



## Notice of a public meeting of

### Planning Committee

- To:** Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Perrett, Warters and Widdowson
- Date:** Thursday, 17 October 2019
- Time:** 4.30pm
- Venue:** The George Hudson Board Room - 1st Floor  
West Offices (F045)

### AGENDA

#### Site Visits

The mini-bus for Members of the Committee will leave from Tanner Row (double gates next to Council building and The Grand) at **10.00am on Tuesday 15 October 2019.**

#### 1. **Declarations of Interest**

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

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

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

#### 2. **Minutes** (Pages 5 - 28)

To approve and sign the minutes of the meetings of the Planning Committee held on 11 July 2019 and 12 September 2019.

### 3. **Public Participation**

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5:00pm on Wednesday 16 October 2019**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the Committee.

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

#### **Filming or Recording Meetings**

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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\\_for\\_webcasting\\_filming\\_and\\_recording\\_of\\_council\\_meetings\\_20160809.pdf](http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf)

### 4. **Plans List**

This item invites Members to determine the following planning applications:

**a) Frederick House, Fulford Road, York, YO10 4EG [19/00603/FULM]**  
(Pages 29 - 72)

Erection of 6no. purpose-built 4 storey student accommodation buildings (providing 368 bedrooms), associated change of use of and alterations to existing 'Guard House' building to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping (re-submission of withdrawn application 18/02797/FULM). [Fishergate Ward] [Site Visit]

**b) The Gardens, Malton Road, Stockton On The Forest, York  
[18/01128/FULM] (Pages 73 - 104)**

Erection of employment units for B2 use following demolition of existing buildings together with alterations to existing access and associated car parking and landscaping [Strensall Ward] [Site Visit]

**5. Urgent Business**

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

Democracy Officer

Angela Bielby

Contact details:

- Telephone: 01904 552599
- Email: a.bielby@york.gov.uk

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

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

Contact details are set out above.

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

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 **(01904) 551550**

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**Abbreviations commonly used in Planning Reports**

(in alphabetical order)

AOD	above ordnance datum
BREEAM	building research establishment environmental assessment method
BS	British standard
CA	conservation area
CIL	Community Infrastructure Levy (Regulations)
CEMP	construction environmental management plan
CYC	City of York Council
DCLP	Draft Development Control Local Plan 2005
DCSD	Design Conservation and Sustainable Development team
dB	decibels
DEFRA	Department for Environment, Food and Rural Affairs
EA	Environment Agency
EDS	ecological design strategy
EIA	environmental impact assessment
EPU	Environment Protection Unit
FRA	flood risk assessment
FTE	full time equivalent
FULM	major full application
GCN	great crested newts
HGV	heavy goods vehicle
IDB	internal drainage board
IPS	interim planning statement
LBC	listed building consent
LGV	large goods vehicle
LPA	local planning authority
NERC	Natural Environment and Rural Communities Act (2006)
NHBC	National House Building Council

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
OAN	objectively assessed need
OUTM	major outline application
PROW	public right of way
RAM	reasonable avoidance measures
RTV	remedial target value
RSS	Regional Spatial Strategy
SHMA	Strategic Housing Market Assessment
SINC	Site of Interest for Nature Conservation
SHLAA	Strategic Housing Land Availability Assessment
SFRA	Strategic Flood Risk Assessment
SPD	Supplementary Planning Document
TPO	tree preservation order
TRO	Traffic Regulation Order
VDS	village design statement
WSI	written scheme of investigation
VAS	vehicle activated signage
VOA	Valuation Office Agency
WHO	World Health Organisation

**PLANNING COMMITTEE**

**SITE VISITS**

**Tuesday 15 October 2019**

**The mini-bus for Members of the Committee will leave from Tanner Row (double gates next to Council building and The Grand) at 10.00am**

<b>TIME</b> <b>(Approx)</b>	<b>SITE</b>	<b>ITEM</b>
10.10	Frederick House, Fulford Road, York	<b>4a</b>
11:00	The Gardens, Malton Road, Stockton On The Forest	<b>4b</b>

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City of York Council

Committee Minutes

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Meeting	Planning Committee
Date	11 July 2019
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, D'Agorne, Doughty, Douglas, Fitzpatrick, Hollyer, Kilbane, Warters, Cuthbertson (Substitute), Fisher (Substitute), Melly (Substitute) and Hunter (Substitute)
Apologies	Councillors Barker, Daubeney, Fenton, Perrett and Widdowson

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## 12. **Declarations of Interest**

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda. Referring to the objections to Agenda Item 3a [OS Fields 5475, 7267 and 8384, Moor Lane, Acomb, York [18/02687/OUTM] from York Environment Forum, Cllr D'Agorne declared a personal non prejudicial interest as a member of both groups. He noted that he had not taken part in any discussions regarding the application. Cllr Fisher also declared a personal non prejudicial interest in the same application as a member of York Environment Forum and had not taken part in any discussions. No further interests were declared.

## 13. **Public Participation**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

## 14. **Plans List**

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant

policy considerations and setting out the views of consultees and officers.

**15. OS Fields 5475, 7267 and 8384, Moor Lane, Acomb, York [18/02687/OUTM]**

Members considered an application for outline planning permission from Rebecca Mitchell for (with all matters reserved except for means of access) for up to 516 residential units (Class C3) with local centre (Use Classes A1-A4, B1a, C3, D1) public open space with pavilion and associated infrastructure and full application for demolition of existing buildings and structures and creation of ecological protection and enhancement zone at OS Fields 5475 7267 And 8384, Moor Lane, Acomb, York.

The Development Management Officer outlined the site, highlighting the ecological protection and enhancement zone. She advised that the main issues were that the site was not allocated in the Local Plan, was considered as being in the Green Belt and the impact of the development on the Site of Scientific Interest (SSSI) Askham Bog. She noted that 7500 objections had been received, of which there were 900 individual objections. The main areas concern included the impact on Askham Bog and infrastructure.

An Officer update in which Members were provided with a number of points of clarification as follows:

- Paragraphs 3.15 and 4.34 of the Committee Report related to concern raised by the ecology officer about how increases in traffic would impact on air quality and, consequently, the ecology of Askham Bog SSSI. At the time of writing the report, the Council's Highways consultant had suggested that proposed trip rates were too low and there was concern that higher trip rates would result in an impact on air quality in relation to the Bog. Revised trip rates have now been agreed but relevant thresholds are not exceeded on the highways closest to the Bog and officers are comfortable that there will not be an impact on air quality in relation to the SSSI.
- Paragraph 4.13 stated that 'much of the Bog is currently openly accessible with little substantial restriction between movement in and out of the SSSI and the fields to the North of it'. The applicant has commented that the fields to the North are privately owned and there is no authorised access.

While this is the case, there are clear paths with no obstructions from the Bog, around the field edges and back to Moor Lane indicating that there is already a desire for residents to walk between the two locations. It is considered that closer proximity of residential development to the SSSI will only increase the likelihood of such movements.

- Concerning representations, paragraph 3.82 of the report stated that two letters of support had been received, and one letter making general comments. The numbers were clarified as being three letters of support and two making general comments. No new issues were raised.
- Concerning education, the applicant had confirmed that they are still considering the required education contribution in terms of its appropriateness and CIL compliance.
- With regard to highways, more appropriate trip rates had been agreed. Additional analysis based on these revised trip rates has been provided but officers have advised that this analysis is not complete and does not provide an adequate understanding of the impacts of the proposed development on the highway network. Officers are therefore unable to support the application at this stage.
- The holding objection to the development from Highways England was maintained due to concern about potential impact of development traffic upon the operation of the A64.

Members were advised that the additional information had been assessed and the planning balance and the recommendation are unchanged from the published report. In answer to a question concerning bund enclosing the site, Officers explained that there was only one way for wildlife movement through the site.

Ann Reid, former Dringhouses and Woodthorpe Ward Councillor, spoke in objection to the application. She noted that a number of organisations objected to the application. She explained that the site had been removed from the Local Plan and was in Green Belt land with very special circumstances preventing it from development. She added that the Green Belt preserved the setting of Moor Lane and urged refusal of the application.

Michael Thornton, Secretary of Friends of Hob Moor and as Secretary of the Dringhouses & Woodthorpe Residents Planning Panel, spoke in objection to the application. He explained that the development would affect the watercourse of

Hob Moor. He expressed concern regarding the impact of the development on traffic, health and education provision.

Sara Robin Conservation Officer (Planning) Yorkshire Wildlife Trust, spoke in objection to the application. She stated that the application was adjacent to Askham Bog and she highlighted that the Bog contained a lowland fell which was referred to as irreplaceable in the NPPF. She explained that the bunds and fencing in the application would not protect the bog. In response to a question from a Member in regard to the Bog being irreplaceable she explained that it had taken 15,000 years for the Bog to develop and if the hydrology was changed it was not possible to predict what would happen to the Bog in the next few hundred years.

Professor Fitter, Professor of Ecology, University of York, spoke in objection to the application. He stated that the site was exceptional and that the isolation of the site was a serious issue and there was a need to stop the isolation of wildlife sites. He emphasized that all habitats at Askham Bog met the criterion as being irreplaceable. He explained that the site relied on a high water table. In answer to a question about the site being irreplaceable, he explained why the site was so important to York and nationally as there were rare species of plants and insects on the site and there was a threat that it would dry out. He added that the site had a complex interaction between people and the landscape over thousands of years.

Philip Crowe Treemendous York, spoke in objection to the application. He cited the major concerns of residents in respect of the application and explained that Treemendous York proposed that the site be contributed to the Northern Forest initiative. He noted that Treemendous York was supported by the council who supported tree planting in York and he added that the benefits of tree planting were known. He urged the applicant to withdraw the application.

