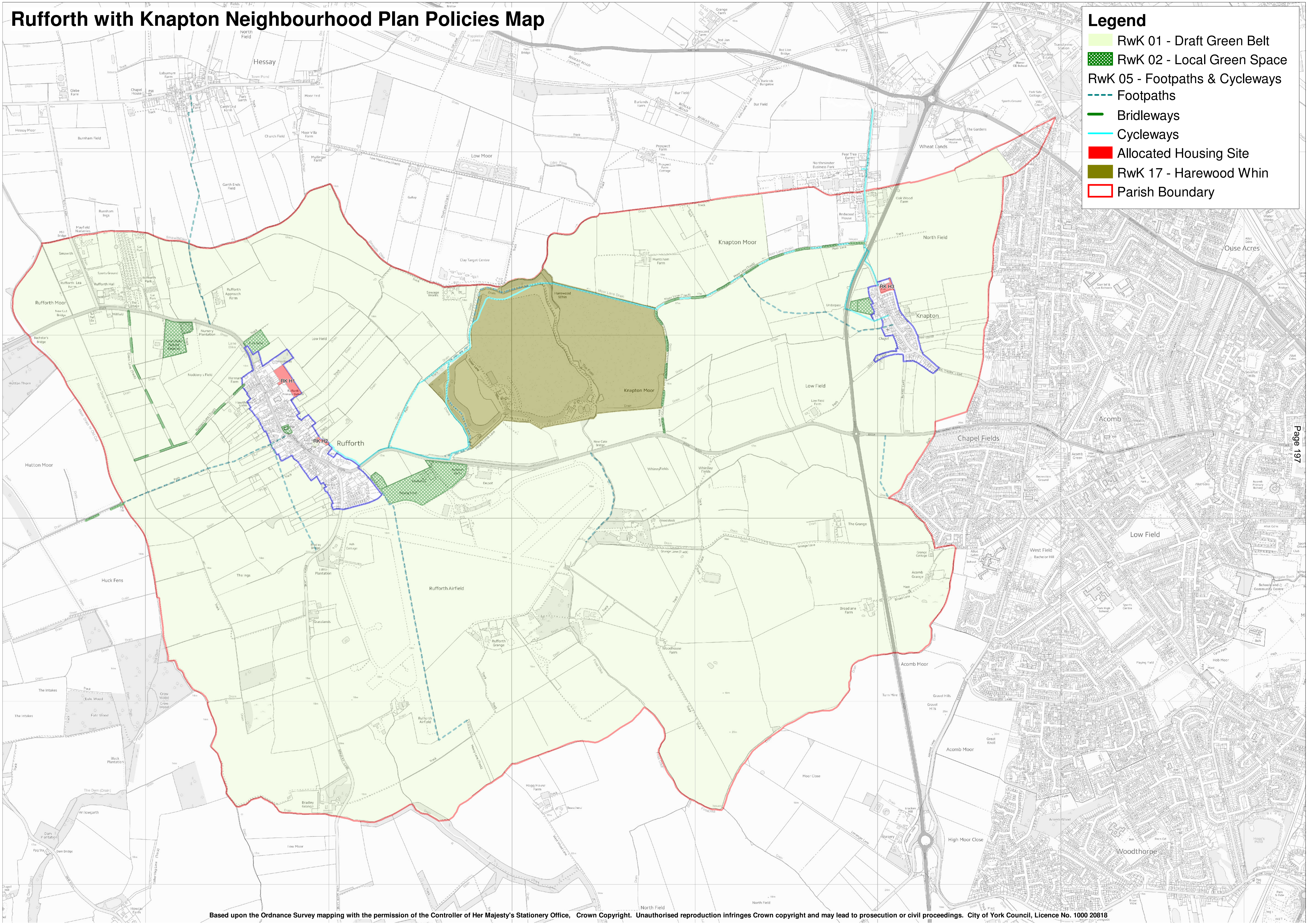
**GLOSSARY OF TERMS**

CIL	Community Infrastructure Levy
CYC	City of York Council
HGV	Heavy Goods Vehicle (Usually over 7.5 Tonnes GVW (Gross Vehicle Weight))
LDF	Local Development Framework
NP	Neighbourhood Plan
NPG	Neighbourhood Planning Group
NPPF	National Planning Policy Framework
SEA	Strategic Environment Assessment
Section 106	Definition 'A legally binding conditions imposed upon a development'
SLI	Site of Local Interest
SuDS	Sustainable Drainage Systems
TPO	Tree Preservation Order

# Rufforth with Knapton Neighbourhood Plan Policies Map

**Legend**

- Rwk 01 - Draft Green Belt
- Rwk 02 - Local Green Space
- Rwk 05 - Footpaths & Cycleways
- Footpaths
- Bridleways
- Cycleways
- Allocated Housing Site
- Rwk 17 - Harewood Whin
- Parish Boundary



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'Better Decision Making' Tool  
Informing our approach to sustainability, resilience and fairness

The 'Better Decision Making' tool should be completed when proposing new projects, services, policies or strategies.

This integrated impact assessment tool was designed to help you to consider the impact of your proposal on social, economic and environmental sustainability, and equalities and human rights. The tool draws upon the priorities set out in our Council Plan and will help us to provide inclusive and discrimination-free services. The purpose of this new tool is to ensure that the impacts of every proposal are carefully considered and balanced and that decisions are based on evidence.

**Part 1** of this form should be completed as soon as you have identified a potential area for change and when you are just beginning to develop a proposal. If you are following the All About Projects Framework it should be completed before going through Gateway 3.

**Part 2** of this form should be filled in once you have completed your proposal and prior to being submitted for consideration by the Executive. If you are following the All About Projects Framework it should be completed before going through Gateway 4. Your answer to questions 1.4 in the improvements section must be reported in any papers going to the Executive and the full 'Better Decision Making' tool should be attached as an annex.

Guidance to help you complete the assessment can be obtained by hovering over the relevant text or by following this link to the 'Better Decision Making' tool on Colin.

Guidance on completing this assessment is available by hovering over the text boxes.

Please complete all fields (and expand if necessary).

#### Introduction

Service submitting the proposal:	Strategic Planning
Name of person completing the assessment:	Anna Pawson
Job title:	Development Officer
Directorate:	Economy and Place
Date Completed:	06/09/2018
Date Approved: form to be checked by service manager	

#### Part 1

##### Section 1: What is the proposal?

1.1	<b>Name of the service, project, programme, policy or strategy being assessed?</b> Rufforth with Knapton Neighbourhood Plan - Examiner's Report
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1.2	<b>What are the main aims of the proposal?</b> The Rufforth with Knapton Neighbourhood Plan aims to manage change in the villages and wider designated area, ensuring that future development should be sympathetic, unobtrusive and in keeping with its rural environment and surroundings. The main purpose of the report is to request that Members agree the recommendations of the Examiner and allow the Rufforth with Knapton Neighbourhood Plan to proceed to referendum.
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1.3	<b>What are the key outcomes?</b> To ensure that the Rufforth with Knapton Neighbourhood Plan can be progressed.
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##### Section 2: Evidence

	<b>What data / evidence is available to understand the likely impacts of the proposal?</b> (e.g. hate crime figures, obesity levels, recycling statistics)
--	--

2.1	The Neighbourhood Plan uses the Local Plan evidence base to support its policies.
-----	---

	<b>What public / stakeholder consultation has been used to support this proposal?</b>
2.2	Previous consultation responses received as part of the Pre-Submission Consultation (7th July to 18th August 2017) and the Submission consultation (19th March to 2nd May 2018) have shaped policy formation.

	<b>Are there any other initiatives that may produce a combined impact with this proposal?</b> (e.g. will the same individuals / communities of identity also be impacted by a different project or policy?)
2.3	The Neighbourhood Plan has been developed alongside an emerging City of York Local Plan. The residents, businesses and people with a land interest in the Rufforth and Knapton area will also be consulted on as part of the Local Plan process.

**Part 1**

**Section 3: Impact on One Planet principles**

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 the 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	A policy in the neighbourhood plan supports small scale commercial enterprises. In so far as planning permission is required, proposals for agricultural development and the change of use of existing buildings for employment generating development (Classes B1/B2/B8) will be supported.
3.2	Provide additional employment or training opportunities in the city?	Neutral	A policy in the neighbourhood plan supports small scale commercial enterprises. In so far as planning permission is required, proposals for agricultural development and the change of use of existing buildings for employment generating development (Classes B1/B2/B8) will be supported.
3.3	Help individuals from disadvantaged backgrounds or underrepresented groups to improve their skills?	Neutral	There are no specific policies relating to individuals from disadvantaged backgrounds.

**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 staff or residents?	Positive	The Neighbourhood Plan includes policies and community actions to protect local green space, to improve the network of footpaths and cycleways and to protect the playing fields in Rufforth the recreation ground in Knapton and the allotments in both Rufforth and Knapton.
3.5	Help reduce health inequalities?	Positive	The Neighbourhood Plan includes policies and community actions to protect local green space, to improve the network of footpaths and cycleways and to protect the playing fields in Rufforth the recreation ground in Knapton and the allotments in both Rufforth and Knapton.
3.6	Encourage residents to be more responsible for their own health?	Positive	The Neighbourhood Plan includes policies and community actions to protect local green space, to improve the network of footpaths and cycleways and to protect the playing fields in Rufforth the recreation ground in Knapton and the allotments in both Rufforth and Knapton.
3.7	Reduce crime or fear of crime?	Neutral	There are no policies which specifically relate to crime.
3.8	Help to give children and young people a good start in life?	Positive	The Neighbourhood Plan includes a policy to protect local green space which includes Rufforth playing fields and Knapton recreational field.

**Culture & Community**

Does your proposal?		Impact	What are the impacts and how do you know?
3.9	Help improve community cohesion?	Positive	The production of a Neighbourhood Plan should help improve community cohesion by bringing people together with a shared goal of improving their neighbourhood.
3.10	Improve access to services for residents, especially those most in need?	Positive	The Neighbourhood Plan includes policies and community actions to improve the network of footpaths and cycleways and to protect the valued community amenities in the Parish.
3.11	Improve the cultural offerings of York?	Neutral	There is a heritage policy which seeks to protect and preserve the historic character and features of the villages.
3.12	Encourage residents to be more socially responsible?	Neutral	No specific reference.

**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, or reduce the amount of energy we will use/pay for in the future?	Positive	There is a design policy in the Neighbourhood Plan which suggests that proposals have regard to design principles and sources of alternative energy such as solar panel are sympathetically installed.

3.14	Minimise the amount of water we use or reduce the amount of water we will use/pay for in the future?	Neutral	No specific reference.
3.15	Provide opportunities to generate energy from renewable/low carbon technologies?	Positive	There is a design policy in the Neighbourhood Plan which suggests that proposals have regard to design principles and sources of alternative energy such as solar panel are sympathetically installed.

**Zero Waste**

Does your proposal?		Impact	What are the impacts and how do you know?
3.16	Reduce waste and the amount of money we pay to dispose of waste by maximising reuse and/or recycling of materials?	Neutral	The Neighbourhood Plan has a section on Harewood Whin which is a Waste Management Site within the Parish. The supporting text highlights that recycling operations have been transferred from Hessay to Harewood Whin.

**Sustainable Transport**

Does your proposal?		Impact	What are the impacts and how do you know?
3.17	Encourage the use of sustainable transport, such as walking, cycling, ultra low emission vehicles and public transport?	Mixed	The Neighbourhood Plan includes policies and community actions to improve the network of footpaths and cycleways and to support measures to reduce reliance on the motor vehicle which requires an improved availability and frequency of public transport and in particular bus services.
3.18	Help improve the quality of the air we breathe?	Mixed	The Neighbourhood Plan includes policies and community actions to improve the network of footpaths and cycleways.

**Sustainable Materials**

Does your proposal?		Impact	What are the impacts and how do you know?
3.19	Minimise the environmental impact of the goods and services used?	Positive	No specific reference

**Local and Sustainable Food**

Does your proposal?		Impact	What are the impacts and how do you know?
3.20	Maximise opportunities to support local and sustainable food initiatives?	Positive	The supporting text to Draft Green Belt highlights that agricultural land in the Parish is grade 3 or higher and should be protected. Food security may become an important issue as a result of Brexit. Allotments in Rufforth and Knaption are protected in the <i>Community Amenities and Local Green Space policies</i> .

**Land Use and Wildlife**

Does your proposal?		Impact	What are the impacts and how do you know?
3.21	Maximise opportunities to conserve or enhance the natural environment?	Positive	There is a section in the Neighbourhood Plan on Green Infrastructure and a policy which aims to protect the Parishes green spaces.
3.22	Improve the quality of the built environment?	Positive	There is a heritage policy which seek to protect and preserve historic character and features of the villages in addition the Neighbourhood Plan includes a design policy which supports new development where they bring forward high quality traditional design.
3.23	Preserve the character and setting of the historic city of York?	Positive	The supporting text in the Draft Green Belt section refers to the historic character and setting of York.
3.24	Enable residents to enjoy public spaces?	Positive	There is a section in the Neighbourhood Plan on Green Infrastructure and a policy which aims to protect the Parishes green spaces.

3.25	<b>Additional space to comment on the impacts</b>		



**Part 1**

**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?	Relevant quality of life indicators
4.1 Age	Positive	None deemed likely	N/A
4.2 Disability	Neutral	None deemed likely	N/A
4.3 Gender	Neutral	None deemed likely	N/A
4.4 Gender Reassignment	Neutral	None deemed likely	N/A
4.5 Marriage and civil partnership	Neutral	None deemed likely	N/A
4.6 Pregnancy and maternity	Neutral	None deemed likely	N/A
4.7 Race	Neutral	None deemed likely	N/A
4.8 Religion or belief	Neutral	None deemed likely	N/A
4.9 Sexual orientation	Neutral	None deemed likely	N/A
4.10 Carer	Neutral	None deemed likely	N/A
4.11 Lowest income groups	Neutral	None deemed likely	N/A
4.12 Veterans, Armed forces community	Neutral	None deemed likely	N/A

**Human Rights**

Consider how a human rights approach is evident in the proposal

	neutral	What are the impacts and how do you know?
4.13 Right to education	neutral	None deemed likely
4.14 Right not to be subjected to torture, degrading treatment or punishment	neutral	None deemed likely
4.15 Right to a fair and public hearing	neutral	None deemed likely
4.16 Right to respect for private and family life, home and correspondence	neutral	None deemed likely
4.17 Freedom of expression	neutral	None deemed likely
4.18 Right not to be subject to discrimination	neutral	None deemed likely
4.19 Other Rights	neutral	None deemed likely

4.20

Additional space to comment on the impacts

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**Part 1**

**Section 5: Developing Understanding**

Based on the information you have just identified, please consider how the impacts of your proposal could be improved upon, in order to balance social, environmental, economic, and equalities concerns, and minimise any negative implications.

It is not expected that you will have all of the answers at this point, but the responses you give here should form the basis of further investigation and encourage you to make changes to your proposal. Such changes are to be reported in the final section.

<b>Taking into consideration your responses about <u>all of the impacts</u> of the project in its <u>current form</u>, what would you consider the overall impact to be on creating a fair, healthy, sustainable and resilient city?</b>	
5.1	Given the wide range of policy areas covered by the Neighbourhood Plan and its over all vision which responds to the issues, opportunities and challenges facing the area it is considered that the plan will have a positive impact overall on creating a fair, healthy, sustainable and resilient neighbourhood.

<b>What could be changed to improve the impact of the proposal on the <u>One Planet principles</u>? (please consider the questions you marked either mixed or negative, as well as any additional positive impacts that may be achievable)</b>	
5.2	No improvements considered necessary.

<b>What could be changed to improve the impact of the proposal on <u>equalities and human rights</u>? (please consider the questions you marked either mixed or negative, as well as any additional positive impacts that may be achievable)</b>	
5.3	No mixed or negative impacts on equality and human rights are considered likely.

**Section 6: Planning for Improvement**

<b>What further evidence or consultation is needed to fully understand its impact? (e.g. consultation with specific communities of identity, additional data)</b>	
6.1	The community has been widely consulted on the content of the Plan. Members are being asked to agree the Examiner's recommendations which include progressing the Plan to referendum. Therefore, the community will have the final say when they vote in the referendum whether or not to agree with the final Plan.

<b>6.2 What are the outstanding actions needed to maximise benefits or minimise negative impacts in relation to this proposal? Please include the action, the person(s) responsible and the date it will be completed (expand / insert more rows if needed)</b>	
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Action	Person(s)	Due date

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6.3	<b>Additional space to comment on the impacts</b>

**Part 2**

**Section 1: Improvements**

Part 2 builds on the impacts you identified in Part 1. Please detail how you have used this information to make improvements to your final proposal.

**Please note that your response to question 1.4 in this section must be reported in the One Planet Council implications section of reports going to the Executive.**

	<b>For the areas in the 'One Planet' and 'Equalities' sections, where you were unsure of the potential impact, what have you done to clarify your understanding?</b>
1.1	Given the wide ranging policy areas covered in the plan and the process taken so far in preparing the plan there are inherent links and good understanding of the one planet principles and equalities.

	<b>What changes have you made to your proposal to increase positive impacts?</b>
1.2	No changes considered necessary.

	<b>What changes have you made to your proposal to reduce negative impacts?</b>
1.3	No negative impacts anticipated.

	<b>Taking into consideration everything you know about the proposal <u>in its revised form</u>, what would you consider the overall impact to be on creating a fair, healthy, sustainable and resilient city?</b>
1.4	<p>Your response to this question must be input under the One Planet Council implications section of the Executive report. Please feel free to supplement this with any additional information gathered in the tool.</p> <p>Given the wide range of policy areas covered by the Neighbourhood Plan and its over all vision which responds to the issues, opportunities and challenges facing the neighbourhood it is considered that the plan will have a positive impact overall on creating a fair, healthy, sustainable and resilient neighbourhood.</p>

	<b>Any further comments?</b>
1.5	





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**Executive****27 September 2018**

Report of the Corporate Director for Economy and Place

Portfolio of the Executive Member for Transport and Planning

**City Centre Access Update and Priority 1 Proposals****Summary**

1. This report updates on the decision taken on 8 February, 2018 where the Executive agreed to implement Hostile Vehicle Mitigation measures in the city centre to protect it from the vehicle as a weapon threat. This report provides an update on work undertaken so far and seeks approval to progress priority 1 locations of the programme, not already agreed, to the next stage (see annex A for a map illustrating the location bordered in red).
2. The threat to areas of high footfall remains ever-present with recent vehicle as a weapon attacks in Toronto, Glasgow, Manchester, and the number of attacks in London where in the month of August saw a person planning a vehicle as a weapon attack on Oxford Street convicted and the attack on 14 August in Westminster.
3. Annex E is a letter from the York and Selby Police Area Commander highlighting the threat.