Cllr Fenton Dringhouses and Woodthorpe Ward Councillor, spoke in objection to the application. He explained that the key to the Local Plan was identifying sites suitable for development and this site was not identified for development in the Local Plan. He noted the impact of the development on the local transport infrastructure, the outer ring road, the A64, congestion near Tesco Askham Bar, and local services. He noted that the proposal failed to comply with the relevant policy.

Gary Halman, Agent for the Applicant, spoke in support of the application. He explained that York was in a housing crisis and there was a massive affordable housing need. The site would have a significant impact on this as there would be 33% affordable housing. He noted that the site was identified in 2014/15 as a housing site. He gave an overview of the layout of the site detailing the housing and open space provision. He explained that the applicant had commissioned their own research in respect of the ecological impact of the site and he explained the outcome of that research. He noted that there were some net benefits of the development and he added that there was no certainty over the when the Local Plan would be adopted.

In response to questions from Members, Mr Halman clarified:

- There was a need for affordable housing
- The amount to be paid towards education provision was to be confirmed
- How ground water would be prevented from entering the site.

Ms Robin Conservation Officer (Planning) Yorkshire Wildlife Trust and Mr Halman, Agent for the Applicant were then asked and explained the differences between their opinions in relation to the ecological impact of the development.

It was:

Resolved: That the application be refused.

Reasons:

- i. The position of the Council is that the site is within the general extent of the Green Belt. When taken as a whole, the development represents inappropriate development within the Green Belt when assessed against paragraphs 145 and 146 of the NPPF. Inappropriate development can not be approved except in very special circumstances (para.143) and these very special circumstances will only exist where the harm through inappropriateness, and any other identified harm, is clearly outweighed by other considerations (para.144). Openness has both a spatial and a visual aspect and here it is clear that the quantum of development would harm openness through both its scale and massing but

also through the introduction of a built form in an otherwise undeveloped site. Para.133 of the NPPF states that the essential characteristics of Green Belts are their openness and their permanence. This proposal would cause considerable loss of openness and permanence of the York Green Belt. Further harm has been identified to Green Belt purposes including, preventing neighbouring towns from merging, encroachment in to the countryside and impact on the setting and special character of York. Substantial weight is to be given to these harmful impacts on the Green Belt.

- ii. Officers recognise that policies in the emerging Local Plan can only be given weight in accordance with para.48 of the NPPF. There are unresolved objections to emerging Local Plan policy SS2 'The role of York's Green Belt' and it can only be given limited weight at the present stage in the examination process. However the evidence base that underpins the proposed emerging policies is a material consideration in the determination of planning applications. Topic Paper 1 Approach to defining York's Green Belt Addendum has been used for assessing the Green Belt as part of the emerging Local Plan process. This document is currently at consultation but represents the most up to date and thorough assessment of the defined boundaries and character areas of York's Green Belt.
- iii. As well as the harm to the Green Belt through inappropriateness, harm to openness and to the purposes of including land within the Green Belt, further harm has been identified as a result of the scale, form and proximity of the proposed development to Askham Bog SSSI. The Applicant has submitted detailed technical reports which seek to explain the hydrology and hydrogeology connecting the site and the SSSI and which claim to evidence that the Bog is predominantly rainwater fed. However, technical submissions from Natural England and the Yorkshire Wildlife

Trust, and the findings of the Council's consultants' Mott MacDonald indicate that the Applicant's findings are flawed. The most likely scenario is that the Bog is predominantly groundwater fed via infiltration from neighbouring land, including the application site, and the proposed development and surface water drainage proposals will therefore significantly impact on the hydrology of the Bog.

- iv. Further harm is likely to occur to the SSSI as a result of urban edge impacts from the increased residential population in closer proximity to the site. These impacts would include pet predation, littering, vandalism and dog fouling all of which would harm the integrity of the SSSI.
- v. The Applicant has sought to prevent unauthorised intrusion in to the SSSI from people and animals by the introduction of an Ecological Enhancement and Protection Zone. However this, in its turn, has caused further harm to ecology and also detrimental visual and landscape impacts. The EPEZ contains a long body of water with a bund to the South and fencing North and adjacent to the SSSI. The EPEZ is intended to form a physical barrier to stop people and animals crossing from the development site to the SSSI. However gaps in the body of water and bund to allow access for IDB maintenance of drains limit its effectiveness as well as doubts about long term maintenance of the fencing, thorny hedging and water levels. The EPEZ is in itself a finite structure which it would be quite possible to circumvent at the western end adjacent to the golf course.
- vi. The EPEZ is necessary only to attempt to mitigate harm from the proposed residential development on the SSSI yet in doing so it clearly causes additional harm to ecology and to the landscape and visual amenity of the locality. The attempt to create a barrier to stop traffic from the development site to the SSSI also has the effect of restricting wildlife movement in and out of the

Bog and further isolating the SSSI from any other green space. This is particularly crucial given that the SSSI is already enclosed on three sides by the golf course, A64 and East Coast mainline.

- vii. The proposed development will have a harmful impact on the landscape character of the site and Askham Bog and consequently result in harm to visual amenity. The development site is currently arable farmland which forms part of the landscape setting of York. The introduction of 516 houses with associated infrastructure and the EPEZ will irreversibly change the character of the area from undeveloped countryside to suburban development. The change in character of Moor Lane from one marking the edge of the urban area to a road passing through housing development will be acute and harmful to the character of the city as a tight urban area surrounding by countryside.
- viii. The EPEZ introduces a new landscape form of man-made water features and bunding which is not already experienced in the existing flat countryside. It will have the effect of removing views both into Askham Bog from the North and out of the Bog towards Moor Lane. This reduces the experience of the Bog as set within a rural setting outside the urban area and results in an enclosure of the SSSI which is alien to its existing open and level character.
- ix. The transport assessment with the application is not considered acceptable as submitted trip rates are unlikely to reflect the car usage on the site. As such it is not possible to adequately assess the likely impacts on the highway network of the proposed development. It is further noted that higher trip rates would increase emissions with a likely impact on the ecology of Askham Bog.
- x. A contribution towards the required additional school places generated by the residential development has been requested but not agreed with the applicant. Without the required



contribution it is considered that the development would place undue pressure on the existing school system.

- xi. The Applicant has put forward a number of benefits that they consider the development would provide. Officers have carefully assessed these and consider that, whilst the scheme would provide benefits including the delivery of new housing, they do not individually, or cumulatively, clearly outweigh the harm to the Green Belt through inappropriateness and other identified harm. This is even when emerging Local Plan policy SS2 is given limited weight as a result of the unresolved objections and the stage of preparation of the Plan. Officers have accorded great weight to the harm to Askham Bog SSSI. Para.175 of the NPPF states that 'development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it should not normally be permitted'.
- xii. Officers consider that, even with the limited weight which can be afforded to policy SS2, the harm to the SSSI that has been identified is so significant when combined with other identified harm that the benefits of the scheme, as put forward by the Applicant, are insufficient either individually or cumulatively to clearly outweigh the identified harm that the proposal would cause. Therefore the very special circumstances necessary to justify the proposal do not exist and officers recommend that the application be refused.

**16. Land to the North and East of Grid House, Metcalfe Lane, Osbaldwick, York [18/01778/FULM]**

Members considered a Major Full Application from Andrew Black for the erection of 40 dwellings with associated roads, landscaping and public open space at Land To The North And East Of Grid House Metcalfe Lane Osbaldwick York.

Officers gave an overview the scheme to Members noting that the CTMP had been submitted and because it was a preliminary plan, there was therefore a condition proposed regarding the S106. During the Officer update, clarification was given on neighbour responses and the education contribution. Members were informed an update to the Plans Conditions. It was reported the additional information had been assessed and the planning balance and the recommendation remained unchanged from the published report.

In response to questions from a Member, the Applicant explained that having looked at the district heat network, ground source heat pumps were to be used instead of photovoltaic panels.

Officers were asked and explained:

- How the education places were calculated.
- That the Ecologist had raised no objections to the scheme.
- There had been a request for different access routes to the site from local residents.
- Fifth Avenue would be used for access to the site. Because of land for There could not be different access arrangements because of the land ownership of sites.
- The Applicant had indicated that they would carry out surveys on the condition of Fifth Avenue, which was included in the CTMP. There was a dilapidation survey carried out at phase 3 and there would be another one carried out at the end of the development.
- The access routes to the site were clarified.
- When a contractor had been appointed, further detail on the CTMP would follow and detailed matters would be resolved, which would be covered through Section 38 agreement, including road materials. Conditions had been requested.
- Traffic Management would work with the Applicant on the traffic management plan.

The Applicant, Andrew Black, spoke in support of the application. He explained that the development would provide 400 new homes on a brownfield site, 200 of which would be affordable. He noted that since the deferral of the application Joseph Rowntree Housing Trust (JRHT) had met with local Councillors and residents. Referring to the contractors delivering the scheme, he noted that the previous development partner contractor would not be considered as part of the tender process.

In response to Member questions concerning the CTMP, Mr Black explained that the CTMP was not exhaustible and that JRHT would continue to meet with residents to discuss the CTMP

Further questions were raised by Members to which Mr Black responded that:

- Enforcement action from CYC would be used if needed.
- The articulated lorries being used had reduced from 42 tonne to 32 tonne vehicles.
- The current preference for energy was for ground source heat pump and the use of photovoltaic panels had never been a part of the energy strategy at Derwenthorpe.
- There were charging points in the centre of parking areas.
- The right of access down Metcalf Lane was for maintenance only and Fifth Avenue and Derwent Way were considered the most appropriate access route to the site.

Cllr Rowley in his capacity as a Councillor and Vice Chair of Governors at St Aelred's RC Primary School, spoke in objection to the application. He expressed concern that there was no S106 funding for St Aelred's school and he requested that the Committee defer the application in order to receive clarification on the S106 funding and traffic management plan. He was asked and confirmed that the current situation remained unchanged with there being no offer of funding and no signage being installed. He explained the problems caused by construction traffic.

Officers then gave clarification on the education funding position noting that a contribution to a secondary school would be procured via the S106 Agreement.

Cllr Webb, Heworth Ward Councillor, spoke in objection to the application. He explained that the lack of a traffic management plan would adversely affect the amenity of residents and suggested that an alternative entrance needed to be considered. He questioned what provision was in place for St Aelred's school. He outlined the problems with works vehicles travelling down Fifth Avenue which he suggested were flouting conditions. He added that the problems with traffic began in December 2010.

Mr Black was then given the opportunity to address the points raised by the speakers in objection. He explained that JRHT had requested information from the Local Authority on how the S106 finding had been spent. He also noted that Fifth Avenue entrance was not their preferred entrance.

In request to a question from Members, the Senior Solicitor clarified that there could be a condition for the development not to commence until the CTMP had been submitted and approved by officers.

Resolved: That;

- a) The application be approved subject to a Section 106 Agreement, updated plans conditions and conditions listed in the report.
- b) The development shall not commence until the CTMP had been submitted and approved by officers.

Reason:

- a) The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 144 of the NPPF and by definition causes harm to the Green Belt. This harm, and other limited harm to openness of the Green Belt, must be afforded substantial weight and very special circumstances will not exist to justify the development unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- b) It is considered that the other considerations set out in paragraph 4.60 of the Committee Report, together with mitigation of other harm through planning conditions and obligations, clearly outweigh the potential harm to the Green Belt, even when affording this harm substantial weight. This, therefore, amounts to the very special circumstances necessary to justify the development.
- c) Any approval is subject to the signing of a Section 106 Agreement to cover the following

matters, to include any necessary consequential variations being made to the original Section 106 obligation. The applicant has confirmed agreement to these heads of terms:

- 1) Affordable housing provision:- Provision of 9 no. affordable dwellings, being 5 no. social rented units and 4 no. shared ownership;
  - 2) Education:- £103,512 towards the cost of additional school places at Archbishop Holgate's Secondary Academy. An education contribution is required for secondary age provision (6 anticipated secondary pupil yield x 17,251 cost multiplier 2018/19 =£103,512).
  - 3) Off-site sports provision:- Financial contribution of £25,986, of which £15,000 would be allocated to outdoor sport and ancillary facilities at Burnholme Sports Pitches and £10,986 would be allocated to Osbaldwick Sports Club;
  - 4) Construction Traffic Management Plan:- Provision of a detailed Construction Traffic Management Plan that would be based on and incorporating the submitted preliminary statement submitted 7.6.19;
  - 5) Sustainable Travel:- Payment to the occupier upon first occupation of each residential unit either: £150 per dwelling towards the provision of a travel pass to permit one adult to travel free of charge on buses operated within the Council's area, or a non-transferable voucher to the value of £150 to be used to purchase a bicycle;
- d) In light of the above, the proposal, subject to conditions and planning obligations, is considered to be acceptable in planning terms and complies with national and local planning

policy. The application is, therefore, recommended for approval subject to the completion of a section 106 agreement and the conditions.

Cllr C Cullwick, Chair

[The meeting started at 4.30 pm and finished at 7.00 pm].

DRAFT

Meeting	Planning Committee
Date	12 September 2019
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Perrett, Warters and Widdowson

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### **17. Declarations of Interest**

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

### **18. Minutes**

Resolved: That the minutes of the meetings held on 13 June 2019 and 2 July 2019 be approved and then signed by the chair as a correct record.

### **19. Public Participation**

It was reported that there had been two registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

Michael Hammill spoke on the number of outstanding planning applications he had. He expressed concern regarding a decision to refuse solar panels as going against the council position on the climate change emergency. He questioned why so many of his applications had been refused and why.

Matthew Laverack spoke on the requirements regarding housing extensions. He displayed an example to Members and explained that the costs for housing extensions had increased and increased and would require the use of additional energy and resources.

## 20. Plans List

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

### 20a Clifton Ings Flood Alleviation Barrier to the South of Shipton Road, Rawcliffe, York YO30 5RY [19/00007/FULM]

Members considered a major full a major full application from the Environment Agency (EA) for the construction of new and improved flood defence works, compensatory habitat creation and other associated works (Clifton Ings Barrier Bank Project) at Clifton Ings Flood Alleviation Barrier to the south of Shipton Road, Rawcliffe, York.

The Development Management Officer outlined the scheme, explaining the existing embankment at Clifton Ings Site of Special Scientific Interest (SSSI) and access to the site. He demonstrated how the embankment would be extended and the location of the pumping station.

The Development Management Officer then provided an officer update in which Members were advised of:  
The relocation of the sustrans route.

- Clarification of amounts of SSI compensation (from the SSSI mitigation strategy).
- A change to Condition 11 requiring the approval of the construction management details requiring measures to prevent dust affecting use of the Clifton Alliance Cricket Ground.
- The Secretary of State request to remain informed of the Council's determination of the application and may decide to call-in the application should members be minded to approve the scheme.
- The receipt of further representations, to which an update was given.



- The additional information had been assessed and the planning balance and the recommendation remained unchanged from the published report.

In response to questions from the Committee, officers explained that:

- There were multiple reasons why the EA had chosen the option in the application and there would be damage to the SSI if the dry side had been chosen.
- Taking into account climate change allowance to 2039, the modelling indicates that Clifton Ings would permanently increase the risk of flooding to the car park on Frederic Street and residential properties on Marygate.
- The future mitigation works on Marygate had not been approved but the scheme was in development along with a number of other schemes.
- The EA had matrices of information they took into account when looking at options for flood alleviation.
- Sheet piling had been used elsewhere in Yorkshire.
- Mitigation for the SSSI was complicated. In respect of whether there were examples of this elsewhere, this had been done but there was a mixed picture and no scientific research.
- The Friends of Rawcliffe Meadow had been working on the meadow for 25 years.
- Rawcliffe Meadow was nationally important. An explanation of the habitat loss was given.
- The SSSI mitigation work would require a specialist and detailed botanical monitoring would be needed.
- The council had requested conditions for the SSSI mitigations work and there would be long term input in terms of monitoring. The council would need to work with the EA in terms of resourcing the monitoring the SSSI mitigation work.
- With reference to the objections from Tremendous York, the EA had proposed a good level of mitigation for the loss of trees. The

hedgerows along Clifton Park Hospital would be retained where possible but there was some uncertainty about this.

Dr Mick Phythian (York Natural Environment Trust CIO) spoke in objection to the application. He explained that the Friends of Rawcliffe Meadow (FORM) had been involved with the meadow since 1990 and had received minimal support from the EA. He noted that there had been a lack of information from the EA on the option appraisal, particularly in terms of the dry side of the river. He added that FORM had not been consulted and he raised and listed a number of questions why Members should defer both applications.

Dr Mick Phythian was asked and explained that:

- FORM had never been consulted by the EA on the option appraisal. Their relationship with the EA had not been good.
- FORM had spent many years planting trees and hedgerows.
- There was an eco-system at the site which would be missed and the type of grassland on Rawcliffe Meadow was sequestrarian for carbon reduction.
- The funding that form received from Natural England (NE) would end when the EA started work on the site. The full grant that FORM received for the work on the site was £6-7,000.
- The SSSI mitigation measures would only be a success through intensive work. An explanation of what this would be involved was given.
- Regarding the mitigation strategy, NE still required information that had not been submitted for example, information on the tansy beetle and NG4 grassland. There were a range of documents that needed to be seen before the application could be considered.

Bob Taylor (Trustee of Clifton Alliance Cricket Club) spoke about the impact of the scheme on the cricket club. He noted the background and membership of the club. He expressed concern that the site boundary extended into the playing area of the club and noted that the issues regarding dust and disturbance could affect the status of the level of cricket played at the club.

In answer to Member questions, officers explained that the Condition 11 contains the required construction management details to be approved and requires measures to prevent dust affecting use of the Clifton Alliance Cricket Ground.

If members consider it necessary we can add to this; to specifically include the requirement for protective fencing (to control dust) and for measures to be agreed to ensure construction work does not occur in the local area after 12 (noon) on Saturdays during the cricket season.

Mr Taylor was asked and confirmed that it would not be possible for Clifton Alliance Cricket Club to share facilities with York Sports Club.

Richard Lever (Environment Agency) spoke in support to the application. He noted that 600 homes in York flooded following the 2015 floods. He explained that the proposed scheme would protect 134 properties and a route into York. He advised that if the scheme was not progressed, under the Reservoirs Act 1975 the EA would be able to undertake the work. He noted that there were unavoidable impacts to the SSSI, adding that NE had not objected to the scheme and that the scheme would protect properties.

Mr Lever was asked and explained:

- The project was one of nineteen in York.
- There was a flood alleviation scheme for the Museum Gardens, although planning permission for this had not been granted yet.
- Consultation with residents was carried out and an explanation of this was given.
- The constraints of the site and rationale for using wet and dry sides.
- The EA had its own specialists and consultants to oversee the mitigation measures. Supporting the environment was part of the core work of the EA.
- The mitigation plans would be put into the capital scheme.
- There were vehicles of payment to FORM through a business tenancy agreement.
- The work of FORM was acknowledged. It was hoped that the EA would find ways of working with FORM.

- The reasons for not selecting sheet piling was explained as being part of the scoring process for options which were considered under EA regulations.
- There would be compression across the access routes on the site.
- The meadow would be lifted and moved. It would be returned after the works had finished.
- If the scheme was not given approval it was highly likely that the remedial work would go ahead.
- EA compliance with the conditions would be monitored through the EAs own internal metrics and reporting systems.