**Recommendations**

4. That Members:
  - a) Note the update provided in this report.
  - b) To approve option A granting the Corporate Director of Economy and Place delegated powers in consultation with the Executive Member for Transport and Planning to make the experimental traffic regulation order described in the report subject to prior consultation in respect of

practical implementation and potential mitigation measures.

- c) To continue to work with Saint Sampson Centre as well as other groups affected to mitigate the impact of the changes.
- d) To look at restrictions to prevent vehicles remaining in the Priority One zone and bring these proposals to the Executive Member for Transport and Planning for decision.
- e) Members to instruct officers to develop proposals for further phases of city centre security measures to ensure the safety of the city.

Reason: This will allow the initial work started since the 8<sup>th</sup> February Executive decision, to be taken forward to the next stage on a risk managed approach. This will respond to the Police request to protect areas of high footfall against the threat of a vehicle as a weapon attack.

### **Background**

- 5. On the 8 February 2018 the Executive approved a report and asked officers to work with North Yorkshire Police, York Business Improvement District (BID), Make it York, York Minster and York Racecourse to upgrade existing highway infrastructure and identify additional locations where vehicle restrictions will take precedence over access requirements.
- 6. The focus was to be on areas of high footfall both at York Racecourse and the city centre and to implement hostile vehicle mitigation measures to protect against a vehicle as a weapon attack.
- 7. Since then officers have:-
  - Formed a working group and aligned this programme to the York Counter Terrorism Working Group, which forms the advisory group for this programme. This includes



representatives from York BID, the Minster and the Racecourse as well as the Police and Counter Terrorism Unit.

- Worked with the Racecourse, North Yorkshire Police and Counter Terrorism Unit to develop temporary arrangements for this season at the Racecourse. York Racecourse has led on the temporary measures in consultation with North Yorkshire Police and the Council, which fall under the existing Temporary Traffic Regulation Order used for race days.
- Following police advice, temporary measures in the city centre have been installed, which are similar to those used for the Saint Nicholas Fair in 2017. These will remain until the permanent measures are installed. It should be noted that these temporary measures do not limit vehicle access to the city centre but provide a visual deterrent and slow traffic at the access points on Blake Street and Church Street and reduce the risk of access over the footway into the main paved Parliament Street junction with Coppergate and Piccadilly.
- Researched and procured security consultants specialising in hostile vehicle mitigation with experience of working in an historical context.
- Site visits and assessments to review the city centre and its vulnerabilities have been undertaken that have led to an initial feasibility study being completed which is subject to further refinement and work.
- Devised a proposal to prioritise areas of the city centre to implement an experimental traffic regulation order in line with Executive Members wishes for a scheme that has the minimum disruptive impact on access. See annex B regarding the prioritisation. This experiment will use standard removable bollards to test the traffic impacts of closing the priority area shown in Annex A during foot street hours, with a view to these being installed before the St Nicholas Christmas Fair this year.

- The above experiment will aid in the analysis to determine mitigation solutions to reduce the impacts on access during the footstreet hours and inform the design and implementation work of permanent measures.
- Due to the part time nature of the measures additional traffic regulation controls will be required to prevent vehicles remaining with the Priority Zone, officers will develop proposals and present these to the Executive Member for Transport and Planning for decision.

### **Analysis**

8. The current UK threat level is severe so a prioritised approach is being proposed where the first priority has been identified as the requirement to restrict physical access to York's busiest shopping street and event areas. This includes Parliament Street, St Sampson's Square, High Ousegate and Spurriergate, Coney Street, Davygate, Finkle Street, Church Street and Jubbergate. Other streets leading into these areas will continue to be considered. However at this time remaining streets are considered a lower priority, see annex B.
9. Executive have previously made the decision that hostile vehicle mitigation measures will be installed to protect the city centre from a vehicle as a weapon attack as a priority over accessibility. Therefore, as well as this priority 1 area, other areas of the city centre will continue to be reviewed for the potential installation of further measures and will be brought forward to Executive in the future.
10. There will be opportunities to replace some of the current temporary protection such as those at the end of the paving on Parliament Street with permanent measures more quickly to protect the most vulnerable area without any changes to the traffic regulation orders or impact on the public. Officers will proceed with these interventions under existing officer delegations in consultation with the Executive Member for Transport and Planning.
11. In order to implement the measures proposed in this report, changes to the existing traffic regulation orders are required. The

proposal is to remove access exemptions for all drivers to St Sampson's Square. Thereby restricting access between the current foot street hours 10:30am to 5pm with work to review the installation of a no loading ban around the square that will be signed and no loading ban markings implemented on the kerb, operational only within the foot street hours.

12. In order to trial this proposal it is recommended that an Experimental traffic regulation order is implemented for this area to allow for temporary physical measures to be installed, giving an opportunity for comments from the public to be received and fed back in a later report to Executive in how best to take the permanent restriction forward and any additional mitigation deemed necessary and reasonable. Annex F of this report is a community impact assessment that has been reviewed by officers. However in order to properly assess the impacts of these measures on city centre access this experimental period and consultations are crucial to better understand these impacts. In turn this will highlight what reasonable mitigation measures can be taken forward prior to the rollout of permanent hostile vehicle mitigation measures in the priority 1 area.
13. It should be noted that exclusions similar to those proposed currently happen on a regular basis when events take place in the city where for example St Sampson's Square and Parliament Street are closed for about 100 days per year due to events. This includes 69 main events and a further 30 or so ad-hoc/smaller events such as the carousel and bungee jump activities that take place. These events in turn move the outside cafe tables into the highway around St Sampson's Square preventing safe vehicular access to the area.

It is also noted that the St Sampson's Centre will be impacted on, or rather its customers. In Annex A the blue circles illustrate where new non-security bollards will be installed. Specifically for the area near this Centre a hammerhead arrangement will be configured to allow traffic coming down Church Street to turn and come back up again. However given the size of the dial and ride vehicles, officers will work with the centre and continue to consider other solutions.

14. This report proposes an intervention that has the smallest impact on access into the city centre whilst maximising the physical area

protected. Additionally the experimental nature of the proposals provides an opportunity to test the impacts of vehicular restriction measures. Specifically this will allow officers to test the impacts on current vehicular access during the foot street hours and identify what mitigation measures may be necessary to ensure the successful implementation of hostile vehicle mitigation measures.

15. Due to the likely impacts on disabled blue badge holders, Members may wish to note that the councils Economy and Place Policy Scrutiny Committee is reviewing disabled parking in the city centre and are due to meet on the 18<sup>th</sup> September at the time of writing this report. It is envisaged they will have disabled community representation to discuss access and mitigation. In turn the committee's findings will help to inform the research of what mitigation may be reasonably available and engage those people most affected and ensure Elected Member involvement.
16. Inevitably there will be a minority of people that will be disadvantaged by these hostile vehicle mitigation measures, which is a consequence of making our city safer by reducing the risk of attack, but officers will work to ensure the impact is mitigated and access to the city centre is provided as best as possible and informed by this experimental period and further consultations.

### **Communication Plan and consultation**

17. The February Executive Decision instructed officers to engage and work with key disabled access stakeholders to review disabled parking within and around the city centre. The reason was to mitigate the potential loss of disabled parking ensuring a safe city centre which is accessible as possible. But the report was also clear that vehicle restrictions will on balance take precedence over access requirements.
18. The Executive decision was that these measures will be rolled out; so the focus of consultation is only regarding the mitigation of the impacts of these measures, not the implementation of these measures or the principle for doing this.
19. Disabled drivers have been a priority group to consult with to find ways to mitigate the impact through representative groups which will help to advise on suitable mitigation measures. Work has been

conducted to review what options may be available or that could be developed to ensure the city centre is accessible as possible, whilst implementing restrictions.

20. In addition the Economy and Place Policy Development Committee has heard from organisations that represent blue badge holders. This meeting was held on the 18<sup>th</sup> of September 2018, the proposals within this report were presented and organisations presented their thoughts on mitigation. The key themes that emerged from this evidence gathering are listed below. Obviously the consultation and work with these groups will continue going forward:

- The need to undertake the works was recognised.
- The loss and reduction of blue badge parking in Saint Sampson square will impact on blue badge holders.
- Any mitigation needs to be mindful of future phases of restrictions to city centre access.
- The impact will be significant on any disabled residents of streets which are being restricted who may not be able to walk or drive out of the Priority 1 Area.
- The impact on blue badge holders with a mobility issue but without a wheelchair will be considerable.
- The impact of people living in the city centre who may need patient transport.
- Access for wheelchairs needs to be maintained and any measures should not impede wheelchair access. Explore electric wheel chair charging within the city.
- Request to consider additional, possibly dedicated; blue badge parking in the wider area not just Church Street.
- Consider expanding disabled parking in Piccadilly Car Park and expanding shop mobility. But need to be mindful

some disability adapted vehicles are higher vehicles than many car parks allow.

- Concern was raised about the arrangements for turning around vehicles at the bottom of Church Street, particularly large minibuses, and there needs to be some sort of 'escape route' so these vehicles do not have to turn around in narrow streets.
  - Wherever blue badge parking is displaced consideration needs to be given to additional dropped kerbs to facilitate wheelchair access and drop off points e.g. Church Street.
  - York Wheels, Dial a Ride and patient transport could be a solution to increase access to the City Centre priority zone 1 for blue badge holders and disabled residents living in this area if they were permitted access somehow.
  - Willingness from all groups to work with the council to ensure the impacts of any measures are mitigated e.g. textured paving/colour differentials around bollards and these are communicated clearly to different parts of the community. Whilst this will increase street furniture it is also an opportunity to remove some of the other street clutter at the same time.
  - Appreciate that through consultation not every issue will necessarily be resolved, but solutions should be explored.
  - The impact on business and market operations will need to be considered as well.
21. The advice from the Centre for the Protection of National Infrastructure is that whilst the national threat is severe, York can consider a risk based approach to allow essential vehicles into the city centre during operational hours.
22. Other priority groups to consult with include, but not exclusive to:-
- Blue light emergency services,
  - York BID

- Make it York
- Retail Forum
- Healthwatch York
- OCAY (Older Citizens Advocacy York)
- York Blind and Partially Sighted Society
- Disabled Rights UK
- Disabled Motoring UK
- Shopmobility
- York Civic Trust
- Historic England
- York Central MP
- Guildhall Ward Councillors
- York Hotel Association
- Council Waste and Building Services

23. For the purposes of the experimental traffic regulation order, current foot street exemptions will be replicated and the final exemptions list will be determined upon completion of the experimental order to inform the permanent measures and recommendations.
24. It is proposed that an initial pre-implementation consultation, take place on practical implementation and potential mitigation against the impacts of these measures. For clarity the proposed consultation pre-implementation will not be on the decision to implement but as noted above to seek views on practical implementing and potential opportunities for mitigating impacts.
25. The dialogue, as instructed by Members in February, will continue throughout the experimental period and report back to members before a decision about the future.

### **Options**

26. The work proposed is that temporary standard removable bollards will be installed within the area as shown in annex A before the St Nicholas Christmas Fair. Specifically this will be on the corner of St Sampson's Square and Church Street forming a hammer head arrangement which will allow larger vehicles to turn around and back up Church Street, however there may be some fine tuning of this arrangement, which officers will deal with, including how to safely allow Dial a Ride vehicles to enter and exit the area.

27. In addition these bollards will be installed at the exit of Coney Street (St Helen's Square end) all of which will be operated by council staff.
28. This will allow the impact on physically closing this part of the city centre to be monitored and ensure any comments are received to better inform the implementation of permanent measures and any mitigation around these.
29. Costs for the measures and resource to operate these will come from the Built Environment Fund that has been allocated to cover this counter terrorism work where the temporary measures and operation of them will be in the order of £20,000.
30. Due to the decision that protection is a higher priority over access, the options for consideration are based around consultation focusing on mitigating against the impacts of these measures, temporary as well as permanent.
31. **Option A** is first to carry out the limited pre-implementation consultation on mitigation described in paragraph 23 to reduce the impact these measures will have before the experimental traffic regulation order and any physical measures are installed. The period of consultation prior to installation will be up to the 31<sup>st</sup> October, 2018 in order to help inform the implementation of the experimental traffic regulation order mitigation works prior to the St Nicholas Fair. However earlier consultation with key groups may occur in line with the 8<sup>th</sup> February Executive decision report. This additional level of consultation to key representative groups, such as York BID, Make it York and blue light services, will help to mitigate initial practical implementation issues prior to installation and ensure the Council is seen to be listening and understanding of the impacts these measures will have.
32. Subject to a delegated officer decision of the Corporate Director for Economy and Place, in consultation with the Executive Member for Transport, the experimental traffic regulation order would then be implemented unless unforeseen physical constraints emerge.
33. **Option B** is to proceed without the initial consultation (as mentioned in Option A) and to give only the standard 2 week public



notice that an experimental traffic regulation order can be implemented. At the same time as commencing this order, a separate consultation with stakeholders and representative groups on the mitigation required to minimise the impact of the permanent measures.

34. Under either option a further formal decision would then need to be taken by Executive on whether to make the order permanent leading to the installation of permanent security rated measures and restrictions across the priority 1 area.
35. In addition a similar experimental period will likely be requested for the other areas of the city centre such as the area around York Minster.
36. **Option A** - the risk is that the consultation about mitigation would inevitably become a consultation about the principle of restricting access which Executive have already determined will be implemented. Therefore accusations of a false consultation may come about however this initial consultation prior to the Experimental traffic regulation order coming into effect, should be welcomed by representative groups which this work will impact on and seen to be at least given them some timely warning that this just being dropped on them as well as allowing them to give views on the practical implementation and any potential mitigation measures. This risk will need to be mitigated by making the terms of the consultation very clear.
37. Option B – This is a marginally quicker proposal and ensures early implementation of physical measures to protect the public. The experimental nature of the traffic regulation order allows an evidence based approach to the mitigation of permanent measures and not raise expectations that, considering the national threat level, any ongoing general vehicular access will be an option. This will inform a measured installation with reasonable mitigation measures to help provide access to the city centre as best as possible for those whom these permanent measures will impact on.
38. Officer recommendation is that Option A is the best option, which is supported by the York Counter terrorism group (see annex C). However this is a matter of judgment on risk, the balance of rights and public protection and both the physical and reputational

impacts given the severity that a successful vehicle as a weapon attack would have in a high footfall area.

### **Council Plan**

39. This report is supportive of the following priorities in the Council plan in addition to the One Planet York principles the Council champions:
- A focus on frontline services
  - A Council that listens to residents

### **Implications**

40. The following are the identified implications.

- **Financial** – It is anticipated that the final measures will have significant costs associated with them both from their installation and supporting systems and resources to operate and maintain them. This may exceed the Built Environment Fund allocation but this is yet to be determined. Therefore the proposed Experimental traffic regulation order and temporary vehicular access measures with a cost estimated in the order of £20,000, which will allow the impact city centre traffic to be assessed before significant funds, are expended on permanent measures. This includes the implementation of standard drop in and lift out bollards, 0.5FTE at a grade 5 level and administrative costs to implement the experimental order.

Depending on the detailed work the number of bollards may vary but by way of an indication, each standard bollard is £600, which includes installation. In turn the number of bollards will have a resource impact to lift out and put these back in. This will likely be up to 0.5FTE in the city centre Street Scene team. It has been formally approved that the Built Environment Fund will be used to help fund the works and the temporary measures will be funded from this budget.

Further detail of the costs of the permanent measures will be provided prior to the decision on whether to make the experimental traffic regulation order changes permanent in a later report.

- **Human Resources** – some monitoring and control of the measures may be required and the experimental traffic regulation order proposals will allow for the permanent resource requirements to be assessed.
- **Equalities** – An initial Community Impact Assessment has been completed highlighting the access issues to the priority 1 area and St Sampson’s Centre. This is inline with the Council’s legal requirements under Section 149 of the Equality Act 2010.

In respect of the immediate decision on balance due to the experimental time limited nature of the proposal, the limited intervention and the overarching responsibility of the Council to protect life is considered a proportionate approach. This is further supported by the fact that the physical interventions are already used for approximately 100 days per annum already.

As a result of the temporary nature of the proposed traffic regulation order officers will be able to develop the existing Community Impact Assessment with further evidence before measures are made permanent, for Members to consider.

- **Legal** – The Council has powers under the Road Traffic Regulation Act 1984 to make traffic orders for “avoiding or reducing, or reducing the likelihood of, danger connected with terrorism”. Experimental orders may be made for the same reason.

Members are well aware of their general public law duties when exercising decision making powers and in particular are aware of their responsibilities under the Equality Act 2010 to have regard to the public sector equality duty. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- a. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- b. Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c. Foster good relations between people who share a protected characteristic and those who do not.

The Act explains that having due regard for advancing equality involves:

- a. Removing or minimising disadvantages suffered by people due to their protected characteristics.
- b. Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- c. Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low

The CIA annexed to the report sets out the key equalities implications of the proposal and the report itself describes the balancing exercise undertaken by Officers. Members must consider these implications in line with the duties described above.

In relation to the proposed consultation there are some key principles which must be observed. Most importantly:

- There must be clarity as to the scope of the consultation. It will therefore be important that the limited scope described in the report is made absolutely clear to consultees.
- It must be carried out while proposals are still at a formative stage so that responses can influence the outcome
- Responses must be taken into account in reaching a final decision
- **Crime and Disorder** - These measures aim to deter and prevent vehicular access during the agreed hours in the interests of public safety from the vehicle as a weapon threat.
- **Information Technology (IT)** – Investment in IT to remotely operate some of these measures will be required.
- **Property** - There are no property implications for this report or its recommendations but there may be a planning review and permission requirement.
- **Risk Management** – This programme is tasked with delivering suitable measures to protect areas of high footfall, namely the city centre and York Racecourse, against the threat of a vehicle as a

weapon and the risk to public safety based on Police, consultant and security services advice.

## Contact Details

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Neil Ferris  
Corporate Director for Economy and Place

**Report  
Approved**



**Date** 13.08.18

**Wards Affected: Guildhall**

**All**

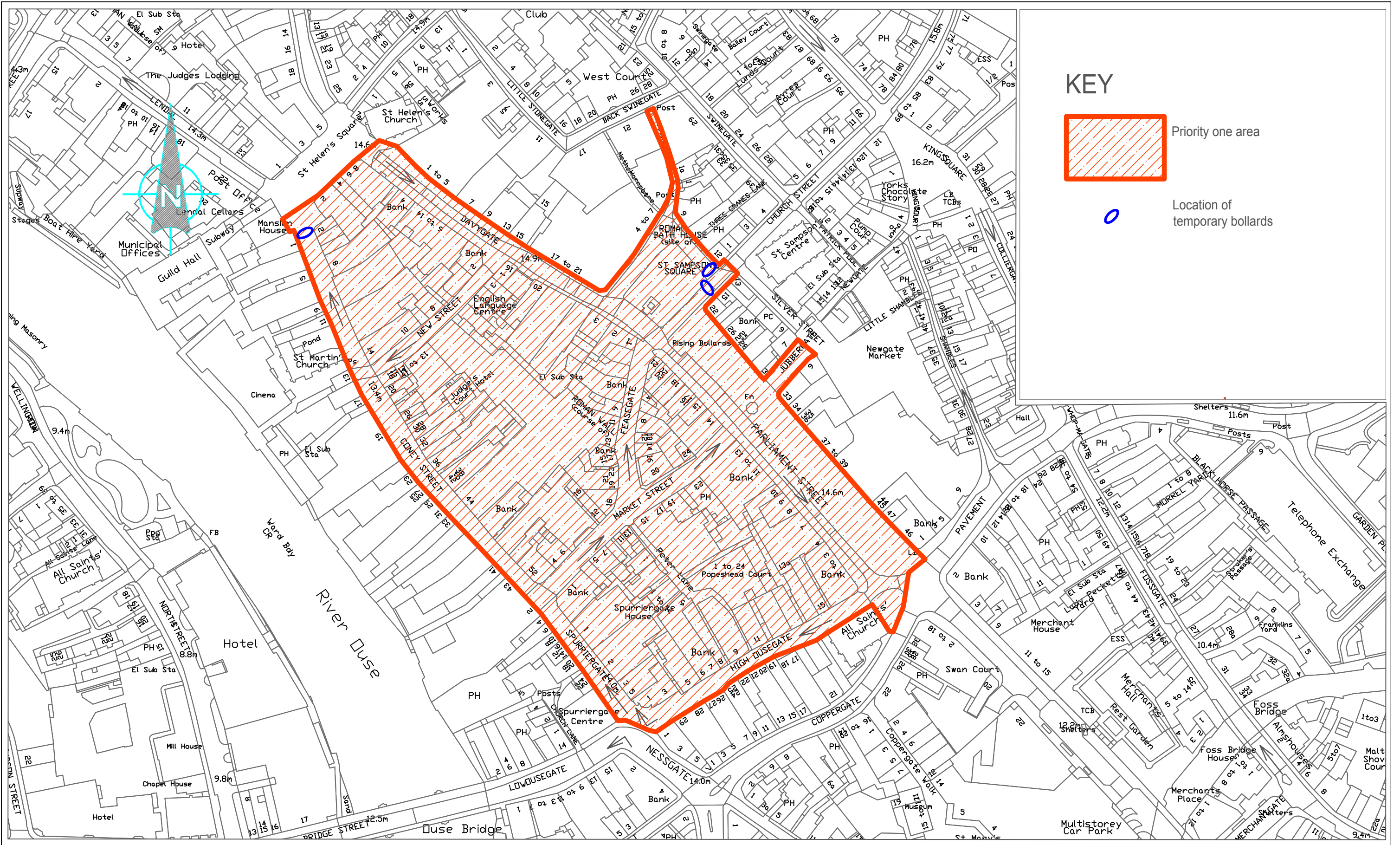
**For further information please contact the author of the report**

### Background Papers:

[8 February, 2018, Executive report and minutes](#) that agreed to the implementation of the hostile vehicle mitigation measures in the city centre.


### Annexes

- Annex A – City Centre map showing the Priority 1 area
- Annex B – Short report covering the threat, list of prioritised city centre areas and supporting information
- Annex C – York Counter Terrorism Task Group endorsement
- Annex D – Communications Plan
- Annex E – Letter from the York and Selby Police Area Commander
- Annex F - Community Impact Assessment - city centre priority 1 area



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 <p><b>CITY OF YORK COUNCIL</b> Transport Projects Eco Depot, Hazel Court, James Street, York, YO10 3DS www.york.gov.uk</p>	INITIAL	REV	AMENDMENT	DATE	<p><b>City Centre Access Priority one</b></p>	SCALE	NTS
	DRAWN BY	CMH					
	CHECKED BY						
DATE	Aug 18	A2					

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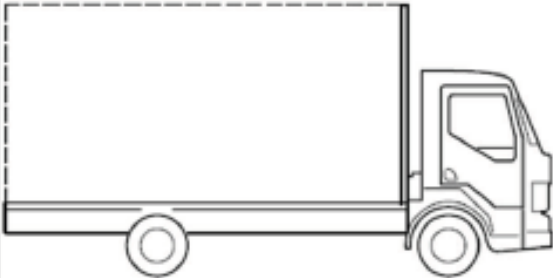
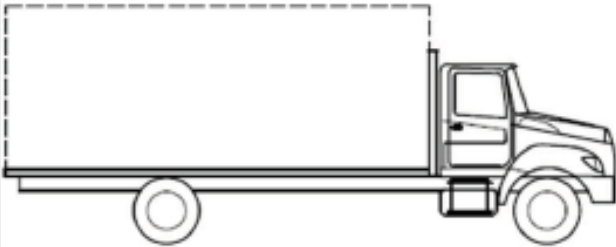
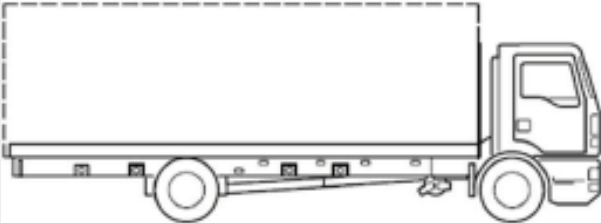
## Annex B

### Hostile Vehicle Mitigation

#### The threat

Recent terrorist incidents both in Europe and the UK have shown a different method of attack. This method uses the Vehicle As a Weapon (VAW) by gaining speed and entering crowded areas to hit as many people as possible. This style of attack is very simplistic and takes minimal planning to carry out. As the barriers to entry for organising an attack are lower, there are an increasing number of attacks and a much higher likelihood that they will occur in the future. Due to the minimal planning requirement of the method, those with hostile intent may not come to the attention of the security services as they might when attempting to procure materials for the manufacture of an IED (improvised explosive device).

The vehicles which have been used in this form of attack have varied (please see diagram below for illustrative purposes) from a 40t articulated lorry (Berlin attack 2016) to a sports utility vehicle (SUV) (Westminster attack 2017). The largest threat to the UK from this form of attack has been identified by CPNI as the N1G 2.5t 4 x 4 and the N3C 18t Lorry (as used in the Bastille day Nice attack in July 2016). The N1G vehicles can turn corners faster, accelerate more quickly and handle difficult terrain or mount footways with ease when compared to trucks. They are also considerably easier to acquire by theft due to their popularity and as all full EU license holders can drive them they can be easily rented. The 18-tonne N3C lorry has been identified as a threat due to their popularity as delivery lorries in cities and towns meaning there is more opportunity for one to be hijacked and swiftly used in an attack. Their size means that when hitting densely crowded areas they are less likely to become immobilised due to blockage in the undercarriage or wheels.

Type of test vehicle	Vehicle classification and description	Test vehicle mass (kg)	Illustration
Car	M1	1 500	
4x4 crew cab pick-up	N1G	2 500	
Flat bed	N1 <i>(single cab)</i>	3 500	
Day cab vehicle	N2A 7 500 kg 2-axle rigid <i>(flat bed, open curtain side or rigid box)</i>	7 200	
	N2B 12 000 kg 2-axle rigid <i>(flat bed, open curtain side or rigid box)</i>	7 200	
	N3C 18 000 kg 2-axle rigid <i>(flat bed, open curtain side or rigid box)</i>	7 200	

The method of attack for a VAW is to manoeuvre into place behind a protective line (possibly at low speed) then to accelerate to a high speed and to collide with as many people as possible for maximum effect. If the vehicle is stopped, the perpetrators could continue on foot as a marauding attack with either firearms or bladed weapons.

### Attack Planning

When using a vehicle as a means of attack, a terrorist will take into consideration the potential payoff in terms of propaganda (including the profile of the target), its economic value, disruption caused or the opportunity to cause mass casualties. Recent attacks in London and

Manchester were crude but achieved high profile propaganda for the proponents.

The ability to reach the target without being detected or stopped on route will be taken into consideration as will the ease of access. Enhanced police presence and road closures will reduce the likelihood of an attack.

Pre-attack planning can range from the complex and detailed, undertaken over a period of time, to something based on the terrorist's familiarity with the target. During the planning phase, there will be a period of information gathering confirming approach routes and point(s) of attack to achieve the desired effect.

The installation of barriers, planters and walls will act as a visual deterrent to a vehicle attack (Cameras, street lighting, an intermittent police presence do not). It should be remembered that the terrorist is not deterred by the prospect of being caught or killed in the act; their intention is to maximize fatalities to gain a reaction.

More capable and experienced groups, with access to the support of sympathisers, will be able to pool the gathered information. They are also more able to carry out more complex attacks, including those using ringer vehicles, false documents and such like. Less capable groups and lone actors launching less complex attacks are more likely to carry out information gathering and planning themselves.

### Priority of Locations

The table below shows the priority for the locations. The highest priority to secure is Parliament Street due to events and access of attack:

Loc No	Location		
11	Parliament Street	Priority 1	
12	High Ousegate and Spurriergate	Priority 1	
13	Coney Street	Priority 1	
14	Davygate	Priority 1	
20	Finkle Street	Priority 1	
21	Church Street	Priority 1	
22	Jubbergate	Priority 1	
1	High Petergate	Priority 2	
2	Minster Yard East	Priority 2	
3	The Queen's Path	Priority 2	
4	Chapter House Street	Priority 2	
5	College Street	Priority 2	
6	Deangate	Priority 2	
7	Goodramgate	Priority 2	
8	St Andrewgate	Priority 2	
9	Colliergate	Priority 2	
10	Shambles	Priority 2	
15	Stonegate	Priority 2	
16	Lendal	Priority 2	
17	Blake Street	Priority 2	
18	Bootham Bar (High Petergate)	Priority 2	
19	West Window (Precentor's Court)	Priority 2	

\* Priority 1 locations to be installed first in order to protect Parliament Street during events.

\*Priority 2 locations installation order to be confirmed.

Whilst the proposed scheme comprises 22 locations and covers a large area of York City Centre it is recognised that some places are more likely to be at risk from a threat perspective than others. With this in mind the locations have been categorised as either Priority 1 or Priority 2, with 1 being the highest rating.

The basis on which the locations have been prioritised has comprised their position within the city centre, usage, vulnerability, and pedestrian and traffic flow. Given the size of the overall scheme it is not feasible to install all the measures as one continuous programme of works due to restrictions such as budgetary constraints, timing of street closures, community disruption and the holding of local events. Therefore, it is necessary to prioritise those locations which are deemed to be the most

vulnerable and could be undertaken within an achievable programme of works which offers the most scope for the protection of crowded places in an iconic city.

The heart of the city is centred on Parliament Street, Spurriergate and Coney Street. These are the main shopping streets in the city and as such attract a large number of visitors. At any given time, there is a high footfall and coupled with dwell time this presents an ideal location for those with hostile intent. Furthermore, many events such as festivals and markets take place on Parliament Street and in the surrounding area and it serves as the focal point for other civic occasions. These occur throughout the year and attract large numbers of visitors, especially at times such as Christmas and during the summer months. Having identified the three streets as those at most risk of attack within the scheme, it resulted in them as being categorised as Priority 1 locations. In order to provide the necessary protection to the area it is necessary to prevent vehicular access by installing HVM measures. Placing these measures at the ends of Parliament Street, Spurriergate and Coney Street does not provide complete protection due to the other streets which also provide access to the area. These routes include Davygate, Finkle Street, Church Street and Jubbergate. It is necessary therefore to install HVM measures to prevent vehicular access to these streets and in turn Parliament Street, Spurriergate and Coney Street. Because these streets are linked directly to Parliament Street, Spurriergate and Coney Street they too must be categorised as Priority 1. They are also streets which experience the same levels of pedestrian footfall and dwell time as Parliament Street, Spurriergate and Coney Street.

St Sampson's Square which sits within the city centre area will also be afforded protection by the installation of HVM measures at the specified locations identified as being Priority 1. This square has significant events situated within its confines throughout the year and would be likely location for those with hostile intent.

Priority 2 locations have been determined on the basis that HVM measures need to be installed at these points however the threat is not as great as those listed as Priority 1. These locations are situated around the periphery of the main city centre and provide pedestrian and vehicular access to those areas identified as being Priority 1. Measures would be installed following the completion of the Priority 1 locations. Priority 2 areas do not have the same volume of pedestrians as those listed as Priority 1, and whilst they are still considered to be vulnerable to

an attack, they are not as attractive a target to those with hostile intent as the Priority 1 locations.



## **STATEMENT OF SUPPORT FOR PHASE ONE CONSULTATION ON CITY COUNTER TERRORISM SECURITY MEASURES**

In December 2017 Safer York Partnership established a Counter Terrorism Task Group to develop and oversee a programme of measures designed to improve awareness of counter terrorism and increase physical security in the city against a potential terrorist attack. The group operates within the guidelines of the PROTECT and PREPARE elements of the Government's Counter Terrorism Strategy CONTEST.

The group is comprised of the following members:

Head of Security York Minster  
Head of Security York Racecourse  
Make It York  
York BID  
Area Commander North Yorkshire Police  
CYC Community Safety  
CYC Transport & Highways  
CYC Communications Team  
North Yorkshire Police 'Project Servator'  
North East Counter Terrorism Unit

The group meets monthly and has a detailed action plan outlining the agreed multi-agency response to Counter Terrorism for the City. Contained within that plan is the following priority:

### **PRIORITY 7: Oversee the delivery of a programme of counter terrorism security measures aimed at hostile vehicle mitigation for the city**

On 23<sup>rd</sup> July 2018, the task group discussed the proposals for hostile vehicle mitigation put forward by the Consultants MFD. Within York the highest risk area is the City Centre. This is the area with the highest footfall, venue for the city's programme of street festivals and markets and contains the highest risk locations in terms of 'crowded places'.


City of York Council have proposed that the programme of counter terrorism security measures be phased in order to streamline the consultation process and ensure that the highest risk area is protected first. It is recognised that the area on the attached map should be considered first given this is the busiest shopping and event area within the city centre that attracts the highest footfall.

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The Counter Terrorism Task Group endorses this approach and the Chair has been asked to sign on behalf of the group. Monthly progress reports on implementation will be considered by the group as part of the delivery of the action plan.

**On behalf of the Counter Terrorism Task Group as Chair:**

Signed .....  .....

MARK SUTCLIFFE, HEAD OF SECURITY YORK MINSTER

Date: 31 July 2018 .....

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# Communications plan for City Centre Access

To build support the introduction of counter-terrorism measures and engage affected stakeholders in mitigating impact

## Objectives

Residents, businesses and affected groups understand York's duty to protect, and **think** that the measures are necessary, see that York city centre is an increasingly safe place to visit.

Residents, businesses and affected groups **feel informed of** the risks and included in mitigating the impact of the measures.

Affected groups **engage** in processes to understand the impact of the measures and mitigate against them. City retailers and leaders explore the opportunities to support the city centre economy.

## Strategy

- Build advocacy through partner organisations and representative bodies
- Targeted engagement with key affected groups to understand behaviour and develop mitigation ahead of any TRO proposals
- Provide drumbeat to reassure York residents that the council is discharging its duty to protect and taking action to make the city safer, but that there is no specific threat to York (using Servator messaging) and following Safer York partnership comms plan.

- 3 Sep: Portfolio holders/CMT
- 18 Sep: Exec go live
- 27 Sep - Exec (Sep)– Scrutiny decision-making
- Ongoing: city centre events and installing temp measures
- Oct: Key Stakeholder engagement
- 1/11/18 – temp measures installed. TRO engagement begins.
- April 2019: report goes to full exec re findings of TRO
- May onwards: design of perm measures
- 12 weeks design
- 16 weeks procurement
- ? installation

# Communications/campaign plan for

## OBJECTIVES

Residents, businesses and affected groups **think** that the measures are necessary, and that York city centre is a safe place to visit. Residents, businesses and affected groups council **feel** informed of the risks and included in mitigating the impact of the measures.

Affected groups **engage** in processes to understand the impact of the measures and mitigate against them. City retailers and leaders explore the opportunities to support the city centre economy.

## AUDIENCE

- Businesses, retailers, market stall holders, hotels
- Emergency services, council services, utilities
- City centre residents
- Blue/green badge holders
- Haulage/deliveries
- City leadership – ward, exec, MP
- Civic trust/heritage groups
- Royal mail and bullion
- Cyclists, taxis and other users identified through baseline research
- NRM (train)
- Minster and other churches

## STRATEGY

1. Build advocacy through partners
2. Targeted engagement with directly affected groups
3. Reassuring drumbeat

## IMPLEMENTATION

- Build advocacy**
- Agree messaging and messenger from the police.
  - Early involvement of cross-party political leadership from across the city
  - CYC/police brief media ahead of significant engagement work – they hear about plans and measures directly from us, first.
  - Work through representative groups and their trusted channels of communication
  - Early involvement of Civic Trust and heritage groups in design work
  - Senior councillor briefings on consultant recommendations
- Reassuring drumbeat**
- Develop collateral explaining the scheme – police, consultants and affected stakeholders as advocates
  - Media briefings (see above)
  - Include reference to the experience of security consultants on all comms
  - Fold messaging in to all Servator/security messaging through Safer York Partnership

- Targeted engagement**
- Meet with representative groups to introduce the scheme, discuss mitigation and channels to further engage their membership
  - Door-knock and letter to every resident living or parking in affected area
  - Visit every city centre retailer
  - Build database of city centre retailer contacts (after identifying what we already have)
  - Build database of delivery companies identified through retailer work
  - Build database of blue badge holders through amnesty campaigns and baseline work
  - Online and physical survey for stakeholders to complete
  - Invite all known stakeholders to workshop exercises with retailers, market stallholders, blue badge holders, delivery companies
  - Full TRO engagements

## EVALUATION

**Advocacy:** partners sharing information, registering their supportive comments, securing comments from their members

**Targeted:** # of each stakeholder filling in survey/responding to visits/attending workshops

**Drumbeat:** tbc

## Annex E

**Our ref:** LR/SR

**Your ref:**

**Date:** 17 August 2018

**Name and address:** Mary Weastell  
Chief Executive  
City of York Council  
West Officers  
Station Rise  
York  
YO1 6GA



Dear Mary,

### **North Yorkshire Police support for Hostile Vehicle Mitigation (HVM) measures**

Thank you for the recent invitation to meet Executive Members which took place on Monday 6<sup>th</sup> August 2018. Following my attendance, I would like to place on record my support, on behalf of North Yorkshire Police, in relation to the proposed HVM measures planned for the City of York.