Warwick Dale (Jacobs) spoke in support to the application. He read out a statement from the Reservoir Supervising Engineer, who was unable to attend the meeting. In the statement it was explained why the construction work was required. It was confirmed that should the remedial work not be carried out, the Reservoir Supervising Engineer would call a Section 10 inspection which is likely to impose a measure in the interests of safety under the Reservoirs Act 1975 on the EA to remediate the barrier bank. It was added that an action raised as a measure of safety under a Section 10 inspection was legally enforceable.

Mr Dale was asked and confirmed that it was not for the supervising engineer to dictate the method by which the construction is undertaken, only that the improvements are made. Sheet piling may be an option for those materials.

In response to points raised during debate, the Flood Risk Manager clarified the scheme was part of a scheme for the whole of York. He added that the reservoir was inspected annually by an inspector and measures could be put in place and works carried out as necessary. As part of this, the EA would still need to liaise with NE on the works. These works would be carried out under capital maintenance to the current standard of protection and not the new level of protection.

It was suggested that the application be deferred and the Senior Solicitor clarified on what grounds a deferral could be made. It was proposed and seconded that the application be deferred on the grounds that further information was required from the EA on the mitigation strategy and the management strategy for the SSSI. On

being put to the vote this motion fell.

It was then proposed and seconded that the application be refused. On being put to the vote this motion fell.

It was then proposed and seconded that the application be approved with an additional condition to delegate to officers the working of the S106 funding, to include liaison between the stakeholders (including FORM) on the mitigation of the scheme. On being put to the vote it was:

Resolved: That the application be approved subject to the conditions listed in the report and the following amended Condition 11 and additional condition:

Condition 11

The requirement for protective fencing (to control dust), for measures to be agreed to ensure construction work does not occur in the local area after 12 (noon) on Saturdays during the cricket season.

Additional condition

To delegate to officers the working of the S106 funding, to include liaison between the stakeholders (including FORM) on the mitigation of the scheme.

Reason:

- i. The works are required due to issues with the stability of the existing bank and as part of a wider programme to improve flood defences throughout the city. The existing barrier bank requires repair and such works cannot be undertaken without an adverse effect on the SSSI. The flood defence no longer protects the area from the 1 in 100 year flood / AEP 1% event.
- ii. The works to the existing barrier bank would have an adverse effect on a SSSI that, according to the NPPF, should not normally be permitted. Also as the site is in the Green Belt very special circumstances are necessary which clearly outweigh the identified harm to the Green Belt, as a consequence of the new pumping station and larger barrier bank, which have an adverse effect on openness and the other identified harm.

- iii. The re-profiling of the barrier bank will affect a further 0.9ha of the 25.1ha of grassland within the SSSI. There are adequate grounds as to why this development can't take place outside of the SSSI and this scheme delivers benefit by improving the level of protection for the area; to the extent that it is defended during the 1 in 100 year flood and, compared to the existing defence, reduces the area, and number of properties that would be at risk, during the AEP 0.1% event / 1 in 1000 year flood.
- iv. The proposals involve mitigation on site where possible and otherwise compensated for at Rawcliffe Ings. The recommended conditions are as robust as possible in terms of securing compensatory grassland and rehabilitation of areas affected by the proposals. The conditions will require long-term management of the site and ongoing monitoring to ensure delivery of the mitigation and compensatory habitat. Furthermore the conditions will secure adequate mitigation for the impact on ecology outside of the SSSI and ensure any loss of trees and hedgerows is compensated for; at a rate of at least 1:1, and aiming for 1:3 provided this is consistent with other environmental objectives for the site and site constraints.
- v. Approval is recommended because the proposed works will bring significant community benefit, by reducing flood risk to a considerable area. Combined with the proposed mitigation there is deemed to be adequate justification for the adverse effect on the SSSI, which may only be permitted in exceptional circumstances, as set out in NPPF paragraph 175.
- vi. The extension of the barrier bank and the pumping station would only have a low adverse impact on the Green Belt; reducing openness. Even when giving substantial weight to harm to the Green Belt, as required by NPPF paragraph 144, the benefits of the scheme; managing and reducing flood risk are deemed to be very special circumstances which clearly outweigh the harm to the Green Belt and other identified harm and make the proposals acceptable in application of Green Belt policy.

Members considered a full application from the Environment Agency for the construction of a temporary access junction and track off the A19 in association with flood alleviation works at Clifton Ings Flood Alleviation Barrier to the South of Shipton Road, Rawcliffe, York.

It was proposed and seconded that the application be approved. On being put to the vote it was:

Resolved: That the application be approved subject to the conditions listed in the report.

Reason:

- i. The proposed access to allow works at Clifton Ings will have an adverse impact on the Green Belt, open space and biodiversity. The intention is for site restoration following the works and therefore the harm would not be permanent. The role of the Friends of Rawcliffe in managing the area will be in jeopardy and their funding will be lost; however this cannot be avoided through the planning process (we cannot specify that a certain 3<sup>rd</sup> party be required to manage the site). Officers are content that planning conditions can secure a reasonable level of mitigation over time; the responsibility of which will lie with the applicants/developer; the EA. Conditions are proposed to manage and minimise the effect on biodiversity during the works and for comprehensive long term management. The site will be restored to its previous appearance.
- ii. Other options for the access route have legitimately been ruled out due to the scale and type of construction vehicles involved with the flood defence works.
- iii. With regards the impact on the Green Belt the NPPF states that very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. With regards the natural environment the NPPF advises planning decisions should minimise impacts on, and providing net gains for, biodiversity.
- iv. The current barrier bank has issues with stability which significantly impacts on the operation and effectiveness of

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

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

Cllr C Cullwick, Chair

[The meeting started at 4.30 pm and finished at 7.20 pm].



**COMMITTEE REPORT****Date:** 17 October 2019**Ward:** Fishergate**Team:** East Area**Parish:** Fishergate Planning Panel**Reference:** 19/00603/FULM**Application at:** Frederick House Fulford Road York YO10 4EG**For:** Erection of 6no. purpose-built 4 storey student accommodation buildings (providing 368 bedrooms), associated change of use of and alterations to existing 'Guard House' building to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping (re-submission of withdrawn application 18/02797/FULM)**By:** Summix FHY Developments Ltd**Application Type:** Major Full Application (13 weeks)**Target Date:** 17 September 2019**Recommendation:** Approve**1.0 PROPOSAL**

1.1 The site is a roughly rectangular parcel of land located off Fulford Road (A19), approximately 1.2 kilometres south of York city centre. The site contains the former Shepherd Homes office known as Frederick House and the accompanying building to the west known as the Guard House. The existing vehicular access for Frederick House is via a one way loop road off Fulford Road which is shared with North Yorkshire Police who are located directly to the south of the site. To the north of the site, Kilburn Road runs parallel with the site.

1.2 To the east of the site lies an area of woodland and Walmgate Stray. The University of York's Heslington West campus lies beyond the stray to the east. Areas to the north and west of the site are predominantly residential but there are a number of local services and bus stop on Fulford Road. There is an existing cycle and footpath that runs from Fulford Road south of the site towards the university. There is also a footpath running from Kilburn Road through the allotments towards the university.

1.3 The western part of the site, including the Guard House lies within the Fulford Road Conservation Area. Two trees within this area are also subject to a tree preservation order. These are a Horse chestnut (TPO46 –T1) and a Sycamore

(TPO46-T2). Frederick House itself is a monolithic three storey flat roof office building of 1960s or 1970s construction measuring approximately 110 metres in length on an east-west axis and 10.4 metres in height.

1.4 The site is unallocated on the Proposals Map accompanying the 2018 Publication Draft Local Plan. The site also lies within Flood Zone 1.

1.5 Full planning permission is sought for the erection of 6 no. purpose-built 4 storey student accommodation buildings providing 368 bedrooms. Permission is also sought for the associated change of use of, and alterations to, the existing Guard House building which fronts Fulford Road to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping

1.6 The six student accommodation buildings will be 4 storeys in height. The proposed plans refer to the buildings as A through to G with A being the refurbished Frederick House and B to G being the new buildings running from west to east. For clarity they are referred to as such in this report.

1.7 The form and dimensions of the proposed buildings are as follows:

Building B is roughly L shaped with a flat roof measuring 12.2 metres in height. The maximum length is 32.1 metres and the width is between 12.4 metres and 28.0 metres.

Building C is rectangular in shape, 12.2 metres high, 14.4 metres wide and 28.0 metres in length

Building D is L shaped 12.2 metres high, 32.1 metres in length and between 14.4 metres and 26.4 metres in width.

Building E is staggered with a maximum height of 13.2 metres, and maximum width and length of 24.4 metres.

Building F is roughly rectangular and is up to 13.4 metres in height, 25.2 metres in length and 15.7 metres in width.

Building G is also roughly rectangular and includes a single storey projection at the northern end. The maximum height is 12.8 metres, the length is 25.1 metres and the width is 13.2 metres

1.8 The materials proposed for the buildings are a mix of red, light red and bronze brick cladding with detailing including timber ribs and cladding, full length windows to a number of rooms and aluminium frames to windows.

1.9 There are also two further single storey buildings proposed to the northern boundary, an energy centre to the east of the Guard House and a further building containing a sub-station, water tank and Lv room.

1.10 Waste and cycle storage is proposed integrated to the proposed buildings. The proposed lighting is a mix down lit columns, amenity light posts, vandal resistant bollards and down lit wall luminaires mounted to buildings. Surface water drainage is proposed via soakaway.

1.11 Cycle storage is proposed at a rate of 0.53 cycle parks per room, with the potential to increase to 0.66 parks per room. 9 car parking spaces are to be provided for staff and disabled users, with a further 22 temporary parking spaces for use during beginning and end of term drop offs and picks ups.

1.12 Pedestrian access is proposed to be through the Gate House, which fronts Fulford Road. Cycles and cars will access and exit the site via the existing loop road.