As I am sure you are aware, the national threat level remains at severe. This means that a terrorist attack is highly likely and any attack is likely to come without notice. Further, there has been a clear shift in attack methodology, from complex pre-planned coordinated attacks such as those seen at the World Trade Center to the more recent attacks on mainland Europe and those in the United Kingdom where attack planning is very basic, including the use of hire vehicles and knives as weapons.

Public spaces are currently the most favoured locations because they have ready access to a large number of potential victims. York has very tight streets where there are large crowds of people regularly going about their daily business. Any attack carried out by a vehicle is therefore likely to result in multiple fatalities and many significant injuries.

Currently there are no suitable vehicle mitigation measures in York. My colleague, Superintendent Mark Khan, a specialist Security Coordinator, is of the opinion that this is an unacceptable risk for the city to carry. I would echo this view, especially when we, as public authorities, have responsibilities in relation to the European Convention of Human Rights (ECHR). This is particularly relevant when Article 2, The Right to Life, is considered as this article places a positive duty on the state (i.e. public bodies) to protect life.

Hostile vehicle mitigation can work in two ways. It can be a visible deterrent and also a physical barrier. I am therefore in full support of the proposed measures and look forward to continuing to support City of York Council as this work moves forward.

Yours sincerely

**Superintendent Lindsey Robson**  
**Area Commander York & Selby**

**SECTION 1: CIA SUMMARY**
**Community Impact Assessment: Summary**
**1. Name of service, policy, function or criteria being assessed:**

City Centre Access Priority One Area (Experimental Changes)

**2. What are the main objectives or aims of the service/policy/function/criteria?**

Protection of the foot streets and event locations from hostile vehicle attack in the Priority 1 area.

**3. Name and Job Title of person completing assessment:**

Graham Titchener, Parking Services Manager

**4. Have any impacts been Identified?**

Yes

**Community of Identity affected:**

Age; Carers of Older or Disabled People; Disability; Religion/Spirituality/Belief.

**Summary of impact:**

Impact is primarily due to a reduction in vehicular access for holders of disabled blue badges to the city centre including the St Sampson's Centre.

**5. Date CIA completed:** 03/09/2018

**6. Signed off by: Tony Clarke**

7. I am satisfied that this service/policy/function has been successfully impact assessed.

**Name: Tony Clarke**

**Position: Head of Transport**

**Date: 7/9/18**

**8. Decision-making body:**
**Date:**
**Decision Details:**

Send the completed signed off document to [ciasubmission@york.gov.uk](mailto:ciasubmission@york.gov.uk) It will be published on the intranet, as well as on the council website.

Actions arising from the Assessments will be logged on Verto and progress updates will be required

## Community Impact Assessment (CIA)

**Community Impact Assessment Title:**

City Centre Access Priority One Area

What evidence is available to suggest that the proposed service, policy, function or criteria could have a negative (N), positive (P) or no (None) effect on quality of life outcomes?

Can negative impacts be justified?

### Community of Identity: Age

Evidence	Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
<p>The St Sampson's centre is a community social centre for the over 60's. A number of their users access the facility by community transport (door to door service) or have a blue badge (disabled) and are currently able to park nearby - though vehicular access is contrary to the existing traffic regulation order.</p> <p>The priority 1 area of the city centre (see annex A) provides</p>	<p>Access to services and employment; Longevity; Health; Standard of living; Individual, family and social life.</p>	<p>N</p>	<p>N</p>



a significant number of services including retail, food and drink as well as access to business services such as banking, some hotels and other non-retail businesses.				
<b>Details of Impact</b>	<b><i>Can negative impacts be justified?</i></b>	<b>Reason/Action</b>	<b>Lead Officer</b>	<b>Completion Date</b>
<p>Reduction in accessibility of the St Sampson's centre during the footstreet hours, will negatively impact those over 60 who rely on this facility for social interaction, help and guidance.</p> <p>The restricted access into the priority 1 area of the city centre (see annex A) will increase the distance between available parking spaces and destinations for blue badge holders to park during the footstreet hours, which depending on the severity of the individual's disability may prove to make access into the city centre during the footstreet hours more restrictive.</p>	<b>Y</b>	<p>The need to secure the city centre against hostile vehicle attack is considered vital to protect residents and visitors in York city centre during the busiest part of the day.</p> <p>The city's Dial &amp; Ride service will continue to have access to the St. Sampson's centre to drop off and pick up passengers including disabled residents.</p> <p>Alternative parking for Blue Badge holders, which is used currently when St. Sampson's Square is closed for events on up to 90 days a year, is available close to the area.</p>	Graham Titchener	Aug 2018

**Community of Identity: Carers of Older or Disabled People**

<b>Evidence</b>	<b>Quality of Life Indicators</b>	<b>Customer Impact (N/P/None)</b>	<b>Staff Impact (N/P/None)</b>
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<p>Loss of disabled parking in the city centre impacts both the disabled blue badge holder and their carers. The St Sampson's centre is a community social centre for the over 60s, reduction in accessibility may prevent use by some of their visitors.</p> <p>The priority 1 area of the city centre (see annex A) provides a significant number of services including retail, food and drink as well as access to business services such as banking, some hotels and other non-retail businesses.</p>		<p>Access to services &amp; employment; Productive &amp; valued activities; Individual, family and social life</p>	N	N
Details of Impact	Can negative impacts be justified?	Reason/Action	Lead Officer	Completion Date
<p>A reduction in access for disabled passengers/drivers with loss of parking will reduce the accessibility of the city centre and access to services located there.</p>	Y	<p>The need to secure the priority 1 area of the city centre (see annex A) against hostile vehicle attack is considered vital to protect residents and visitors in York city centre during the busiest part of the day.</p> <p>Alternative parking for Blue Badge holders, which is used currently when St. Sampson's Square is closed for events on up to 90 days a year, is available close to the area.</p>	Graham Titchener	Aug 2018

<p>Access (door to door) to the St Sampson's Centre facility will be more restricted for those unable to travel there unaided which may impact on their carers who may rely on this centre offering a safe place for their dependant.</p>	<p>Y</p>	<p>The need to secure the priority 1 area of the city centre (see annex A) against hostile vehicle attack is considered vital to protect residents and visitors in York city centre during the busiest part of the day.</p> <p>The city's Dial &amp; Ride service will continue to have access to the St. Sampson's centre to drop off and pick up passengers including disabled residents.</p>		
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<p style="text-align: center;"><b>Community of Identity: Disability</b></p>			
<p style="text-align: center;"><b>Evidence</b></p>	<p style="text-align: center;"><b>Quality of Life Indicators</b></p>	<p style="text-align: center;"><b>Customer Impact (N/P/None)</b></p>	<p style="text-align: center;"><b>Staff Impact (N/P/None)</b></p>
<p>Loss of disabled parking in the city centre impacts both the disabled and their carers. The St Sampson's centre is a community social centre for the over 60s, reduction in ease of access may prevent use by some disabled visitors.</p> <p>The restricted access into the city centre will increase the distance between available parking spaces and destinations for blue badge holders to park during the</p>	<p>Access to services &amp; employment; Longevity; Health; Standard of living; Productive &amp; valued activities</p>	<p style="text-align: center;">N</p>	<p style="text-align: center;">N</p>

footstreet hours, which depending on the severity of the individual's disability may prove to make access into the city centre during the footstreet hours more restrictive.				
An increase in physical barriers around the priority 1 area of the city centre (see annex A) will likely have an impact on the blind and partially sighted people.		Access to services & employment; Health; Standard of living; Individual, family and social life.	N	N
<b>Details of Impact</b>	<b><i>Can negative impacts be justified?</i></b>	<b>Reason/Action</b>	<b>Lead Officer</b>	<b>Completion Date</b>
Reduced availability of parking within those areas currently accessible to disabled badge holders.	Y	The need to secure the priority 1 area of the city centre (see annex A) against hostile vehicle attack is considered vital to protect residents and visitors in York city centre during the busiest part of the day.  Alternative parking for Blue Badge holders, which is used currently when St. Sampson's Square is closed for events on up to 90 days a year, is available close to the area.	Graham Titchener	Aug 2018
Reduction in accessibility of the St Sampson's centre will negatively impact the residents over 60 who are disabled and rely on this facility for social interaction, help and guidance.	Y	The need to secure the priority 1 area of the city centre (see annex A) against hostile vehicle attack is considered vital to protect residents and visitors in York city centre during the busiest part of the		

		<p>day.</p> <p>The city's Dial &amp; Ride service will continue to have access to the St. Sampson's centre to drop off and pick up passengers including disabled residents.</p>		
<p>A reduction in access for disabled passengers/drivers with loss of parking will reduce the accessibility of the priority 1 area in the city centre (see annex A) and access to services located there.</p>	Y	<p>The need to secure the priority 1 area of the city centre (see annex A) against hostile vehicle attack is considered vital to protect residents and visitors in York city centre during the busiest part of the day.</p> <p>Alternative parking for Blue Badge holders, which is used currently when St. Sampson's Square is closed for events on up to 90 days a year, is available close to the area.</p>		
<p>Impact on blind and partially sighted people due to a large number of new obstacles, particularly the moving bollards within the predominantly pedestrian areas.</p> <p>A row of bollards may make way-finding simpler for some.</p>	Y	<p>The need to secure the priority 1 area of the city centre (see annex A) against hostile vehicle attack is considered vital to protect residents and visitors in York city centre during the busiest part of the day.</p>		

**Community of Identity: Gender**

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/A		N/A	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

**Community of Identity: Gender Reassignment**

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/A		N/A	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

**Community of Identity: Marriage & Civil Partnership**

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/A		N/A	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

**Community of Identity: Pregnancy / Maternity**

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/A		N/A	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

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**Community of Identity: Race**

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
N/A		N/A	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

**Community of Identity: Religion / Spirituality / Belief**

Evidence		Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)
Physical closure of streets not currently closed will reduce vehicular access to some city centre churches.		N/A	None	None
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date



Reduced access to places of worship within the priority 1 area of the city centre (see annex A) through loss of vehicular access and parking for disabled blue badge holders.	Y	<p>The need to secure the priority 1 area of the city centre (see annex A) against hostile vehicle attack is considered vital to protect residents and visitors in York city centre during the busiest part of the day.</p> <p>Alternative parking for Blue Badge holders, which is used currently when St. Sampson's Square is closed for events on up to 90 days a year, is available close to the area.</p>	Graham Titchener	Aug 2018
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**Community of Identity: Sexual Orientation**

Evidence	Quality of Life Indicators	Customer Impact (N/P/None)	Staff Impact (N/P/None)	
N/A	N/A	None	None	
Details of Impact	<i>Can negative impacts be justified?</i>	Reason/Action	Lead Officer	Completion Date

Annex A –



Annex A - City  
centre access Priority



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**Executive****27 September 2018**

Report of the Corporate Director of Director of Economy and Place

Portfolio of the Executive Member for Transport & Planning, Executive Member for Culture, Leisure & Tourism and Executive Member for Housing & Safer Neighbourhoods

**Update on Formal Enforcement Action****Summary**

1. The purpose of this report is to enable the Executive Members to review the formal enforcement action as well as the surveillance activity undertaken in 2017-18 by:-

- Public Protection (Environmental Health, Trading Standards and Licensing)
- Housing Services
- Community Safety
- National Trading Standards Regional Investigation and National Trading Standards eCrime teams

Please note, there are other services such as Planning enforcement which are subject to separate policies and which are reported elsewhere.

2. The highlights include:-

- 64 years imprisonment (5 years suspended)
- £21k in fines
- 1060 hours of unpaid work
- £311k in compensation for victims

- £3.3m in proceeds of crime confiscation orders
- £98k in costs awards

### **Recommendations**

3. That the Executive Members approve the report.

Reason: To provide oversight to the activity undertaken in 2017-18, and fulfil the requirement for an annual review under the Public Protection, Housing Services and Community Safety enforcement policy and meet the requirement of the Office of Surveillance Commissioners for Member oversight of surveillance activity.

### **Background**

4. The City of York Council's Executive approved an updated enforcement policy for Public Protection, Housing Services and Community Safety on 28 September 2017. It also approved a separate, updated policy for the National Trading Standards Regional Investigation and National Trading Standards eCrime teams at the same time.
5. This report details the results of formal enforcement action taken in the period specified. Each case is considered on its merits before legal proceedings or other types of formal enforcement action including a 'simple caution' or fixed penalty notices are initiated.
6. Annex A summarises the enforcement action taken by each team.
7. Annex B gives details of the surveillance activity undertaken as part of the team's investigations. Local Authorities may only undertake 'surveillance' in connection with serious offences i.e. offences which carry a maximum prison sentence of 6 months or more and/or other specific offences such as those in connection with the sale of alcohol or tobacco to children.
8. For completeness, the existing enforcement policy – Public Protection, Housing Services & Community Safety is appended at Annex C and the enforcement policy - National Trading Standards Regional Investigation and National Trading Standards eCrime teams at Annex D.

## Public Protection

9. Public Protection Officers undertake the majority of the council's environmental health, trading standards and licensing duties and as such are responsible for enforcing over a hundred Acts of Parliament and thousands of underpinning Regulations. Each year, officers carry out a detailed assessment of the issues most affecting residents, visitors and businesses within the city and identify a series of 'priorities' around which most activity will be focussed.

10. The priorities for 2017-8 were as follows:-

- Ensuring businesses meet food safety requirements

*There is a separate, statutory food plan (approved by the Executive Member for the Environment) which sets out our planned activity in this respect.*

- Ensuring local businesses are meeting their health and safety obligations
- Dealing with nuisance from noise, smoke, odour etc emanating from commercial premises

*The Community Safety team have responsibility for dealing with domestic noise including operating the night time noise nuisance service*

- Improving the environment, particularly in relation to air quality
- Protecting residents from unfair trading practices
- Preventing the supply of dangerous products including illegal supplies of alcohol tobacco and potentially harmful foods.

*This includes activity to prevent illegal sales of age restricted products such as alcohol, tobacco and knives (minimum age 18). It involves advising businesses on their legal obligations and undertaking 'test purchases' with the help of young persons to ensure they are complying with their obligations. We respond to complaints and other sources of intelligence about problem premises and areas of anti-social behaviour, we also carry out some routine purchases to test wider compliance. In relation to any other age restricted products including spray paints (minimum age 16) , fireworks (18) and solvents (18) we only*

*carry out activity in response to complaints and intelligence about particular problem businesses.*

- Ensuring businesses are meeting their licensing obligations
11. Please note, none of the above is of greater priority than any other. The enforcement activity shown in Annex A demonstrates that officers have been working in accordance with these priorities.
  12. Similar priorities remain for 2018-9, and our approach will also be as described above.

### **Housing Services**

13. The Housing teams manage and take enforcement action on council owned homes and managed properties for another housing organisation, Thirteen, working closely with the Community Safety Hub on more serious cases.
14. The Housing Standards and Adaptations team regulates standards in the private sector with a focus on the private rented sector and in particular Houses in Multiple Occupation. There has been a raft of new legislation in this area aimed at raising standards, dealing with the poorest end of the sector and most notably extending the definition of HMOs that need licensing effective from 1<sup>st</sup> October 2018. It is anticipated that this will increase the workload of the team from actively licensing 480 properties to around 1200 properties<sup>1</sup>.
15. Following the approval of the Enforcement Policy last year, the team has also been using the provisions introduced by the Housing and Planning Act 2016 which enabled the council to consider Civil Penalty Notices as an alternative to prosecution. Fines up to £30k can be levied for certain offences. We have also been actively working more closely with statutory partners to tackle issues relating to modern slavery. Joint working has enabled the team to focus on some of the worst properties in the city.

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<sup>1</sup> See Executive Member for Housing and Safer Neighbourhoods report below for more information about the revised implementation policy for HMO licensing

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=932&MIId=10869&Ver=4>

## **Community Safety**

16. The Neighbourhood Enforcement Team forms part of the Community Safety Hub. It consists of 10 officers, working across three geographic 'patches', chosen to align with North Yorkshire Police's Neighbourhood Policing boundaries to assist with joint working.
17. The remit of the team is to tackle enviro crime and low level anti-social behaviour (ASB) including: domestic noise nuisance, flytipping, commercial and domestic waste duty of care offences, waste presentation offences, flyposting, dog fouling, dog on dog attacks, litter, unlawful encampments, enforcement of Public Space Protection Orders, nuisance behaviour associated with the city centre such as nuisance begging selling or busking and street urination. The team also provides a weekend noise patrol service 9pm – 3am each Friday and Saturday.
18. Enforcement action can range from the issuing a Fixed Penalty Notice through to prosecution, depending on the seriousness of the offence. Since 2014 and the advent of the Anti-social Behaviour, Crime and Policing Act, the team have been able to issue Community Protection Notices (CPNs), following a written warning, to those committing any form of persistent anti-social behaviour impacting on the quality of life of those around them.
19. Ward funding has been allocated for mobile CCTV to assist the Neighbourhood Enforcement Team in evidence gathering for prosecutions. The team are currently working through the process to procure the right equipment and ensure that GDPR compliance is achieved.

## **National Trading Standards teams**

20. The purpose of the Regional Investigations teams and the National eCrime enforcement team is to tackle wide-scale scams and complex cases of fraud perpetrated on consumers and/or businesses on a regional and national basis. The national e-crime team – as the name suggests – focuses on trading standards crimes on the internet. These teams investigate individual cases and practices referred to them by local authority trading standards services and other organisations via the National Trading Standards

Tasking Group, they do not take on cases directly from members of the public.

### **Consultation**

21. A survey of Talkabout panellists was undertaken between 21/11/16 and 18/12/16 and they were asked to rank the importance of different aspects of the service carried out by Public Protection, Housing Services and Community Safety. Under the new enforcement policy, formal enforcement action is an option in all the areas they identified as important.

### **Options and analysis**

22. There are no options and analysis associated with this report as this is a review of activity undertaken.

### **Council Priorities**

23. The legal actions support the Council's priorities in respect of the following:
  - A prosperous city for all – enabling legitimate businesses to thrive by tackling competition based on unfair and unsafe practices and ensuring residents having good quality housing.
  - A focus on frontline services – many of the actions are taken in response to complaints from members of the public some of whom are the most disadvantaged in the City.
  - This action is taken as part of our statutory duties.

### **Implications**

24. **Financial:** There are no financial implications associated with this report.
25. **Human Resources:** There are no Human Resources implications associated with this report.
26. **Equalities:** There are no equalities implications associated with this report



27. **Legal:** Under the City of York Council's delegation scheme, legal proceedings may only be approved if they are in accordance with an approved enforcement policy.
28. **Crime and Disorder:** Formal enforcement action contributes to reducing anti social behaviour and dishonest trading.
29. **Information Technology (IT):** There are no IT implications associated with this report.
30. **Other:** There are no other implications associated with this report.

### **Risk Management**

31. Applying the Council's risk scoring criteria, operating with outdated enforcement policies poses a 'major risk' (potential action in a national court with the national media coverage) and a likelihood of 'possible' giving a score of **12** (yellow risk). Operating with up to date relevant policies, reduces the likelihood to 'unlikely' giving a score of **8** (green risk).

**Contact Details**

**Author:**  
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**Chief Officer Responsible for the report:**  
Neil Ferris,  
Director of Economy and Place

**Report  
Approved**



**Date**

**Specialist Officer Implications: None**  
**Wards Affected:**

All

**Background Papers:**

None

**Annexes**

Annex A: Summaries of Formal Enforcement Action 1 March 2017 to 31 March 2018

Annex B: Surveillance Activity

Annex C: Existing enforcement policy – Public Protection, Housing Services & Community Safety

Annex D: Enforcement policy - National Trading Standards Regional Investigation and National Trading Standards eCrime teams

## Annex A: Summaries of Formal Enforcement Action 1<sup>st</sup> March 2017 to 31<sup>st</sup> March 2018

### Public Protection (including Environmental Health, Trading Standards and Licensing)

Defendant	Legislation	Nature of Case	Penalty	Costs
Hayati Kucokkoylu	Environmental Protection Act 1990	Breach of noise abatement notice at Macumba	Six-month conditional discharge. £20 victim surcharge.	£1,159.43
Jeanette Alice Christina Garrard	Food Safety and Hygiene (England) Regulations 2013	Breaches of food safety requirements	£100 fine £30 victim surcharge.	£817.58
Trevor Douglas	Food Safety and Hygiene (England) Regulations 2013	Breaches of food safety requirements	£1066 fine £106 victim surcharge	£500
Gary Michael Anderson  *Joint investigation with Community Safety – see below	Food Safety and Hygiene (England) Regulations 2013  Consumer Protection from Unfair Trading Regulations 2008	Breaches of food safety requirements  Displaying false food hygiene rating	£4400 fine £170 victim surcharge	£5054.32
Ben Buck Commercials Ltd	Consumer Protection from Unfair Trading Regulations 2008	Sale of falsely described van	£4500 fine £170 victim surcharge	£4020
Benjamin William Buck	Consumer Protection from Unfair Trading Regulations 2008	Sale of falsely described van	£294 fine £30 victim surcharge	£0
Ashley Wright	Consumer Protection from Unfair Trading Regulations 2008	Sale of falsely described van	£190 fine £30 victim surcharge	£0
Rehan Farooq	Town Police Clauses Act 1847	Plying for hire and driving without insurance	£200 fine 6 penalty points £30 victim	£608.34

			surcharge	
Kalid Mahmood	Town Police Clauses Act 1847	Private hire driver illegally on taxi rank	£150 fine £30 victim surcharge	£220
Sohail Ahmed	Town Police Clauses Act 1847	Illegal plying for hire and driving without insurance	£860 fine 6 penalty points £66 victim surcharge	£478.20
Ian Limbert	Consumer Protection from Unfair Trading Regulations 2008  Town Police Clauses Act 1847	Breaching duty to trade fairly during course of a taxi journey  Illegal Plying for hire	Licence revoked in last financial year  £200 fine £30 victim surcharge	£518
Ndiasse Faye	Trade Marks Act 1994	Sale of fake mobile telephone and tablet covers	12 week prison sentence, suspended for 12 months  300 hours unpaid work £80 surcharge.	£1200
Francis David Kerr	Proceeds of Crime Act 2002	Confiscation order following sale of fake jewellery.	Order for £75,059.88 payable within 3 months  (2 years imprisonment in default).	£15,000
Robert Montgomery	Consumer Protection from Unfair Trading Regulations 2008	Breaching duty to trade fairly in the course of building an extension	10 month suspended sentence for 2 yrs  £5870 compensation	£800
Jeremy Paul White	Consumer Protection from Unfair Trading Regulations 2008	Breaching duty to trade fairly in the course of building an	13 month prison sentence	£3000

		extension	suspended for 2 years. £8k compensation	
Jason Hoyland	Consumer Protection from Unfair Trading Regulations 2008	Director of company making false claims in the course of cold calling selling double glazing and guttering	10 month prison sentence suspended for 2 years. 250 hours of unpaid work Disqualified from running a company for 5 years £10,125 compensation	£6000
Stella Sowe	Consumer Protection from Unfair Trading Regulations 2008	Salesperson making false claims in the course of selling double glazing and guttering	150 hours of unpaid work	£1000

3 x simple cautions were issued for breaches of food safety requirements

3 x simple cautions were issued for selling knives to a person under the age of 18.

2 x simple cautions for offering to supply unsafe toys

3 x simple cautions for transporting animals in a way likely to cause unnecessary suffering to farm animals

1 x simple caution for a breach of health and safety requirements

2 x taxi/private hire drivers licences revoked – no longer considered 'fit and proper' persons to hold a licence.

29 x fixed penalty notices for smoking in a public place.

\*Please note that a Simple Caution is a Home Office approved procedure which is an alternative to prosecution. It involves a written acceptance that an offence has been committed and may be drawn to the attention of a court if any subsequent offence is committed within two years of issue.

**National Trading Standards Regional Investigation and eCrime Team**

Defendant	Legislation	Nature of Case	Penalty	Costs
Peter HALL	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	15 years imprisonment	
Claire HALL	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	4 years imprisonment	
Collette FERROW	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	4 years imprisonment	
Bilal ZAIDI	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	5 years imprisonment	
Kerry MILLS	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	5 years imprisonment	
Liam HINCKS	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	4½ years imprisonment	
Thomas SCOFFIN	Conspiracy to defraud	Operation Funder. Director of a vacuum cleaner servicing/sales company that made false claims and used aggressive practices to secure sales.	6 years imprisonment	
Linda SCOFFIN	Conspiracy to defraud	Operation Funder. Involvement in a	3 years imprisonment	

		vacuum cleaner servicing/sales company that made false claims and used aggressive practices to secure sales.		
Paul WRAY and Claire WRAY	Proceeds of Crime Act 2002	Operation Flip. Confiscation hearing following earlier conviction for mis selling /aggressive practices with the sale of mobility mattresses.	£917,287 Confiscation Order (including £20,757 to be paid as compensation to victims)	
Marcus ASHCROFT-JONES	Fraud Act 2006, Companies Act 2006 and Proceeds of Crime Act 2002	Operation Judy. Advertising on-line job vacancies for non existent jobs and charging monies for DBS checks that were not provided for those jobs. Money laundering	5 years imprisonment and £3,654.54 to be paid as compensation to victims.	
Darryl JUSTICE	Proceeds of Crime Act 2002	Operation Judy. Opened a bank account for Marcus ASHCROFT-JONES to facilitate money laundering.	80 hours unpaid work.	
Nicholas PRINGLE	Proceeds of Crime Act 2002	Operation Judy. Opened a bank account for Marcus ASHCROFT-JONES to facilitate money laundering.	80 hours unpaid work.	
Narendra VADGAMA	Consumer Protection from Unfair Trading Regulations 2008	Operation Kuki. On-line cold calling computer servicing business making false claims regarding need for repairs and association with companies such as Microsoft	12 month imprisonment suspended for 18 months. Six months 8pm to 8am curfew.	
Kelly DOBSON	Conspiracy to defraud	Operation Angel 2. Conspiring to	3 years imprisonment	

		defraud customers of kitchen retailing businesses operating out of Maple Mill in Oldham		
Anthony EDDLESTONE	Conspiracy to defraud	Operation Angel 2. Conspiring to defraud customers of kitchen retailing businesses operating out of Maple Mill in Oldham	27 months imprisonment	
Stephen FORD	Consumer Protection from Unfair Trading Regulations 2008	Operation Angel 2. False statements made by kitchen retailing businesses operating out of Maple Mill in Oldham	30 weeks imprisonment	
Vance MILLER	Proceeds of Crime Act 2002	Operation Angel. Confiscation proceedings taken against 'an absconder' arising from a case brought against those involved in selling kitchens from Maple Mill in Oldham	£2,357,761.50 Confiscation Order from which £223,703.06 to be paid as compensation to victims	
Martin SERSEN	Proceeds of Crime Act 2002	Operation Angel. Confiscation proceedings arising from a case brought against those involved in selling kitchens from Maple Mill in Oldham	£58,591.61 Confiscation Order	
Nicola BRODIE	Proceeds of Crime Act 2002	Operation Angel. As above.	£133,005.53 Confiscation Order	
Matthew LEAK	Proceeds of Crime Act 2002	Operation Angel. As above.	£2,570 Confiscation Order	
David HOURIGAN	Proceeds of Crime Act 2002	Operation Angel. As above.	£93,625 Confiscation Order	
Mohammed USMAN	Consumer Protection from Unfair Trading Regulations 2008	Operation Diesel. Director of a home improvement	12 month imprisonment suspended	£17,778.59



		company that made false claims regarding the availability of government grants	for 2 years. £39,752 compensation to victims.	
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## Housing Services

### Anti Social Behaviour

Number of Cases	Legislation	Nature of Case	Penalty	Costs
5	Housing Act 1985	Possession Application	Notice of Seeking Possession & Monitor	No court action
1	Housing Act 1985	Possession Application	Instructed to withdraw possession claim	No order for costs
	Housing Act 1985	Possession Application	Adjourned generally with liberty to restore	No order for costs
3	Housing Act 1985	Possession Application	Suspended Possession Order granted	No order for costs – Legal Aid in place
5	Housing Act 1985	Possession Application	Suspended Possession Order granted	£355.00
3	Housing Act 1985	Possession Application	Possession Forthwith	No order for costs – Legal Aid in place
	Housing Act 1985	Possession Application	Possession Forthwith	
2	Housing Act 1985	Warrant Application	Application dismissed – evicted	No order for costs – Legal Aid in place
2	Housing Act 1985	Warrant Application	Application granted – not evicted	No order for costs – Legal Aid in place
4	Anti Social Behaviour, Crime & Policing Act 2014	Injunction Application	Final Order granted with power of arrest	No order for costs
1	Anti Social Behaviour, Crime & Policing Act 2014	Premises Closure	Final Order granted	No order for costs

**Rent (CYC) Held in Chambers (Private) so details as to names cannot be disclosed.**

<b>Number of Cases</b>	<b>Legislation</b>	<b>Nature of Case</b>	<b>Penalty</b>	<b>Costs</b>
16	Housing Act 1985	Possession Application	Outright Possession Order	£394.50
2	Housing Act 1985	Possession Application	Outright Possession Order	No order for costs
58	Housing Act 1985	Possession Application	Suspended Possession Order (SPO)	£394.50
1	Housing Act 1985	Possession Application	Suspended Possession Order (SPO)	No order for costs
7	Housing Act 1985	Possession Application	Adjourned generally with liberty to restore	£394.50
10	Housing Act 1985	Possession Application	Adjourned generally with liberty to restore	No order for costs
0	Housing Act 1985	Possession Application	Application dismissed	No order for costs
25	Housing Act 1985	Application to suspend warrant	Warrant suspended	£121.00
4	Housing Act 1985	Application to suspend warrant	Warrant suspended	No order for costs
3	Housing Act 1985	Application to suspend warrant	Application dismissed – evicted	£121.00
0	Housing Act 1985	Application to suspend warrant	Application dismissed – evicted	No order for costs

**Other Possessions (CYC)**

<b>Number of cases</b>	<b>Legislation</b>	<b>Nature of Case</b>	<b>Penalty</b>	<b>Costs</b>
7	Housing Act 1996	Possession from Temporary Accommodation	Possession Forthwith	£394.50
2	Housing Act 1996	Introductory Tenancy	Possession Forthwith	£394.50
5	Housing Act 1996	Possession for Trespass	Possession Forthwith	£424.50

**Penalty Meanings:**

Notice of Intention to Seek Possession – is a notice served on the customer to advise that CYC are intending to seek possession of their property. This notice has to be delivered before any court actions can be made.

Outright Possession order – Made by the County Court to advise the customer to leave the property by the date given in the order. If the customer has not left the CYC apply to the court for a warrant for the bailiffs to evict the customer.

Possession Forthwith – Order made by the County Court for an action to be done as soon as reasonably possible.

Application Dismissed - Eviction – Order made by the County Court to advise that CYC can continue directly to eviction of the customer as their application to remain has been refused.

Adjournment with Liberty to Restore – Order made by the County Court that the case isn't active at this time however it still exists within the court records. These are generally for a period of 12mths in our experience. However should the customer fail to maintain the detail, such as keep a clear rent account, then the case can be brought back to court at the same position it was adjourned.

Suspended Possession – Order made by the County Court that means the customer may remain at their home as long as they keep to the terms and condition of the order such as pay current rent plus a fixed amount off the arrears at a certain frequency.

Warrant Suspended – Order made by the County Court to stop the Bailiffs attending the customers property to evict them. These are generally suspended on terms to do something such as pay rent plus arrears. The order will be suspended until spent or fails.

Withdraw Possession Case – CYC advise the County Court that they wish to withdraw the application for possession of a property due to exceptional circumstances.

*\*Please note that prior to all actions taken the Pre-Court Protocol must be adhered to. This explains to the customer the conduct of the authority and sets out the steps the court would normally expect CYC to follow before commencing court proceedings.*

**Housing Standards and Adaptations Service**

Defendant	Legislation	Nature of Case	Penalty	Costs
Landlord	Section 30 of Housing Act 2004	Non – Compliance with an Improvement Notice	Civil Penalty Notice upheld	£23,375
Mr Taleb Tash	Section 72 Housing Act 2004	Having control of managing a House in Multiple Occupation (HMO) which is required to be licensed under Section 61(1) but is not so licensed.	Fine £1500	£3912.64 plus £125 statutory surcharge
MR Aligul	Section 72 of the Housing	Having control of	Each fined	Each asked to

Kala and Mrs Gulten Kala	Act 2004	managing a House in Multiple Occupation (HMO) which is required to be licensed under Section 61(1) but is not so licensed.	£1500	pay costs of £1175.78 and surcharge of £120
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1x further civil penalty notice on a letting agents for not displaying letting fees fine £1250 which was paid

4 x Prohibition Notices served for letting rooms which were too small/significant safety problems in two properties

6x improvement notices to tackle significant health and safety issues which can not be controlled by informal action or licensing conditions

### Community Safety

Defendant	Nature of Case	Penalty	Costs
Youth A Under 18	Cycling on footpath and youth-related ASB, Chapelfields	Unconditional discharge, York Youth Court	N/A
Youth B Under 18	Breach of Community Protection Notice served for youth-related ASB, Chapelfields	Unconditional discharge, York Youth Court	N/A
Youth C Under 18	Breach of Community Protection Notice served for youth-related ASB, Chapelfields	Unconditional discharge, York Youth Court	N/A
Rudi Dear	Cruelty to animals	Disqualified from owning animals for 10 years – 200 hours community service and £85 court surcharge	£500
Leanne Dear	Cruelty to animals	Disqualified from owning animals for 10 years - £120 fine £30 surcharge and £500 costs	£500
Leanne Wyrill	Failing to comply with a dog control order.	12 month conditional discharge £30 surcharge	£300
Adam Winterburn	Breach of commercial waste duty of care responsibilities -	£307 fine, £30 court surcharge	£720

	builder/handyman		
David Grierson	Breach of commercial waste duty of care responsibilities - Carpet fitter	Conditional discharge - £20 court surcharge	£650
Christopher Smith	Breach of commercial waste duty of Care responsibilities - Collecting waste door to door without a licence	Community order 12 months, 100 hours £85 court surcharge	
James Johnson	Breach of commercial waste Duty of Care responsibilities - Garage owner	Fine of £140, victim surcharge £30	£412.65
Gary Anderson	Green Grocer – pests joint operation with Public Protection	See above	See above
Leigh Garside	Breach of commercial waste Duty of Care responsibilities - man with a van	Fine of £450, and £45 victim surcharge	£250
Paige Greenwood Broker for Leigh Garside	Breach of commercial waste Duty of Care responsibilities and Obstruction of an officer in the course of their duty.	Fine of £150, and £30 victim surcharge	£200
Ben Purver	Fly tipping a Christmas tree	Fine of £320, £32 victim surcharge	£300
Leigh Garside	Fly tipping man with a van	Fine of £450, and £45 victim surcharge	£250
Youth C Under 18	Littering	Fine £75	N/A
Raymond Warren	Littering	Fine of £150, and £30 victim surcharge	£150
Andrew Smith	Playing loud music – conviction led to eviction from his property as this gave a mandatory ground for possession	£100 fine, £30 victim surcharge	£130

Audrey Weston	Dog barking	£138.00 fine, £30 victim surcharge	£351.85
Wilfred Weston	Dog barking	£138.00 fine, £30 victim surcharge	£351.85
Rogers	Urinating in street	£70 fine, £30 victim surcharge.	£100
Potter	Urinating in street	£130 fine, £30 victim surcharge	£100.
Whiteley	Urinating in street	£120 fine, £30 victim surcharge.	£100
McGowan	Urinating in street	£220 fine, £30 victim surcharge and	£100
Alexander	Urinating in street	£220 fine, £30 victim surcharge	£100
Thomas Peacock	Urinating in street	£100 fine, £30 victim surcharge.	£100
Jack Cooper	Urinating in street	£100 fine, £30 victim surcharge.	£100
Stuart Smith	Urinating in street	£100 fine, £30 victim surcharge.	£100
Adam Winterburn	Unlawful waste carriage	£307 fine, £30 victim surcharge	£720
David Grierson	Unlawful waste carriage	Conditional discharge - £20 victim surcharge	£650
Christopher Smith	Unlawful waste carriage	community order 12 months, 100 hours community service, £85 victim surcharge	
Leigh Garside	Fly-tipping and breach of duty of care responsibilities - man with a van	£450 fine, and £45 victim surcharge	£250

41 x warnings, x 10 Notices and 4 Fixed Penalty Notices (FPN's) for community protection matters.