1.13 This application is a resubmission of application 18/02797/FULM which was withdrawn following concerns raised by officers with regards to design and highways.

### Planning History

1.14 There is extensive planning history relating to this site, the relevant applications are summarised below;

7/15/4149B/PA - Outline application for three storey extension to existing office block – Permitted 16.02.1989

7/15/4149C/PA - Formation of car park – Permitted 12.05.1989

7/15/4149D/PA - Erection of two storey office block – Refused 02.08.1990

7/15/4149F/PA - Erection of 3 storey office block together with modified parking arrangement (reserved matters) – Permitted 02.08.1990

7/15/4149H/PA - Two storey extension to unused building for use as offices – Permitted – 10.06.1993

7/15/4149M/PA - Extension of car parking area – Permitted 09.02.1994

7/015/04149N/OUT - Renewal of outline planning permission 7/15/4149b/pa for 3 storey office block with modified parking – Permitted 06.09.1995

7/015/04149P/FUL - Provision of additional parking space – Refused 28.02.1996

98/01937/REM - Three storey office block extension to rear – Permitted 23.11.1998

03/02202/REM - Renewal of planning permission 98/01937/REM for erection of three storey office block extension to rear - Permitted 12.08.2003

14/00922/CLU - Certificate of Lawful Development for use of land as a car park for employees of Frederick House – Granted 02.06.2014

18/02797/FULM - Erection of 7 purpose-built student accommodation buildings ranging in height between 3 - 5 storeys (providing 440 bedrooms), associated change of use of and alterations to existing 'Guard House' building to multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping - Withdrawn

## **2.0 POLICY CONTEXT**

### National Planning Policy Framework

2.1 The revised National Planning Policy Framework (NPPF) 2019 was published on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied.

2.2 The planning system should contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives.

2.3 Paragraph 14 advises that at the heart of the Framework there is a presumption in favour of sustainable development. Paragraph 11 states planning decisions should apply a presumption in favour of sustainable development and that for decision taking this means where there are no relevant development plan policies, granting permission unless i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

### Publication Draft Local Plan 2018

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

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

2.5 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

### 2.6 Relevant Policies

- DP1 York Sub Area
- DP2 Sustainable Development
- DP3 Sustainable Communities
- SS1 Delivering Sustainable Growth for York
- SS3 York City Centre
- EC2 Loss of Employment Land
- H2 Density of Residential Development
- H7 Student Housing
- HW7 Healthy Places
- ED1 University of York
- D1 Placemaking
- D2 Landscape and Setting
- D4 Conservation Areas
- D6 Archaeology
- D11 Extensions and Alterations to Existing Buildings
- GI2 Biodiversity and Access to Nature
- GI4 Trees and Hedgerows
- CC1 Renewable and Low Carbon Energy Generation and Storage
- CC2 Sustainable Design and Construction of New Development
- CC3 District Heating and Combined Heat and Power Networks
- ENV2 Managing Environmental Quality

ENV5 Sustainable Drainage

T1 Sustainable Access

DM1 Infrastructure and Developer Contributions

### 2005 Development Control Local Plan

2.7 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF albeit with very limited weight.

## **3.0 CONSULTATIONS**

### INTERNAL

#### Design and Sustainable Construction (Design)

3.1 Comments on revised scheme (August 2019):

3.2 Design revisions have improved the scheme but not to the degree recommended on numerous occasions. The main shortcomings are:

- Generally the proposal is not in character with the neighbourhood for bulk and typology.
- Although it is acknowledged that the former cavalry barracks site-use gives opportunities for a different typology and character to be proposed (compared with the adjacent suburban residences), this opportunity has not been convincingly explored.
- The site layout is a highly informal composition of buildings and this is at odds with the likely-and-evident formal characteristics of a former military barracks site.
- The proposed dead-end nature of such a large redeveloped site is at odds with normal good planning for networked connectivity- especially for cycle/pedestrians

However, the design is now to a standard that is just above the threshold for planning support on design grounds. Some of the benefits are:

- It is not very viewable from public streets and the parts that are viewable do not sufficiently cause detriment to the characteristics of the area to warrant further changes.

-Opportunities are limited to improve connectivity (new connectivity and routes from the site through the stray are problematic for natural environmental reasons, and elsewhere where there are possibilities not impacting the natural environment, such as making a new connection into the existing cycle/pedestrian route to the south, the land is outside the applicant's gift to enact).

- Retention of the "Guard House" (an older but much altered boundary building) and its likely improvement through design changes.

- Whilst the site layout is informal (and this has drawbacks- see above) the architecture is simple and consistent between buildings, adding just enough textual variety to the elevations to avoid it being bland. It is possible to make a virtue out of this simplicity if it is built to a high quality standard with a high quality landscape scheme, and is then carefully maintained. If this happens it could be a successful new place. Refer to recommended conditions to help secure this.

### Design and Sustainable Construction (Landscape Architect)

3.3 With the exception of a proposed footpath near the horse chestnut tree, there is objection and the proposed landscaping scheme is good. A no dig footpath may be feasible to mitigate damage to the horse chestnut tree but no formal details have been submitted. Conditions regarding the trees and landscaping scheme have been recommended.

### Design and Sustainable Construction (Ecology)

3.4 An Ecological Appraisal by Encon Associates Limited and dated December 2018 has been submitted to support this application. In particular this includes an assessment of the buildings for their potential to support roosting bats. The buildings were considered to be of very low potential and no further surveys were recommended. Protected species will not be impacted by the re-development of this site.

3.5 Some of the vegetation on the site is suitable for nesting birds and therefore mitigation is required to ensure these are not disturbed during site clearance/construction.

3.6 Although situated in a built up urban area the site is close to good bat foraging habitat adjacent to Walmgate Stray. The increased structural integrity of modern developments reduces the potential for bats and birds to utilise modern buildings for roosting and nesting therefore any new developments should integrate a variety of

bird and/or bat boxes. A condition is recommended to enhance the development in line with the National Planning Policy Framework.

### Design and Sustainable Construction (Archaeology)

3.7 The site lies in an area of archaeological interest due to its location just off a potential Roman thoroughfare and its use over the last 150-200 years as a military site.

3.8 A desk-based assessment has been submitted. It confirms the high likelihood for archaeological deposits to exist across the site dating from the Roman-modern periods including the potential for Roman roads and burials. However, it is anticipated that the most extensive and significant remains will relate to the 18<sup>th</sup> and 19<sup>th</sup> century cavalry and infantry barracks. The assessment also includes reference to built heritage including the 19<sup>th</sup> century elements of the Guard House, brick structures possibly related to the barracks and gates/piers. These above ground heritage assets will need to be photographically recorded and presented with any archival material relevant to the structures.

3.9 In terms of below ground heritage assets the proposed new build will be constructed on the site of the current building as well as the vacant land to the east. This may potentially destroy or disturb archaeological deposits/features as outlined above.

3.10 An archaeological evaluation is required to assess the survival and character of any deposits or features relating to the historic military use and potentially earlier uses of the site which may be destroyed by the proposed development. The evaluation and building recording can be carried out post-determination with the caveat that the final amount of archaeological work required cannot be estimated at this stage without the evaluation results. Relevant barrack plans listed in the DBA will need to be accessed to inform the evaluation and any further mitigation work.

3.11 A watching brief should be maintained during smaller scale works and the grubbing up of foundations of the existing structure following demolition as a precaution given that we do not know anything about the make-up of this site.

3.12 Archaeology on this site may provide an opportunity for community engagement. Some form of plan for public engagement should be included within the WSI for this site. This may be through social media, information on public display, or should it be feasible, an opportunity to see the revealed archaeology on site through an open day arrangement.



## Public Protection

3.13 The Public Protection Officer has no objection in principle and has considered air quality, contaminated land, lighting and noise. A summary of the comments on these matters is set out below.

### Air Quality

3.14 The proposed living accommodation is set well back from Fulford Road and the site is unlikely to generate significant amounts of additional traffic due to the low level of parking proposed. Public Protection has previously been consulted on the proposals and it was not considered that an air quality assessment would be required.

3.15 Within the site, the vehicular access leads to a proposed forecourt area to the rear of the guard house and includes parking for 7 vehicles. Three of these parking spaces are intended for staff and disabled use. The remaining four spaces will be for flexible use. In line with paragraph 110 of the NPPF, developments should be designed to incorporate facilities for charging plug-in and other ultra low emission vehicles in safe, accessible and convenient locations. Developments that include less than 50 parking spaces, at least one parking bay should be marked out for use by electric vehicles only, together with charging infrastructure and cabling. Spaces should be for the exclusive use of low emission vehicles.

### Contaminated Land

3.16 The report identifies that the site historically formed part of the Cavalry Barracks and various phases of development and demolition appear to have occurred within the site boundary. Given this identified historical use, the report identifies potential contaminants of concern to include asbestos, heavy metals, PAHs and hydrocarbons. The report also identifies potential PCBs associated with the electrical substation located 10m south of the site. The report recommends that site investigation is undertaken to assess the potential contamination present at the site. The report also identifies the need for an Unexploded Ordinance (UXO) risk assessment to be completed at the site given that the site is in an area which is at moderate risk of UXO.

3.17 The Phase 1 report and the proposal to carry out site investigation works are acceptable. Appropriate conditions are recommended

## Lighting

3.18 The external lighting has been reviewed with the CIE/ILP (International Institute On Illumination/Institute of Lighting Professionals) guidance on reduction of obtrusive light.

3.19 The CIE/ILP set maximum recommended luminance levels in various types of areas. This takes into consideration the size of the light fixture proposed and how much light already exists in the development location. These zones range from Zone E0 which is classified as a dark zone that should be protected from light being present, for example reserves and dark sky parks to Zone E4, urban areas with high district brightness, town/ city centre areas with high levels of night time activity where light levels can be a lot brighter.