NB: Community Protection Notices were introduced under the Anti-Social Behaviour, Crime and Policing Act 2014. They are issued by Neighbourhood Enforcement Officers to individuals aged 16 or over or businesses/organisations in order to prevent any anti-social behaviour being caused by them impacting on the wider community's quality of life. Before a CPN can be issued officers must consider two things: that the conduct is having a detrimental effect, of a persistent or continuing nature on the quality of life of those in the locality and that it is unreasonable. A warning must be issued in the first instance. The Notice itself will set out: a requirement to stop doing specified things and/or a requirement to do specified things and a requirement to take reasonable steps to achieve specified results.

2 x notices and 3 FPNs for commercial waste inappropriately presented

6 x control orders obtained for dangerous dogs

5 x FPN's for dog fouling

4 x dog microchipping notices served

186 x Notices, and 5 FPN's for domestic waste inappropriately presented

55 x Notices, 17 FPN's and 4 x Simple Cautions for breach of domestic or commercial waste duty of care responsibilities.

7 x notices requiring removal of flyposting

4 x cautions, 14 x FPN's for fly tipping

13 x Litter FPN's issued

26 x noise abatement notices, and 2 cautions issued for noise

6 x notices in relation to control of pests

48 x stopped for urination by police – referred to team for enforcement

16 x Directions to leave land. 1 x Court Order

10 x Notices, 3 FPN's and 2 cautions for unlawful waste carriage



**Annex B: Surveillance Activity**

Team	Activity	Reason
Public Protection	Directed surveillance	Recording attempted 'test purchases' of age restricted products by children
Public Protection	Directed surveillance	Reviewing social media site for sales of cheap counterfeit tobacco
Public Protection	Covert Human Intelligence Source	Making 'covert' contact with seller of cheap counterfeit tobacco.
Public Protection	Communications Data Request	Investigation into unfair trading – details of 4 subscribers requested
Public Protection	Communications Data Request	Investigation into unfair trading – details of 4 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 5 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 7 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 2 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 19 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 8 subscribers requested

## **Annex C - existing enforcement policy – Public Protection, Housing Services & Community Safety**



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### **Public Protection (Environmental Health, Trading Standards, Licensing), Housing and Community Safety Services**

#### **Enforcement Policy**

This document is the enforcement policy for City of York Council's Public Protection (Environmental Health, Trading Standards, Licensing), Housing and Community Safety services. It sets out the key principles under which officers will seek to achieve compliance with the legislation enforced by these services.

In carrying out their duties officers will adhere to the principles of good enforcement set out in the Regulators' Code (2014) and other relevant codes of practice including those concerned with the investigation of offences or the prosecution of offenders.

All enforcement activity undertaken under this policy will have regard to the Human Rights Act 1998 and the European Convention of the Protection of Human Rights and Fundamental Freedoms.

*Please note, whilst this policy acknowledges that officers will adhere to principles of good practice in their enforcement activity, it does not prescribe the way investigations will be conducted or the authorisation of surveillance activity. Furthermore, it does not include enforcement action by Planning, and Transport (including Parking services) which operate under their own guidance.*

#### **1.0 Introduction**

The main purpose of the Public Protection, Housing and Community Safety Services are to maintain a fair and safe trading environment for

consumers and businesses, to help reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York and to improve and protect public health and improve the environment. We recognise that effective and well-targeted regulation is essential in achieving this.

We will ensure legal compliance by:

- Helping and encouraging businesses and individuals to understand and comply with the law.
- Responding proportionately to breaches of the law.

We want to achieve the following outcomes:

- Support economic growth, especially in small businesses, by ensuring a fair, responsible and competitive trading environment
- Protect the environment for future generations including tackling the threats and impacts of climate change
- Improve quality of life and wellbeing by ensuring clean and safe neighbourhoods
- Help people to live healthier lives by preventing ill health and harm, and promoting public health
- Ensure a safe, healthy and sustainable food chain for the benefits of consumers and the rural economy.

## **2.0 Economic Progress**

We will carry out our activities in a way that supports those we regulate comply and grow, remembering that it is important to maintain a level playing field for all businesses to thrive.

We will consider the impact that our regulatory activities may have on businesses, including consideration of costs, effectiveness and perceptions of fairness. We will only adopt a particular approach if the benefits justify the costs and in doing so will endeavour to try to keep any perceived burdens to a minimum.

References to costs and benefits include economic, social and environmental costs and benefits.

### **3.0 Risk Assessment**

We will allocate our resources where they will be most effective by assessing the risks due to non-compliance with the law. The risk factors include:

- the potential impact on residents, consumers, business and the environment in failing to meet legal requirements.
- the likelihood of non-compliance taking into account matters such as:
  - the past history,
  - the systems a business has in place,
  - management competence of the business
  - and willingness to comply.

### **4.0 Advice and Guidance**

We recognise that prevention is better than cure and will actively work with business and residents to advise on and assist with, compliance with the law.

In doing this we will ensure that:

Legal requirements are made available and communicated promptly upon request.

The information we provide will be in clear, concise and accessible language.

Advice will be confirmed in writing where necessary.

We will clearly distinguish between legal requirements and guidance aimed at improvements above minimum standards.

We will signpost towards additional business support services where appropriate.

Please note: there may be a fee payable for our advice. Where this is the case you will be informed and provided with details of the charge or an estimate if the exact fee is not known.

## **5.0 Inspections and Other Visits**

All inspections and other visits to businesses will be undertaken after consideration of the risk the business poses if it fails to comply with the law (see paragraph 3.0 above), where the business has requested advice or where intelligence/information suggests that an inspection or visit is appropriate.

- Where we carry out inspections we will give feedback to the business on what the officer has found; this will include positive feedback to encourage and reinforce good practice.
- Where practicable we will co-ordinate inspections with other regulators to minimise the burden on businesses.
- Random inspection will be undertaken where government guidelines/ policies or a condition of a licence requires us to do so. A small amount of random inspections may also be undertaken to test our risk assessments or the effectiveness of any action we have taken.

## **6.0 Information Requirements**

We will only ask businesses for information that is necessary after considering the cost and benefit to obtaining the information. Where possible we will share this information with our partners (taking account of data protection) to prevent the need for providing the information more than once.

## **7.0 Compliance and Enforcement Actions**

We recognise that most businesses and individuals wish to comply with the law, however firm action will be taken against those who break or flout the law or act irresponsibly.

We will carry out all of our enforcement duties, including taking formal enforcement action (described below), in a fair, equitable and consistent manner. Whilst officers exercise judgement in individual cases, we will have arrangements in place to promote consistency including liaison with other agencies and authorities.

Formal enforcement action will only be considered and taken in the first instance in cases involving unfair practices against individuals or businesses, illegal sales of age restricted products, supply of counterfeit goods and other intellectual property crime, occupational health and safety, public safety, risk to public health (including food safety), health and safety in the home, statutory nuisances, animal health and welfare, damage to the environment, dog fouling, trading standards offences committed by doorstep sellers, breaches of licence conditions or operating without a licence when one is required and any other case in which a head of service considers formal enforcement action is necessary.

Formal enforcement action will also be considered and may be taken where advice has been ignored.

Where formal enforcement action is necessary, we will consider the most appropriate course of action (from the range of sanctions and penalties available) with the intention of: -

- Aiming to change the behaviour of the offender
- Aiming to eliminate any financial gain or benefit for non-compliance
- Being responsive and considering what is appropriate for the particular offender and issue involved, including punishment and the public stigma that may be associated with criminal convictions
- Being proportionate to the nature of the offence and harm caused
- Aiming to restore the harm caused by non-compliance
- Aiming to deter future non-compliance.

When formal enforcement action is taken:

- We will take all reasonable steps to discuss the circumstances of the case, unless immediate action is required e.g. to prevent the destruction loss of evidence or there is an imminent risk to the environment, public health or health and safety. This discussion may be in the form of an interview under caution if a prosecution is being considered. We will provide the opportunity for further

dialogue about the proportionality or consistency of our action upon request.

- Where immediate formal enforcement action is taken, which will usually be the service of a written notice, reasons for such action will be given at the time (if possible) and confirmed in writing within 10 working days.
- Where there are rights of appeal against formal enforcement action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.
- Clear reasons will be given for any formal enforcement action taken, and confirmed in writing.

For the purpose of this policy 'formal enforcement action' includes serving a legal notice e.g. an improvement, suspension, prohibition, fixed penalty or abatement notice and civil penalty notices to letting agents and landlords, the seizure of goods, suspension or revocation of a licence, a formal 'simple' caution, prosecution or other court action.

If the formal enforcement action being considered is a prosecution we will also consider a number of additional factors in line with the Code for Crown Prosecutors and any other nationally recognised guidance such as the Enforcement Management Model published by the Health and Safety Executive. These factors, not an exhaustive list, may include the following:

- The seriousness of the alleged offence
- The history of the party concerned
- The willingness of the business or the individual to prevent a recurrence of the problem and co-operate with officers
- Whether it is in the public interest to prosecute
- The realistic prospect of conviction
- Whether any other action (including other means of formal enforcement action) would be more appropriate or effective

- The views of any complainant and other persons with an interest in prosecution.

These factors are NOT listed in order of significance. The rating of the various factors will vary with each situation under consideration.

When formal enforcement action is being considered for an acquisitive crime i.e. the acquiring of assets (including money) from offences such as fraud or intellectual property crime, we will undertake a financial investigation into the circumstances of the case. In serious cases this may result in the seizure of a suspect's cash and legal proceedings for money laundering and confiscation of assets under the provisions of the Proceeds of Crime Act 2002.

## **8.0 Accountability**

We will be accountable for the efficiency and effectiveness of our activities:

- We shall provide businesses and individuals with effective consultation and opportunities for feedback on our service.
- Officers will be courteous, fair and efficient at all times, and will identify themselves by name and, where appropriate, identity card.
- Any complaints about the way you have been treated will follow the City of York Council's complaints procedure 'Have Your Say'. A copy of the complaints procedure can be obtained from our website at [www.york.gov.uk](http://www.york.gov.uk)

## **9.0 Application of our enforcement policy**

All officers will have regard to this document when making enforcement decisions.

Any departure from this policy must be exceptional, capable of justification and be fully considered by the head of service before a final decision is taken. This proviso shall not apply where a risk of injury or to health is likely to occur due to a delay in any decision being made. In cases of emergency or where exceptional circumstances prevail, the chief executive may suspend any part of this policy where it is necessary to achieve the effective running of the service and/or where there is a risk of injury or to health of employees or any members of the public.



## 10.0 Review

There will be an annual review of the action taken under this policy. This document will also be subject to review as and when required. Improvements will be made if there are any changes in legislation or in local needs.

If you have any comments please contact the Head of Public Protection, Head of Housing or Head of Community Safety by calling 01904 551550 or by writing to City of York Council, West Offices, Station Rise, York, YO1 6GA or email to [ycc@york.gov.uk](mailto:ycc@york.gov.uk)

**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**

**Annex D –enforcement policy - National Trading Standards  
Regional Investigation and National Trading Standards eCrime  
teams**



**National Trading Standards  
Yorkshire and the Humber Regional Investigations Team and  
National Trading Standards eCrime Team  
Enforcement Policy**

This document is the enforcement policy for the National Trading Standards Yorkshire and the Humber Regional Investigations Team and National Trading Standards eCrime Team (NTS RIT and eCrime) hosted by City of York Council on behalf of the National Trading Standards Board (NTSB)

The purpose of NTS RIT and eCrime is to tackle the scams and complex cases of fraud perpetrated on a regional and national basis in an effective way that is not readily achievable by individual local authorities. NTS RIT and eCrime investigate individual cases and practices referred to them by local authority trading standards services and through the tasking arrangements of NTSB.

The purpose of NTS RIT and eCrime is not to provide advice, information or carry out inspections of regulated businesses. NTS RIT and eCrime are charged with taking on major investigations, and in appropriate cases, bringing them to a just conclusion through the courts using both criminal and civil sanctions.

NTS RIT and eCrime will have regard to The Code for Crown Prosecutors issued by the Director of Public Prosecutions, the Regulators' Code and other relevant codes including those concerned with the investigation of offences.

NTS RIT and eCrime will take appropriate formal enforcement action in cases concerning fraud, significant unlawful consumer detriment, unlawful exploitation of vulnerable consumers groups, intellectual property crime and any other matter that the head of regional investigations considers necessary within the scope of the purpose of NTS RIT and eCrime. For the purposes of this policy formal enforcement action includes prosecution, civil action, confiscation proceedings or the issue of a simple caution.

Formal enforcement action under this policy will be in the public interest and will:

- aim to change the behaviour of the offender;
  - aim to eliminate any financial gain or benefit from crime/non-compliance;
  - be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
  - be proportionate to the nature of the offence and the harm caused;
  - aim to restore the harm caused by the crime/regulatory non-compliance, where appropriate;
- and
- aim to deter future offending/non-compliance.

All enforcement activity undertaken under this policy will have regard to the Human Rights Act 1998 and Equalities Act 2010.





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**Executive****27 September 2018**

Report of the Corporate Director of Economy and Place  
Portfolio of the Executive Leader (inc. Finance & Performance) and  
Executive Member for Transport and Planning

**Appropriation of land on Bootham Stray for Highways purposes****Summary**

1. This report seeks consent to appropriate land on the small part of Bootham Stray for highway purposes to expand the current access to land at Cocoa West development site and therefore to facilitate the proposed residential development. The current access will be improved and widened to allow for a new right hand turn on Wigginton Road into the site, for safety and traffic flow reasons and will become adopted highway as the development progresses. In the interim a short term licence is proposed to be granted to Newby Developments on the terms and conditions as set out within this report.

**Recommendations**

2. The Executive is asked to:
  - Authorise the appropriation for highway purposes of land on those parts of Bootham Stray shown coloured red and stippled blue on the plan attached at Annex 1 (“the Access Land”)
  - Approve the grant of a short term licence to Newby Developments to carry out works to, those parts of Bootham Stray shown coloured red and stippled blue on the plan attached at Annex 1

Reason: to enable access to the adjacent Nestle development site, to facilitate the proposed residential development and ensure a safe and sustainable road layout to enable the timely development of new housing.

## Background

3. A planning application is currently being considered by the planning authority for the development of the Cocoa West site for residential development comprising 425 houses and apartments, which shall  
Include 20% social housing.
4. The development of the site requires an expanded access point onto Wigginton Road in order to create a suitable safe junction. The junction goes over land which forms part of Bootham Stray shown coloured red (“the Red Land”) and stippled blue (“the Blue Land”) on the Plan attached at Annex 1. The Blue Land is already the route of an existing private access road into the Nestle factory and Cocoa West site pursuant to a permanent right of way easement granted by the Council when it sold the land now comprising the Cocoa West site and other land to Nestlé’s predecessor Joseph Rowntree in 1896.
5. The dimensions and location of the existing road on the Blue Land are insufficient to enable the proposed residential development of the Cocoa West site on traffic safety grounds. Therefore the small amount of land marked red in Annex 1 is required for the access to enable a fully formed and appropriate traffic junction. (See plan at Annex B) As illustrated on the plan in Annex 2, the highway improvements will allow a new right hand turn lane to be accommodated on Wigginton Road for safety and traffic flow reasons, which incorporates pedestrian crossing points and sufficient visibility splays.
6. The combined area of the Blue Land and the Red Land is 379 square metres (the Blue Land comprises 327 square metres whilst the Red Land comprises 52 square metres). The two plans in Annex 3 illustrate the extent of the whole area of the Stray. The current access is coloured blue.
7. Whilst the Council is the owner of Bootham Stray, that land is an open space recreation area for the residents of York. Vehicular access has been permitted across the thin strip of Bootham Stray that runs along the side of the former Nestle factory and that land has not been used for recreation since 1896, however any additional land needed for the road access is still subject to the legal protections afforded to the whole stray.

8. Annex 3 shows the adjacent car park, also leased and historically used by Nestle is shown coloured green. The area of the car park is 1,385 square metres. (See also photographs in Annex 4 of the current access and car park). As part of the development proposals for the residential scheme, which will be considered by planning officers in due course, it is proposed that the current car park area will be set out as publicly accessible stray land. This land is over 3 and a half times the size of the land proposed for the junction and will more than adequately replace the potential amenity value of the red and blue land. (See plan at Annex 5).
9. If the existing access is not expanded then the proposed development on the Cocoa West site will be substantially restricted. This will mean that much needed housing in York will not be able to be delivered. The city has an acute need for a range of new housing including affordable housing and the reuse of brownfield land for housing delivery is key to the achievement of new homes set out in the local plan. Discussions have therefore taken place with the developer to support the enabling activities of the developers of the Cocoa West site and explore options for delivering the access route.

### **Options**

10. Consideration was given to disposing of the land to the developer to enable the scheme to go forward. However this is not recommended as the process of disposal of any Stray land would be very difficult expensive and time consuming. It would also take the land out of council ownership in perpetuity.
11. Offering the Developer a long lease to permit the road to be constructed would restrict the parties who would benefit from it to the initial tenant(s) named in the lease and their assignees/successors in title so would not be a feasible option for the proposed large scale residential development on the adjoining site which would need to be accessible to all.
12. The preferred option is therefore to appropriate the land for highway purposes and for the developer to construct the junction ready for adoption of the road, This would mean that, if in the future this access was no longer required, it could be returned to Stray use.

13. If the Council wishes to appropriate part of Bootham Stray as highway then:
  - (i) Notice of this needs to be advertised in a local newspaper in two consecutive weeks and the Council must consider any objections or other comments received
  - (ii) Any appropriation of Council land to a different use/purpose must be approved by Executive
14. Discussions have taken place with the developer and it is proposed that an improved road will be built by the developer across the Blue Land and the Red Land shown on the plan in Annex 1, to replace the existing private vehicular access. When constructed to the satisfaction of the highways department, this improved road would then become an adopted highway at which point the existing right of way easement over the Blue Land would be released.
15. In order for this to happen the following staged process is required;
  - Appropriation of the Blue Land and the Red Land on the plan in Annex 1 for highway purposes. This will enable the existing entrance to the site to be widened and the adoptable highway to be constructed.
  - Granting of a short term access licence to the developer of the Cocoa West site authorising them to carry out works on the Blue Land and the Red Land. The licence fee for such will be £10,000 per annum and this money will be used towards maintenance of the Strays and other public recreation facilities owned by the Council.
  - Once the road has been upgraded to adoptable standards to the Council's satisfaction, the improved access road will be adopted by the Council as highway maintainable at public expense and the existing right of way easement over the Blue Land would be released.
16. The short term licence, granted following completion of the appropriation, will enable the developer to occupy the Red Land in order to carry out the necessary road construction works. The licence fee of £10,000 pa is set at a high level to ensure the road is constructed to an adoptable standard as quickly as possible. In addition the licence will be personal to the developer only and so adoption of the road will need to be completed before any of the



development on the adjoining site is occupied. Nestle have a further access across the Stray for their operations at a licence fee which is below this figure.

## Consultation

17. As part of the process a S.122 Notice Local Government Act 1972 will be issued for the additional land required which will be published in the local press in two consecutive weeks stating that the parts of Bootham Stray comprising the Blue Land and the Red Land on the plan in Annex 1 will be appropriated from open space to highway use, providing York Residents an opportunity to make their comments. These will be reported to the Executive Member for Transport.

## Council Plan

18. These proposals will enable housing to be delivered which is one of the Council's key priorities set out in the Council Plan 2015-9
  - A prosperous city for all – where local businesses can thrive and residents have good quality jobs, housing and opportunities

## Implications

19. **Financial** – Covered in the report
  - **Human Resources (HR)** - none
  - **One Planet Council / Equalities**
  - **Legal** -Whilst the Council is the owner of Bootham Stray, that land is an open space recreation area for the residents of York. If the Council wishes to appropriate part of Bootham Stray to another use/purpose (such as highway) then:
    - (iii) Notice of this needs to be advertised in a local newspaper in two consecutive weeks and the Council must consider any objections or other comments received
    - (ii) Any appropriation of Council land to a different use/purpose must be approved by Executive
  - **Crime and Disorder** - none
  - **Information Technology (IT)** - none
  - **Property** - Covered in the report

## Risk Management

20. Planning consent is required for the development and the access. In the event that such consent is not obtained then this proposal will not be implemented. The net risk is therefore low. Failure to enable the access road will mean that the site has limited housing delivery potential and fewer homes are created on the site.

## Contact Details

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Philip Callow  
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Community and Operational  
Asset Strategy  
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### Specialist Implications Officer(s) List information for all

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Legal Implications  
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Tel No (01904) 552004

### Chief Officer Responsible for the report:

**Neil Ferris**  
**Director – Economy and Place**

Report  Date 16 Sep 18  
Approved

**Wards Affected:** Guildhall, Rawcliffe and Clifton Without

**For further information please contact the author of the report**

## Annexes

- Annex 1 - Map of the site
- Annex 2 – Highway Improvements Plan
- Annex 3 – Maps of Stray
- Annex 4 - Photographs
- Annex 5 – Plan of Development Proposals



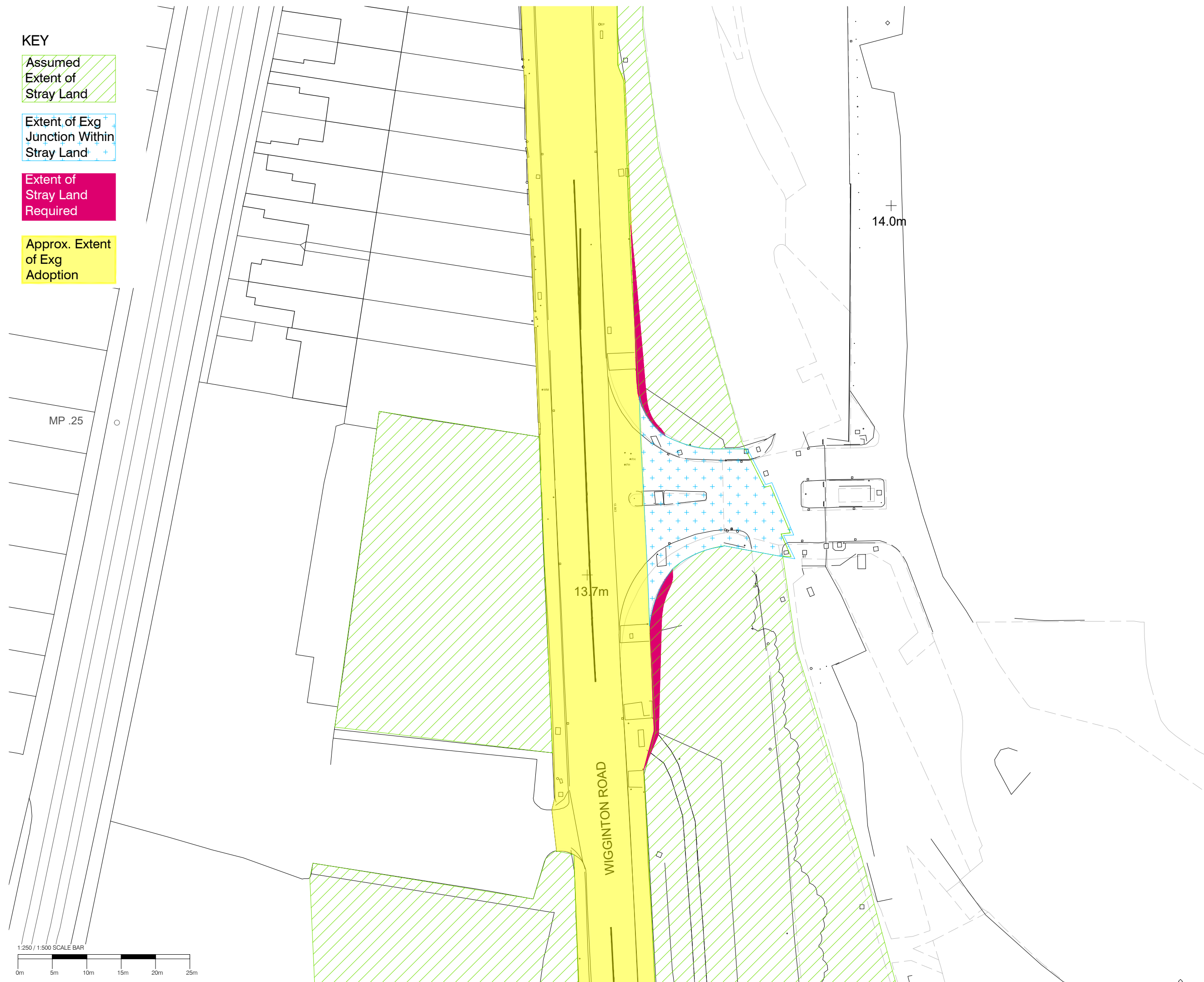
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Assumed  
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Stray Land

Extent of Exg  
Junction Within  
Stray Land

Extent of  
Stray Land  
Required

Approx. Extent  
of Exg  
Adoption

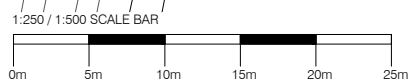


MP .25

13.7m

14.0m

WIGGINTON ROAD



G NO ALTERATION TO INFORMATION. RE-PDFD AT LARGER SCALE FOR CLARITY 07.09.2018

F STRAY LAND REQUIRED FOR JUNCTION AMENDMENTS REFINED | by bdo 15.08.2018

Revision



COCOA WEST  
WIGGINTON ROAD  
YORK  
YORK 456 ltd

SITE PLAN  
WIGGINTON ROAD ACCESS

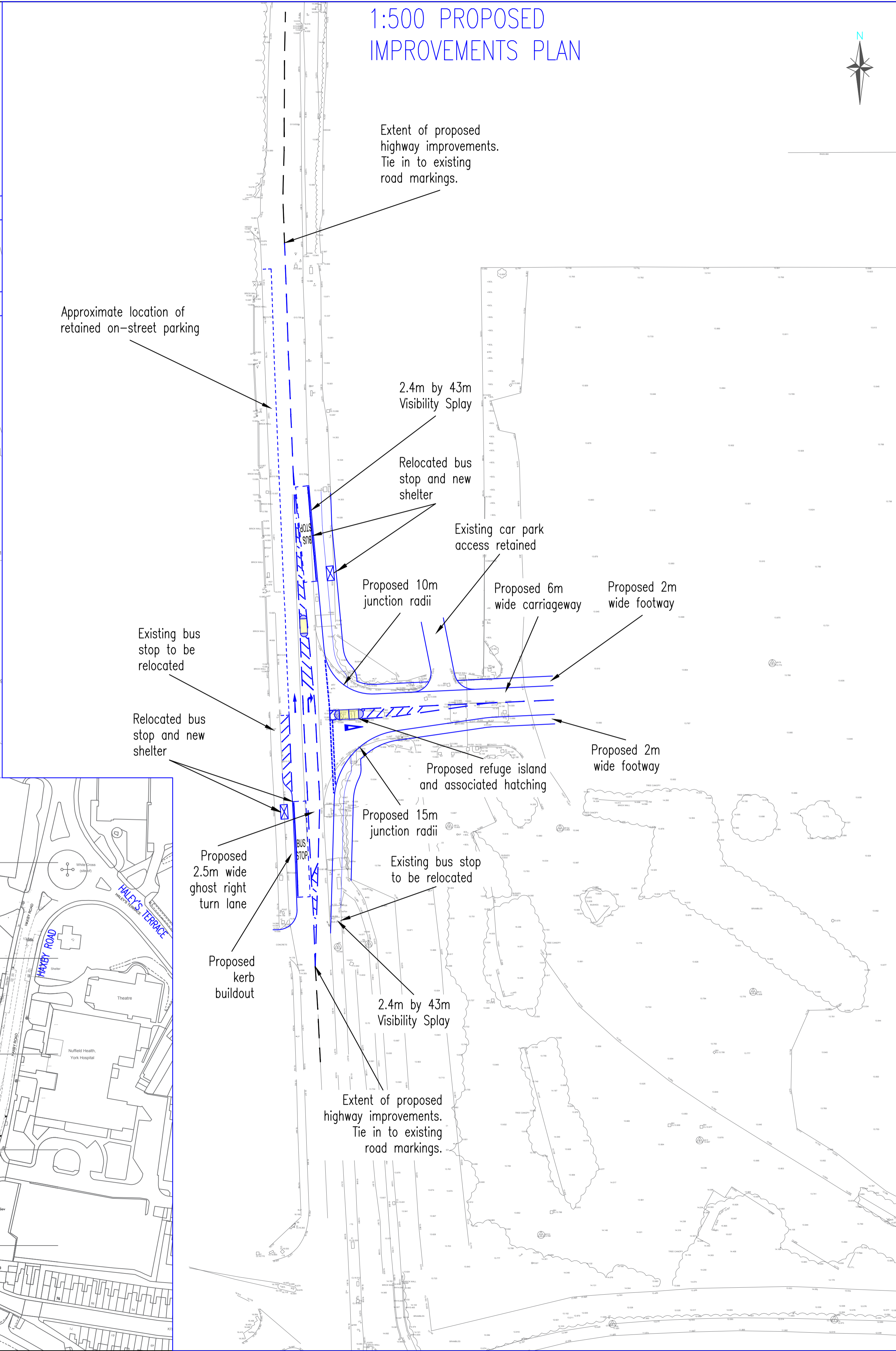
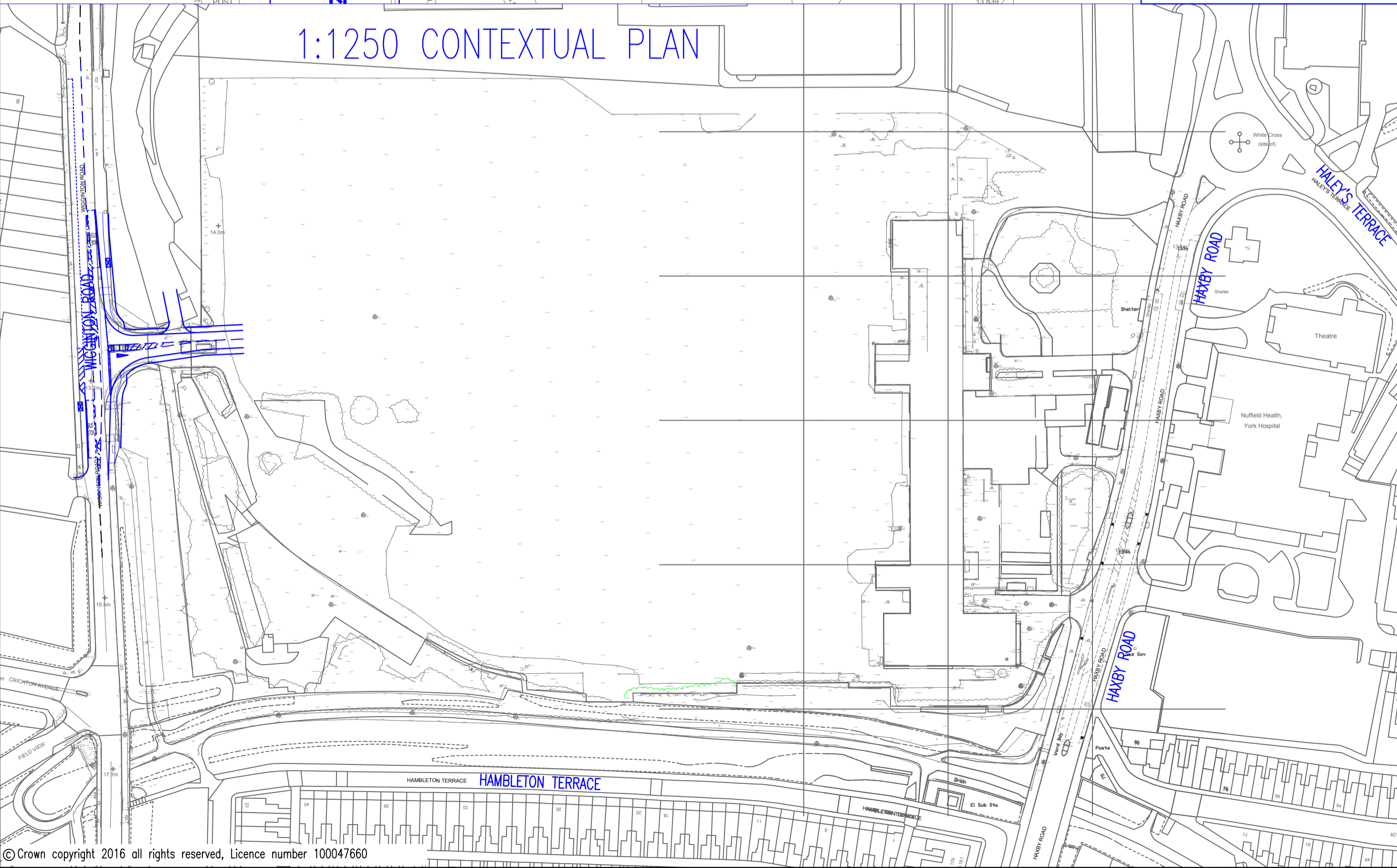
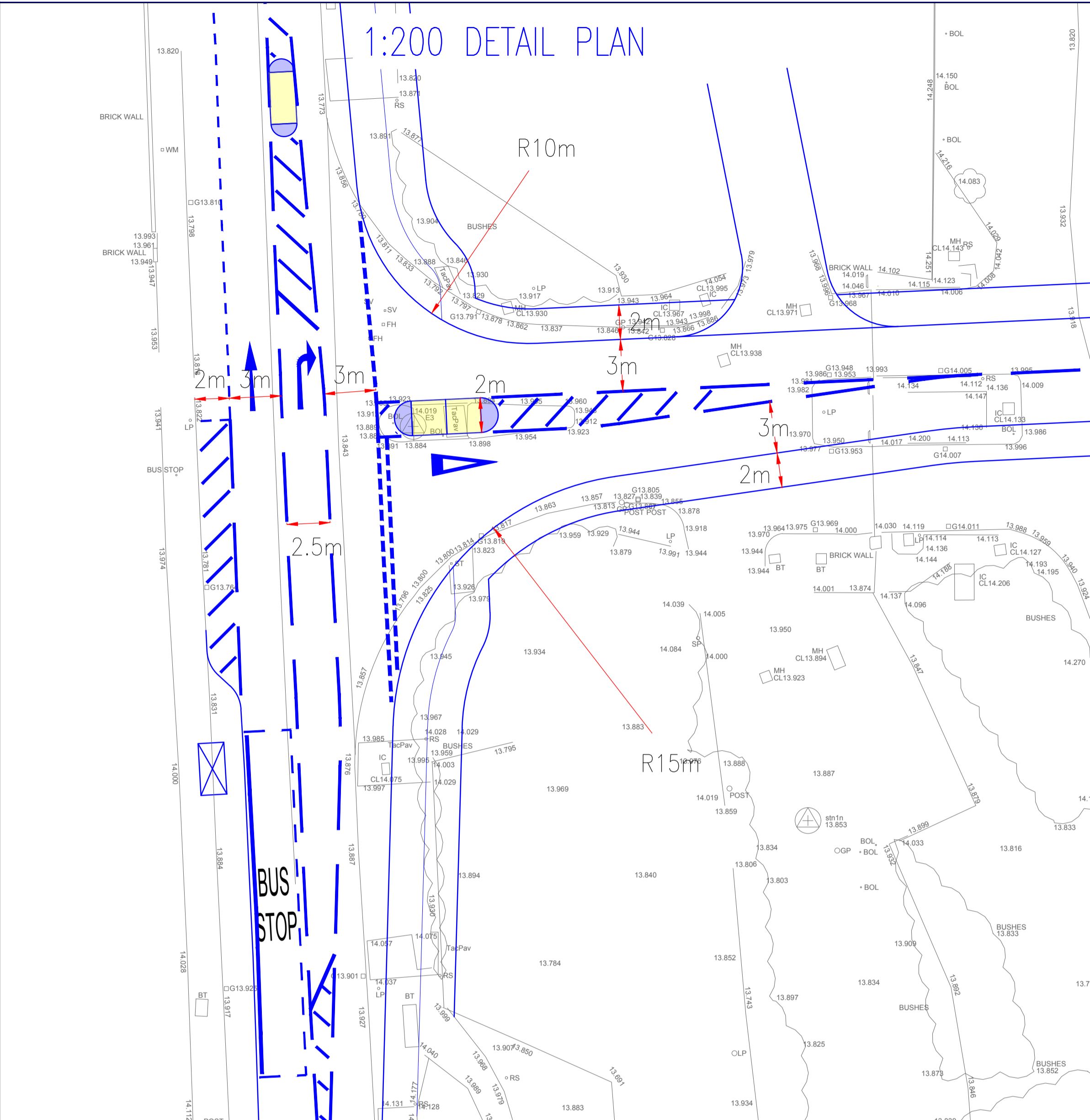
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PRELIMINARY

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NOTE: THE PROPERTY OF THIS DRAWING AND DESIGN IS VESTED IN DEVELOPMENT TRANSPORT PLANNING AND MUST NOT BE REPRODUCED OR USED IN ANY MANNER WITHOUT THEIR WRITTEN CONSENT.