3.20 The site is on the edge of an urban area of the city of York with high lighting to the west side of the site and Fulford Police station to the south. There are residential dwellings to the north with back gardens backing onto the site which would be classified as sensitive darker locations and an intrinsically dark area to the east with the Walmgate Stray.

3.21 This would place the planned site in either the E3 or more appropriately the E2 zone. (The guidance does state that where an area sits adjacent to a lower level light area the more stringent of the two control zones should be imposed).

3.22 The highest levels of illumination are to the west side of the site which is already illuminated by high light levels from other sources and the scheme is designed so that the lighting is away from the residential dwellings to the north with the majority of lighting below the perimeter wall height and there is a lesser level of lighting to the east.

3.23 The E2 zone criteria is met for the sky glow levels, intrusion into the windows and gardens to the north and the design scheme is sensitive to the protection of the darker area to the east and Public Protection are satisfied that the lighting levels will be appropriate for the planned location.

## Noise

3.24 The Noise Impact Assessment considers the existing noise climate and identifies the current main noise source as traffic, mainly on Fulford Road. It also identifies considerable siren noise from police vehicles that operate day and night and could lead to sleep disturbance.

3.25 The precise type of combined heat and power plant is unknown at this stage and several pieces of plant with various sound levels are considered and suggestions are made as to how these noise levels can be attenuated. A condition is recommended to include details of noise insulation measures and a maximum noise level for plant and machinery. Restrictions on working hours during construction and a Construction and Environmental Management Plan are recommended.

### Highways Network Management

3.26 Examination of the University of York (UoY) 2014 staff and student Travel Questionnaire states that only 7% of students own or have access to a car. However, this is likely to apply to students in on-campus halls of residence where the need to travel by car is much reduced. The same document also states that that [the car alone] mode share for those [students] living off-campus only is 24%.

3.27 If this latter figure is applied to this development of 368 student beds, would result in the potential number of students driving to the UoY being 81, allowing for the 7 spaces on site.

3.28 A similar survey – the University of Sheffield Student and Staff Travel Survey 2012 – showed that 38% of students had access to a car and of these 25% parked on street overnight. Applying these figures to this development of 368 student beds, would result in the potential number of students driving to the UoY being 36.

3.29 It is likely that, in the absence of any measures to deter car use, the actual potential number of students driving to the UoY and parking their vehicles on street in the local area will be between 36 and 88.

3.30 The developer is proposing to incorporate a 'no-car ownership' ownership restriction within the tenancy Agreement for Students residing at the Frederick House development to eliminate displaced parking onto nearby residential streets.

3.31 The developer has submitted several examples of 'car-free' student accommodation where 'no-car ownership' restrictions have been included in Tenancy Agreements deter students from bringing their cars to the town or city where they are studying, or to deter parking in residential areas around the student accommodation in the absence of a town or city-wide restriction. Many of these have been included in S106 Agreements.

3.32 In some cases, such proposals have been deemed acceptable by the planning officer considering the planning application, and in other cases Planning Inspectors

have considered them sufficient at appeal (APP/Z0116/A/08/2090892 Manor Scrap Yard, Bristol). Further details pertaining to some of these are given below.

3.33 Cambridge City Council City Council 14/1496/FUL, Land At 315 - 349 Mill Road Cambridge, Student housing development consisting of 270 rooms. This is a development of similar size and location to Frederick house. Cambridgeshire County Council (as Local Highway Authority) raised concerns about whether there would be sufficient 'Proctorial Control' by the Universities to ensure adequate enforcement of the no car restrictions in tenancy agreements, adding that this was for the LPA to consider. The Planning Officer recognised that residents have concerns regarding the impact of 270 students on the amenity of the area but was satisfied that issues of noise and disturbance and car parking can be mitigated through the appropriate management of the accommodation. It should also be noted that this application was refused on grounds other than car parking by was allowed on appeal.

3.34 Appeal APP/Z0116/A/08/2090892, Manor Scrap Yard, Bristol. This development, allowed on appeal, is a smaller development than Frederick House. Its surroundings are also different, being mainly a low-medium density residential area where residences have a mixture of off-street and on-street parking. Therefore, this area is not equivalent to the Frederick House application.

3.35 With regard to this application, any restriction on no-car ownership needs sufficient monitoring and enforcement. Ideally, this should be undertaken in conjunction with the UoY. However, the applicant has advised CYC that is his understanding that the UoY no Proctorial Controls in place pertaining to enforcing no car ownership in York. Furthermore, the University of York has a web page showing car parking charges at its campuses. This page shows that students can park at the UoY, so the deterrents here are the price of and availability parking.

3.36 CYC Highways DC remain to be convinced that the applicant's proposals to include restrictions within students' tenancy agreements not to allow or permit the keeping of a private motor vehicle in either the City of York, or more precisely, within a specified distance of the accommodation at Frederick House will be effective.

3.37 The applicant has stated that the Council's requests in respect of cycle provision are proposed to be met, in terms of numbers of spaces, location and quality of cycle stands. The horizontal and vertical clearances for tiered cycle parking proposed by the applicant should be in accordance with CYC's latest guidance (overall aisle width of 3500mm where frequent two-way movements are likely within an aisle with stands on either side, and an unobstructed ceiling height of 2800-3000mm).

3.38 Examination of the latest drawings submitted by the applicant, appears to show an under provision of cycle spaces (183 spaces at 0.5 per room). Furthermore, although the cross section through Block G shows vertical clearance in the 'bin store' (and presumably the cycle store) to be 2775mm, thus, being close to CYC guidance, the cross sections for the other buildings appear to show a much reduced vertical clearance. It is also unclear from the drawings whether the required aisle width will be provided between opposing tiered cycle parking racks.

3.39 City of York Highways Development Control objects to this application on the grounds of significant cumulative impact on residential amenity and highway safety. Cycle parking provision also appears to be deficient.

### Transport Planning

3.40 A query was raised as to how cyclists exit the site, whether via the existing loop road past the police station or via creation of a shared path by the entrance to the loop road.

3.41 Anyone wishing to cycle into the city centre would probably use New Walk which can be accessed via the ramp at the end of Alma Terrace. Bearing that in an improvement should be sought to make the central refuge in front of Sainsburys larger so more students can cross at a time and it is also wide enough to get a bike across safely (angled).

3.42 Suggestions were also made for creating shared cycle footpaths along the eastern side of Fulford Road.

3.43 The Kilburn Road allotments route is the shortest to the University, improvements are recommended to the barrier at the stray end to make it more cycle and disabled-friendly. There are existing issues for cyclists at this barrier.

### Housing Strategy and Development

3.44 A condition is required to ensure the proposal is for student accommodation. Otherwise affordable housing contributions are required.

### Forward Planning

3.45 Response to withdrawn application 18/02797/FULM: Key policy issues include a) the loss of employment use and b) the need for additional, purpose built, student accommodation. In relation to a), the principle of the loss of the site's existing employment use remains undetermined, and is subject to the views of colleagues in Economic Development. They would however reiterate that the site was previously

allocated in a draft Local Plan, and as such the loss of the site from the City's employment land supply was accepted at that stage. In relation to b), within the context of submitted analysis and current evidence (SHMA, 2016) they would concur that need for the accommodation exists.

## EXTERNAL

### Fishergate Planning Panel

3.46 We believe there is a fundamental problem with this application, which is the lack of direct access to The Stray. It is obvious that students will use the route along Kilburn Road and through the allotment site, which is entirely inappropriate. The additional cycle traffic would be particularly damaging for the allotment site and users. We believe that it should be an absolute precondition that there must be direct cycle and pedestrian access to The Stray and without such guaranteed access the application should be refused.

### Yorkshire Water

3.47 Condition recommended to ensure separate systems for foul and surface water drainage on and off site to protect the local aquatic environment and Yorkshire Water infrastructure.

### North Yorkshire Police

3.48 No objection.

### North Yorkshire Fire Service

3.49 No objections at this stage, further comments would be provided at Building Regulations approval stage.

### York Civic Trust

3.50 No objection to revised design and recognises improvements compared to withdrawn scheme. Concerns over the transport plan and cannot support application due to the lack of accessibility to and from the back of the site, via Walmgate Stray.

### Conservation Area Advisory Panel

3.51 The new scheme appeared to retail the original elements of the Guard House proposals. The large residential block had however been replaced by a series of individual units generally four storeys in height. Whilst the Panel welcomed the

breaking up of the block however it was felt the elevations treatment could be improved. (Officer comment: These comments were made on the originally submitted plans for 19/00603/FULM, not the revised plans that were subject to re-consultation in August 2019).

## 4.0 REPRESENTATIONS

4.1 The application has been advertised by neighbour notification, press notice and site notice. 39 objections were received from local residents.

4.2 The issues raised in the objections are summarised below.

- Impact of lighting
- Parking and access via Kilburn Road
- Suitability of the path via the allotments
- 1 general comment was received requesting a separate access to the site to avoid Kilburn Road.
- Scale compared to low rise residential area
- Danger to pedestrians and cyclist
- Noise and light pollution
- Parking on local streets
- Design could be more interesting and innovative
- Height and proximity to dwellings on Kilburn Road
- Overlooking of gardens on Kilburn Road
- Concern that objections to previous application will be ignored
- No oversight or management once development completed
- Edgeware Road is a private road so permit parking is not feasible
- Buildings closer to northern boundary than before
- Suggest trees to northern boundary to reduce light pollution
- Out of character and over bearing
- No objection in principle to the change of use
- Reduction in scheme from withdrawn application welcomed but still a large scheme
- Use of allotments for cycling is not suitable
- Concerns over the level of demand for student housing citing the recent application (18/02819/FULM) for demolition of student accommodation at York St John and ongoing political uncertainty.
- Concern over levels of sewage
- Affordable housing should be encouraged at the site
- Do not want Fulford Road to become overwhelmed by student accommodation like Hull Road has.
- Concern over environmental impact of a path through the Stray
- Majority of concerns have not been addressed from withdrawn application
- Concern over bats roosting nearby

- Only beneficiaries would be the University
- Not appropriate location
- Concern over the impact on local services such as shops and GP surgery.
- Concern over transient nature of students and potential vandalism
- Increase in traffic on Fulford Road at the beginning and end of term
- Loss of light
- Impact on wildlife
- Would change the dynamic of the area
- Increase in traffic to Kilburn Road would be an impact to children playing outside
- Developments are highly profitable and pay neither business rates or council tax
- Questioning the claims of student housing need
- Buildings closer to Kilburn Road than existing

4.3 1 letter of support was received stating the proposals are high quality and sympathetic response to regeneration of derelict site and will support local commerce and employment while reducing the strain on the housing market

4.4 Revised plans were submitted on 1<sup>st</sup> August 2019 altering the layout of the site and reducing the total number of student bedrooms from 393 to 368. A 14 day re-consultation was undertaken on the revised plans. Six objections were received making the following comments.

- Remain disappointed at the lack of a pedestrian/cycle exit to the east
- 16% reduction in bedrooms is welcome
- Still overbearing
- Parking is an issue unless restrictions are proposed
- Number of pedestrians and cyclists on Kilburn Road is an issue as well as for allotment holders
- Bin and cycle storage may encourage noise and pests unless carefully controlled
- Possible radiation on site as a former barracks
- Request for on-site parking for contractors during building works
- Concern over potential light spill from lamp posts to residential gardens to north
- Lighting will impact on local wildlife
- Too tall, resulting in a loss of light

## 5.0 APPRAISAL

### 5.1 Main Issues



- principle of development
- loss of employment land
- justification for student housing
- impact on the character of the conservation area
- design
- impact on amenity and living conditions of adjacent occupiers
- highways and parking
- drainage
- trees
- ecological issues
- sustainability

## LEGISLATIVE CONTEXT

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise.

5.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the area.

## PRINCIPLE OF DEVELOPMENT

5.4 Paragraph 118 of the NPPF states that substantial weight should be placed on the value of using brownfield sites within settlements for homes. In land use planning terms, the principle of development at this site rests on the acceptability or otherwise of the loss of the land for employment uses, the proposed use for student housing and the impact on the Fulford Road conservation area. These are explored in greater detail below.

## LOSS OF EMPLOYMENT LAND

5.5 Paragraph 80 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Paragraph 121 of the NPPF lends support to alternative uses of land which is currently developed but not allocated for a specific purposes in plans, where this would help to meet identified development needs. This includes the use of employment land for homes in areas of high housing demand provided this would not undermine key economic sectors or sites and would be compatible with other NPPF policies.

5.6 Policy EC2 of the 2018 Draft Plan is relevant and states that the applicant will need to provide a statement to the satisfaction of the Council demonstrating that:

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- i. the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and
- ii. the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period.

5.7 The site was subject to consideration as an allocation through the Local Plan site selection process. Following the 2014 consultation, a further request was made to amend the allocation to include B1a, C3, C2, D1 and C1 uses, which was not supported by the Council. At Preferred Sites consultation (2016) the allocation was removed due to deliverability issues, as follows:

*(extract from Preferred Sites consultation (CYC, 2016))*

*“Further consideration of the site has highlighted issues regarding the site layout and physical constraints which would limit its development potential. The site contains a wooded area at the eastern end of Kilburn Road which would need to be protected. In addition the site is located within the Fulford Road Conservation Area so development would need to ensure that elements that contribute to the significance of this area are not harmed. The wall that runs along the frontage would need to be retained meaning that access to the site would need to share the current access into the Police headquarters. All these factors would require detailed masterplanning and would affect the development capacity of the site.”*

5.8 From the above it is apparent the Council had accepted the loss of the site for employment land in 2014 during the Local Plan process and the reason for its removal as a possible allocation was due to the site layout and physical constraints and not concerns over the loss of employment land.

5.9 The applicant has stated in their planning statement that under permitted development rights office buildings can be converted to dwellinghouses in use class C3 (dwellinghouses) subject to prior approval. While this is a material consideration, it must be noted that:

- The prior approval process includes consideration of transport and highways impacts, contamination risks and flood risks on the site and must also have regard to the NPPF so far as relevant to the subject matter of the prior approval.
- The current proposal is for the demolition of Frederick House, rather than its change of use. The applicant has not gone through the process of submitting a prior approval application to the local planning authority for consideration.
- Furthermore, student accommodation such as the current proposal normally falls within a wholly different use class to dwellinghouses: C2 (residential

institutions).

5.10 As such, only limited weight can be afforded this assertion.

5.11 With regard to the marketing of the site, the applicant states in section 5.18 of their planning statement that:

“Information supplied by commercial specialists confirms the following in terms of the condition, viability and market attractiveness of the land and buildings at Frederick House in relation to part ii) of 2018 Draft Plan Policy EC2:

- The site is not attractive as an existing employment site:
  - The existing buildings are aged and are not in a condition that occupiers require and demand;
  - The existing buildings are poorly performing in terms of energy efficiency.
- The site was subject to open market sale. There were no expressions of interest from the market to retain it in its current use.”

5.12 While it is noted that the applicant referred to “information supplied by commercial specialists”, this assertion was not accompanied with supporting evidence. However, given the comments of the Forward Planning Officer with regard to the one time inclusion of the site in the Local Plan process for a period, it is not considered reasonable to refuse the application on this basis as the Council’s own evidence suggests the loss of employment land at this site would not conflict with the NPPF or Policy EC2 of the 2018 Draft Plan.

#### JUSTIFICATION FOR STUDENT ACCOMMODATION

5.13 Policy H7 of the 2018 Draft Plan states that proposals for new student accommodation will be supported where:

- i. there is a proven need for student housing; and
- ii. it is in an appropriate location for education institutions and accessible by sustainable transport modes; and
- iii. the development would not be detrimental to the amenity of nearby residents and the design and access arrangements would have a minimal impact on the local area.

5.14 Emerging Policy ED1 states that the University of York must address the need for any additional student housing which arises because of its future expansion of student numbers. Provision will be expected to be made on campus in the first instance. In assessing need, consideration will be given to the capacity of independent providers of bespoke student housing in the city and whether it is economically prudent to provide additional student accommodation.

5.15 In terms of part i. of policy H7, the applicant has submitted evidence to show the proven need for student housing. The Council's Forward Planning Officer in their consultation response to application 18/02797/FULM in January 2019 stated that with regard to the proven need for student housing, the SHMA (2016) notes that number of planning permissions for student accommodation have been granted in recent years. Whilst it is not anticipated that there will be as significant levels of growth in student numbers over the plan period as have been experienced through 10 year trends, it is acknowledged that the student rental market remains strong and that the demand for purpose built student accommodation is high, particularly from international students.

5.16 While concerns have been raised during the consultation process by local residents over the evidence provided and the accuracy of the projected numbers, on the evidence available the proposal complies with part i. of Policy H7. Parts ii. (appropriate location) and iii. (amenity) of the policy will be considered in the relevant sections below.

#### IMPACT ON THE CHARACTER OF THE CONSERVATION AREA

5.17 Paragraph 192 of the NPPF states that with regard to heritage assets, (which include conservation areas) when determining applications local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

5.18 Paragraph 190 advises that the particular significance of a heritage asset that may be affected by the development proposal should be identified and assessed. Paragraph 193 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 194 states that any harm to the significance of a designated heritage asset from development within its setting should require clear and convincing justification.

5.19 Policy D4 of the 2018 Draft Plan advises that harm to buildings, open spaces, trees, views or other elements which make a positive contribution to a conservation area will be permitted only where this is outweighed by the public benefits of the proposal. Emerging Policy GI4 seeks to retain trees that make a positive contribution to a conservation area.

5.20 Part of the site lies within the Fulford Road conservation area, which is a designated heritage asset. This part of the site includes the 'Guard House' which fronts Fulford Road. This building was included within the conservation area as it makes a positive contribution to the character of the area through sympathetic architectural language and by reinforcing the wall like characteristic of the barrack's boundary. The retention of this building is supported as it makes a positive contribution to the conservation area. The proposed design response locates communal uses in the guard house building, and creates a prominent new pedestrian entrance from the street. Despite weakening the boundary "wall" through these changes, given the limitations of the guard house's historical significance, this is supported as it is the primary means of making a vital connection with the street scene.

5.21 The existing Frederick House is utilitarian in design and does not have a positive impact on the character of the conservation area. The proposed new buildings would be outside of the conservation area but due to its proximity building 'B' would affect the character of the conservation area. The design of Building B has been revised to produce a narrow western elevation not dissimilar to the existing office building, only somewhat higher. The two protected trees sited between the Guard House and Building B are to be retained. Given the building will sit outside of the conservation area and will be of a similar massing to the original but with greater design detail. It is considered that subject to appropriate conditions such as materials and soft landscaping details the character and appearance of the conservation area shall be preserved in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF.

## DESIGN

5.22 Paragraph 127 of the NPPF states that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

5.23 Policy D1 of the 2018 Draft Plan states that proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment.

Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused. Emerging Policy HW7 encourages design principles including well designed streetscapes, foot and cycle paths, spaces for communities to come together and considerations of how design impacts on crime or the perception of safety. Policy D11 provides further details on alterations to existing buildings to ensure they are acceptable in design, heritage, setting and amenity.