**NOTES**

NOTE  
Details of tactile paving and dropped kerb omitted.  
Details to be confirmed.

REV	DATE	DE	DR	CH	PA	DATE	
DESIGNED BY	RAA	DRAWN BY	RAA	CHECKED BY	AKJ	PASSED BY	AKJ
DATE	14/07/17	DATE	14/07/17	DATE	14/07/17	DATE	14/07/17
SCALES @ A1 SIZE				ISSUE STATUS			
1:200, 1:500 & 1:1250				PRELIMINARY			

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Cocoa Works, York

**DRAWING TITLE**

Proposed Highway Improvements

**CLIENT**

York 123 Ltd

**Development Transport Planning**

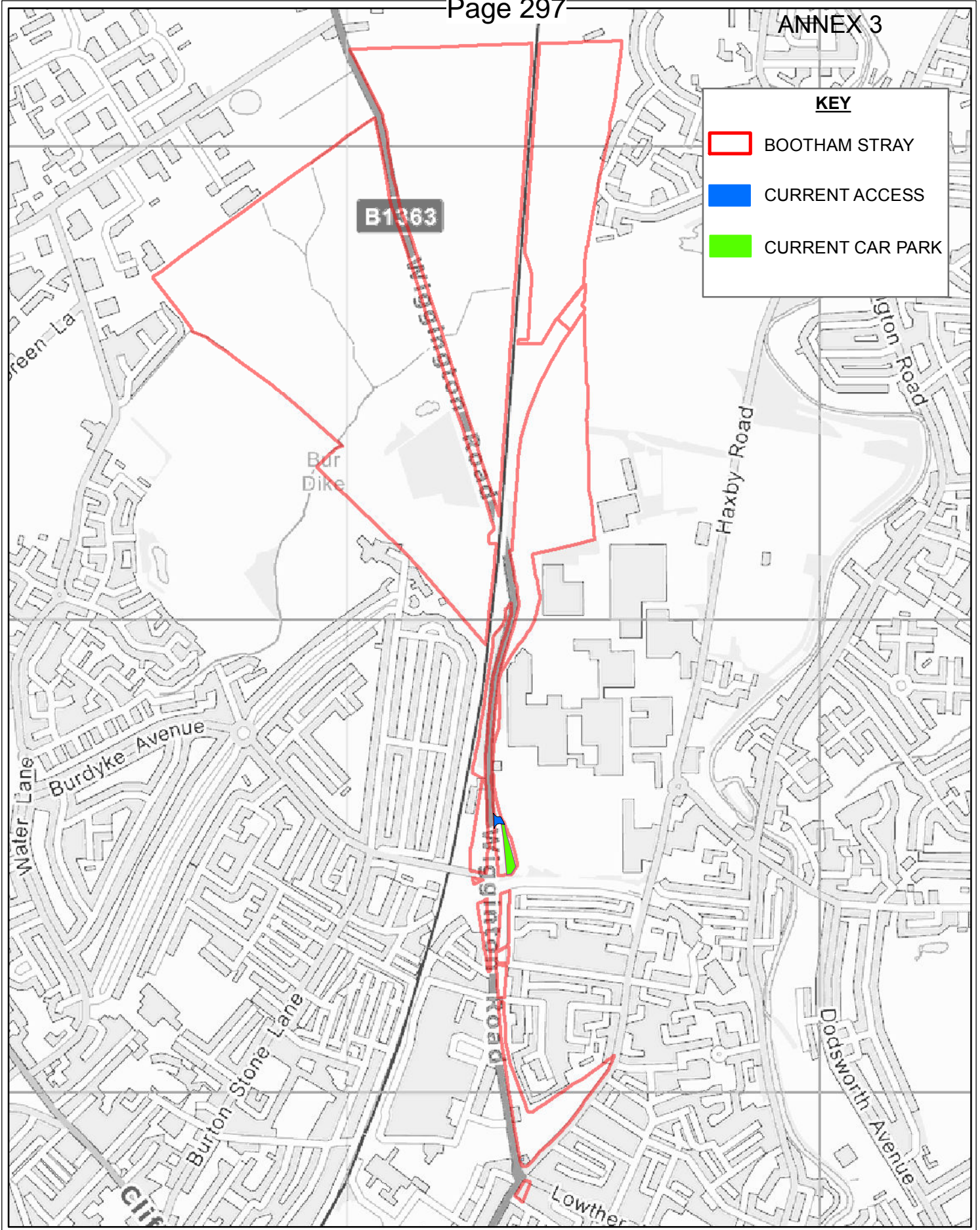
Kingswick House, Kingswick Drive, Sunninghill, Berkshire, SL5 7BH  
Tel: 01344 292366 Email: admin@developmenttp.co.uk

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REV: A

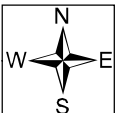
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PLOT DATE: 14/07/2017

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**Asset & Property Management**

### Bootham Stray Current Access & Car Park



SCALE 1:10,500

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DATE: 04/09/2018

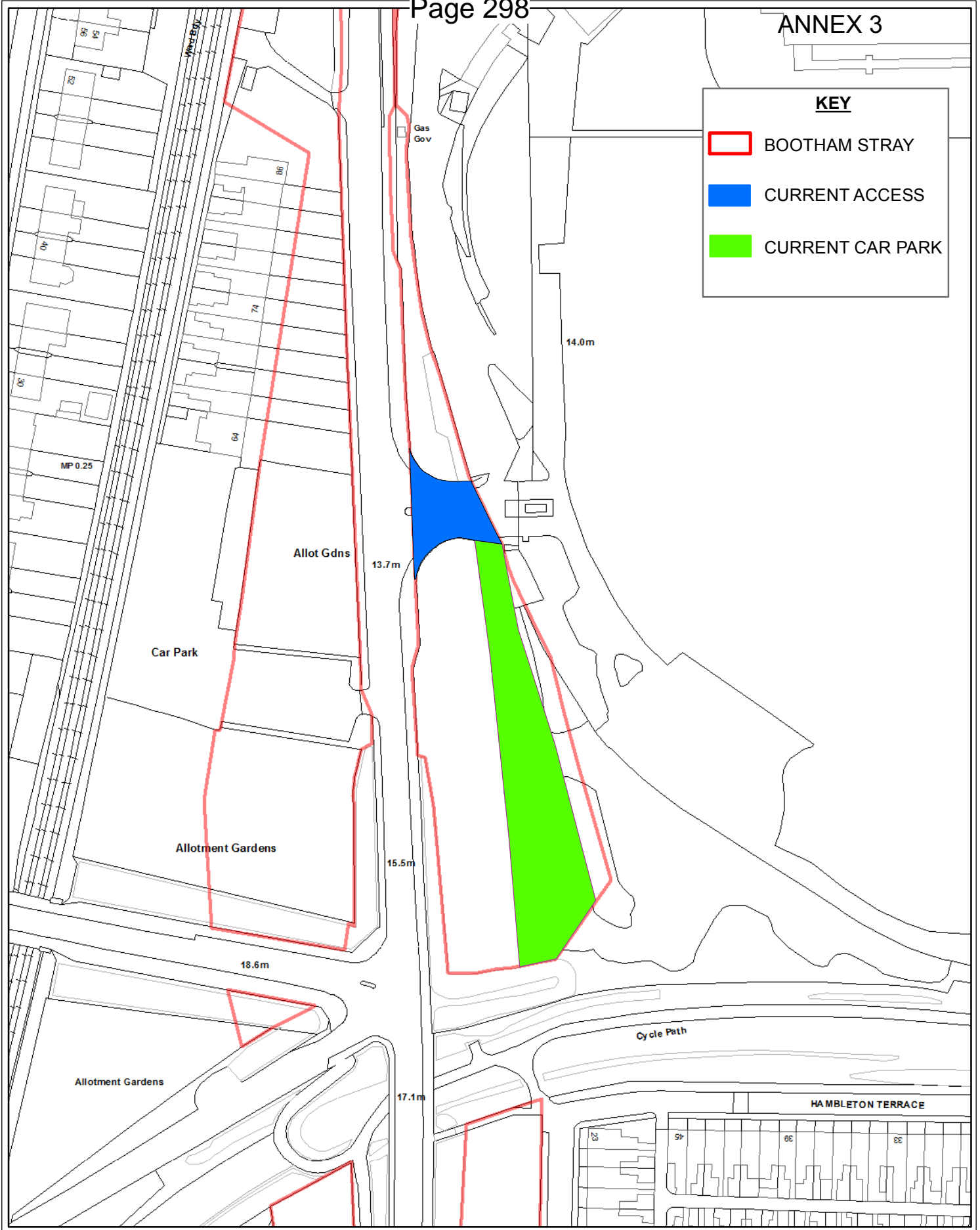
Originating Group:

**Asset & Property Management**

Drawing No.

**E00079**

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**KEY**

- BOOTHAM STRAY
- CURRENT ACCESS
- CURRENT CAR PARK



### Bootham Stray Current Access & Car Park



SCALE 1:1,250

DRAWN BY: CC

DATE: 04/09/2018

Originating Group:

**Asset & Property Management**

Drawing No.

**E00079**

*Asset & Property  
Management*

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**Annex 4**

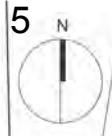
**Current Access**



**Adjacent Car Park**



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1:500 / 1:1000 SCALE BAR



Y JUNCTION ALTERED | by bdo 15.06.2016

Revision



**AXIS**  
architecture

Talbot Chambers 2-6 North Church Street Sheffield S1 2DH  
Tel: +44(0)114 2490844 Fax: +44(0)114 2490900 www.axis-architects.co.uk

**COCOA WEST**  
WIGGINTON ROAD  
YORK  
YORK YO1 4SE

**SITE PLAN**  
MASTER PLAN

Alt	A3 Scale	Date	Drawn By	RYB/BJ
1:500	1:1000	26.06.2017	AXIS	
Project Number	Drawing Number	Revision		
<b>27050</b>	<b>(00)03</b>	<b>Y</b>		
<b>PLANNING</b>				

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**Executive****27 September 2018**

Report of the Director of Economy and Place  
Portfolio of the Executive Leader (inc. Finance and Performance)

**Establishing an investment budget for a strategic commercial property acquisition****Summary**

1. This report recommends a further investment to acquire property in the Swinegate area in order to promote the growth and economic health of the city centre and secure additional income to the commercial portfolio.

**Recommendations**

2. Executive is asked :
  - i. To recommend to full council the establishment of a capital budget of £2.52 million to fund the acquisition of the freehold interest in commercial property assets in the Swinegate area identified in confidential annex A.
  - ii. To delegate authority to the Director of Economy and Place to complete the purchase once all due diligence is satisfactorily conducted on the property assets.

Reason: - To ensure the ongoing economic vibrancy of the city centre while increasing the income from the council's commercial property portfolio in line with budget targets.

**Background**

3. The council operates a significant commercial portfolio acquired over many years in order to develop and regenerate areas of the city, promote business growth and protect heritage buildings. This portfolio generates a revenue income stream supporting the council's revenue budget. The Council's ownership of this portfolio achieves many objectives including the protection of some of the City's most precious assets, maintaining good quality accommodation and making provision for a range of businesses to operate and grow within the City.

4. Last year the Council made a major acquisition of property in Swinegate with the aim of ensuring the ongoing economic vibrancy of the city centre while increasing the income from the council's commercial property portfolio. All of the units within these sites are fully let. This acquisition was in line with the Council's approach of purchasing assets which support wider council objectives while achieving a return rather than investing simply where the highest returns are to be made.
5. Following the Swinegate acquisition agreed in July 2017, a further opportunity has arisen to make an additional strategic purchase of a mixed commercial portfolio in York city centre, in the Swinegate area which has a good rent roll and is available at a respectable investment yield, representing an opportunity for the council to support the economic prosperity of the city centre and make a good investment. The Council has been approached by the owner of some property in the Swinegate area, through a local property agent as to whether it may be interested in acquiring the portfolio. This opportunity is thus not on the open market and the details of such are hence commercially sensitive and confidential. Details of the asset are attached as confidential Annex 1; together with a pre-acquisition report prepared by York based commercial property agents, which provides a commercial view of the opportunity.
6. In line with previous acquisitions, should the purchase be agreed by Executive then further due diligence legal and survey work will be carried out on the property and considered prior to completing the acquisition.
7. The Swinegate area contains a range of smaller footprint offices, shops and food and beverage establishments and is populated by a number of local, smaller retailers. Purchasing assets in this area will enable the council to ensure the continuation of support for local businesses and to ensure that these sensitive buildings are properly maintained and well managed. Consideration will also be given to the potential for future on site energy generation.
8. The Swinegate area is currently working well and the commercial mix in this area is thriving with high occupancy levels and good footfall. This will promote local economic growth and furthers the council's commitment to promoting the growth and economic health of the city centre. The current tenants are local businesses.
9. York's Economic Growth Strategy recognises the key role that independent businesses play in keeping our city vibrant and competitive. The city's cluster of creative businesses, independent retailers and visitor attractions are at the heart of our aspiration to promote York to new audiences and help to retain more of the talented young people who pass through the city's universities. York currently has the second lowest commercial

property vacancy rate of according to a report undertaken by “Centre for Cities” which sampled key centres across the UK. York benefits from strong footfall driven by visitors who are attracted by the unique mix of businesses housed in the city centre. Areas such as Swinegate, with its mix of shops, restaurants and offices, underpin the economic health of the city centre.

10. This investment is modest relative to the Council’s total turnover/overall debt and it is consistent with the Council’s budget strategy. The budget report for 2018/19 sets out an approach to a 5 year budget and identified the need to consider further property investment opportunities, in order to continue good progress over future years. Given that interest rates are low, property acquisitions perform well when compared to other forms of investment and are capable of delivering higher yields.

## **Funding**

11. It is recommended that an overall capital budget of £2.52m is set aside to fund the acquisition and associated costs.
12. The funding will be provided by borrowing from the Public Works Loan Board (PWLB) and will be repaid from rental income.
13. The outline business case is set out in confidential Annex 2. The business case is based upon borrowing over 50 years and minimum revenue provision being based on the asset’s perceived life. This is the prudent approach and is in accordance with the Treasury Management Strategy. In addition to rent, each lease has the ability for a service charge to be levied which will pay for the repairs and maintenance liabilities of the property.
14. Given current low interest rates, even with making full provision for repayment of the costs of purchase the rental income will provide an additional source of annual revenue, net of borrowing costs. In addition the value of the asset is likely to increase over time.
15. The investment therefore represents a good opportunity to support city centre economic prosperity and well being, which will also increase the commercial portfolio rental stream.

## **The Council Plan**

16. The acquisition will support the following priorities;
  - The creation of a prosperous city for all,
  - Be a council that listens to residents particularly by ensuring that :
  - Everyone who lives in the city can enjoy its unique heritage and range of activities.

- Visitors, businesses and residents are impressed with the quality of our city.
- Local businesses can thrive.
- We are entrepreneurial, by making the most of commercial activities.

## Implications

17.

**Financial** – These are covered in the report and in confidential annex 2.

**Human Resources (HR)** – If the acquisition goes ahead additional resource will be needed to manage the expanded commercial portfolio. This will be funded from additional income.

**Equalities** – none

**Legal** –

Section 1 of the Localism Act 2011 contains a “general power of competence” for local authorities giving a power to do anything that an individual may do, rather than be limited to those things which are related to or necessary for the discharge of an existing function of the authority. There are however statutory limitations on local authorities’ pre-existing powers and functions.

Key amongst those limitations is that a local authority wishing to use the power for a commercial purpose must do so through a company. Recent case law has though established that what is key here is the purpose for which the council undertaking the activity. If the council is proposing to acquire land, for example, to ensure the availability of attractive accommodation for businesses or the protection of historic buildings, then the fact that a commercial return will also be achieved does not make this a commercial purpose. If, however, the dominant purpose is to act as a commercial landlord to achieve investment returns then the powers in the Localism Act are not likely to be available unless exercised through a company. The objectives of the Council are a question of fact. The report, however, describes the objectives of the proposed purchase in terms which would seem to permit reliance on the general power of competence.

There are other powers which may be capable of being relied upon. The Local Government Act 1972 gives the Council powers to acquire any land for the purposes of its functions or for the benefit, improvement or development of the area. Ensuring the economic well being of the City is one of the functions of the Council and the proposed purchase is for the benefit of the area. This power therefore is available to the Council given the benefits set out in the report.



The decision in respect of this purchase must also be made having regard to normal public law principles. The Council must exercise its powers reasonably. This includes having regard to the implicit fiduciary duty owed to council tax payers. The due diligence referred to in the report will be key in demonstrating compliance with these duties as is the specialist advice already obtained.

**Information Technology (IT)** - There are no IT implications.

**Crime and Disorder** – none

**Property** – All property implications are covered in the report.

## **Risk Management**

18. As with all property acquisitions there is a risk that the value of the property may decrease over time. There is also a risk that there may be a level of empty properties or voids. The business case makes provision for that risk and specialist advice has been obtained to provide an independent view of the commercial opportunity.

## Contact Details

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Nick Collins  
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### Chief Officer Responsible for the report:

Neil Ferris –  
Corporate Director of  
Economy and Place

### Approved

✓ 17 Sep 2018

## Specialist Implications Officer(s)

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Legal – Andy Docherty  
Assistant Director Legal and Governance  
Tel No. (01904) 551004

**Wards Affected:** Guildhall

**For further information please contact the author of the  
report**

## Annexes

Confidential Annex 1 – Pre Acquisition Report with Details of the Asset  
Confidential Annex 2 – Outline Business Case

## List of Abbreviations

None

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

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

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