5.24 Planning permission was originally sought in late 2018 through application no 18/02797/FULM which was withdrawn by the applicant following fundamental concerns expressed by Council Officers in relation to the proposed design. The current application was submitted in March of this year with revisions submitted in August. The revisions have resulted in the number of student beds reducing from approximately 450 to 368, representing a decrease in numbers of nearly 20%. The decrease in numbers has allowed for design improvements including an increase in open space and a reduction in both the number of storeys from a maximum of 5, to no more than 4 for each building. The buildings have also been reduced in scale, particularly towards the western end of the site which will increase the sense of openness of the site. The application site is for the most part obscured from public view on Fulford Road due to its shape stretching back from the highway and from existing buildings and structures.

5.25 The Council's Design Officer has considered the proposal and notes the reduction in length of Building B and the narrow gable elevation to the Fulford Road aspect which is an improvement on previous iterations of the scheme. The revised scheme has slightly improved the functionality of the open spaces and will allow for greater sunlight. Other improvements include clarification that there are now no proposed windows in sensitive areas directly overlooking the gardens of Kilburn Road.

5.26 It is noted the proposal is not generally in character with the neighbourhood, the site layout is highly informal which is at odds with the formal characteristics of a former barracks site and also the dead end nature of the site in terms of connectivity. The alterations to the prominent Guard House are noted as an improvement. Furthermore, the existing appearance of the site is of a monolithic utilitarian building with extensive hard standing. The proposed architecture, while informal, is simple and consistent and there is the potential for a successful place if high quality materials and landscaping schemes are enacted.

5.27 Overall, the layout and design of the buildings are considered to comply with Paragraph 127 of the NPPF and the relevant policies of the 2018 Draft Plan that consider design. Conditions for materials and large scale details are recommended. Landscaping is considered further below.

## TREES AND LANDSCAPING

5.28 Emerging Policy D2 considers landscaping and setting for design proposals. The Policy states that proposals will be supported where, amongst other things, they conserve and enhance landscape quality and character, and the public's experience of it and make a positive contribution to York's special qualities. Proposals should create opportunities to enhance the public use and enjoyment of existing and proposed streets and open spaces. They should recognise the significance of landscape features such as mature trees and other important character elements, and retain them in a respectful context where they can be suitably managed and sustained. Proposals should include sustainable, practical, and high quality soft and hard landscape details and planting proposals that are clearly evidence based and make a positive contribution to the character of streets and spaces. Emerging Policy GI4 seeks to ensure that proposals do not create conflict between existing trees to be retained and new buildings, their uses and occupants, whether the trees or buildings be within or adjacent to the site.

5.29 The proposed development seeks the retention of the two protected trees within the conservation area and also includes a proposed landscaping scheme that concentrates on the proposed amenity spaces between the various buildings. It is noted that due to the location of the site and its relationship with surrounding buildings, there will be limited public view of the landscaping scheme. As a student housing scheme with restricted public access, one of the main functions of the space will be to provide an attractive setting for the buildings and one that provides outdoor amenity space for residents. The Council's Landscape Architect has considered the submitted information and has no objection subject to recommending appropriate conditions with regard to a no dig path near the protected trees and the landscaping scheme. The proposal is considered to enhance the existing character

of the site and to provide landscaping of a sufficient quality to meet the requirements of draft Policy D2 and D1.

## IMPACT ON NEIGHBOUR AMENITY

5.30 The NPPF states that developments should create places with a high standard of amenity for all existing and future users. It goes on to state that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Policies D1 and ENV2 of the 2018 Draft Plan consider amenity. The key issues with regard to amenity that concerns this application are noise, light and the levels of comings and goings associated with the development. A number of objections to the application have been regarding potential noise and anti-social behaviour.

5.31 With regard to noise, the use will be residential, albeit for student housing which has raised concerns with local residents with regard to late night noise in particular. There is also a proposed energy centre on the northern boundary of the site. In mitigation, the proposed management plan submitted in March 2019 states that the site will be staff 24 hours a day, 365 days a year and that the site is fully equipped with direct access to CCTV equipment. The management plan states that the site operators would work with the university and student union to ensure managing student behaviour is a priority. Staff and security will monitor excessive noise and raise issues with residents directly. Tenancy agreements will include clauses regarding anti-social behaviour. The management plan is considered to undertake reasonable measures to manage potential noise complaints and a condition is recommended in this regard.

5.32 A noise impact assessment has been submitted which recognises the main impacts with regard to existing noise as traffic and also considers potential noise generated by the energy centre. Conditions are suggested with regard to maximum noise levels for any plant equipment for student residents and for the occupiers of nearby dwellings such as those on Kilburn Road. A condition for noise insulation measures for residents of the student accommodation to protect against traffic noise is also recommended.

5.33 Concerns have been raised by residents of Kilburn Road to the north regarding the proposed lighting strategy. The lighting strategy is considered to be reasonable for the proposed use and acceptable subject to recommended condition covering the final design of the lights and also curfews for the lighting. Conditions are also recommended with regard to land contamination remediation measures.



## HIGHWAYS AND PARKING

5.34 Paragraph 108 of the NPPF states that when assessing applications for development, it should be ensured that

- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.35 Para 109 goes onto say development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.36 Para 110 expands on this, stating that applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

5.37 Policy T1 of the 2018 Draft Plan states that to provide safe, suitable and attractive access, development proposals will be required to demonstrate there is safe and appropriate access to the adjacent adopted highway. Development proposals should also create safe and secure layouts for motorised vehicles (including public transport vehicles), cyclists, pedestrians that minimise conflict. Emerging Policy H7 notes that student housing should be in an appropriate location for educational institutions to be accessed by sustainable transport means.

5.38 The application site lies, on the face of it, in what appears to be a sustainable location and would be considered as such were non student housing proposed for

the site. It is approximately 800 metres south of Fishergate Bar and on the A19 (Fulford Road) with good bus links to the city centre and railway station. There are also cycle paths along Fulford Road, the river bank and across Walmgate Stray. Residents at the site would be able to access the city centre, supermarkets to the south on Fulford Road (Aldi, Iceland) and the Designer Outlet by sustainable transport measures. There are further local amenities on Fulford Road close to the site including a Sainsbury's Local, café, pharmacy, doctor surgery and public house. The surrounding area contains a number of residential streets with unrestricted parking on either side of Fulford Road.

5.39 Some weight should be afforded to the location of the proposed development in terms of its sustainability with regard to the fact that student occupiers would use local amenities and the city centre. However, as the site is proposed to house 368 students and is to be a car free development, it is of greater relevance as to whether the site is in an appropriate location for access to the University of York by sustainable transport measures.

5.40 Access to the University's Heslington West campus would be on foot or via cycle across Walmgate Stray with an alternative route via Heslington Road to the north. The route onto Walmgate Stray from the application site is either via Kilburn Road to the north or the cycle path to the south of the barracks. It is noted that the surrounding area of the application site is already popular with students and employees of the University, many of whom will commute via the Stray. The applicant intends to encourage usage of the route via the Barracks, to reduce the impact on Kilburn Road. This is the existing route for vehicles, including cyclists, to take from the office at Frederick House. There is a give way marking on the road at the entrance to Frederick House, but it is worn out and it is recommended that the applicant provide improvements to the road marking and signage. The proposed layout of the site is such that a potential future access to the south east of the site towards the police station has been included to allow for an improved potential access if that site were ever to be redeveloped.

5.41 The proposal is to be car free and the applicant has proposed tenancy agreements to restrict car ownership. This is in line with student housing schemes elsewhere in the country that have included similar tenancy clauses.

5.42 The Transport Statement, dated March 2019, submitted with the application refers to walking and cycling distances to the University of York (UoY) of between 1.5 km to 2km. However, these distances are for routes that cross Walmgate Stray and are, therefore, not lit. The walking and cycling distance to the UoY West Campus along routes that are illuminated is approximately 2.5km. This distance is close to the maximum distance that people would be willing to walk for travel to work (or study) purposes.

5.43 The Council's Highways Officer has objected to the application on the evidence available as they have concluded that there is likely to be an increase of between 36 and 88 cars parked on the public highway as a result of the proposed development. This is considered to be a possibility due to the lack of a direct bus service and the unattractiveness of Walmgate Stray at certain times of day/year for walking and cycling with the increased distance via alternative routes. The Highways Officer noted that there is car parking at the University of York. The main deterrent being the cost of parking and the number of spaces and also the restrictions to tenancy agreements.

5.44 Concerns have been expressed by the Highways Officer regarding the enforceability of the tenancy restrictions for on street parking. The alternative sites have been considered and the Highways Officers notes that there are differences with the individual cases such as the scale and public transport options.

5.45 Several planning appeal decisions have considered whether parking restrictions tied to tenancy agreements can be controlled via conditions or legal agreement. These include appeals dealt with by way of hearing (appeal reference 3178946, Chester, 2017) or public inquiry (appeal reference 2090892, Bristol, 2009) and have found that these restrictions do meet the necessary tests.

5.46 The proposal includes for 0.53 cycle parking spaces per room, rising to 0.67 cycle parking spaces per room, should the need arise. This level of provision has been agreed following discussions with the Council's Highways Officer although there is a lack of detail in the submitted plans. Conditions are recommended to provide further details and to allow future additional cycle parking provision should this be warranted.

5.47 The previous application for redevelopment of the site (18/02797/FULM) included an indicative route from the application site heading east through the woodland and onto Walmgate Stray. The purpose of this route was to provide a shortcut to the University and reduce movement on alternative routes such as Kilburn Road. Several consultation responses referred to this potential route. The Council's Ecology and Countryside Officer did not support the proposed link to the east for the following reasons:

- The Stray is managed by grazing cattle and/or sheep and hay cutting. A new access point will increase the maintenance costs to the council or tenant farmer in insuring it remains stock proof.
- Walmgate Stray is managed under a Higher Level Stewardship agreement with Natural England. If land were to be removed from this to create a surfaced foot/cycle path the council would incur a financial penalty. A

surfaced path would be an additional hazard/barrier for the agricultural management of the land.

- If a new footpath was un-surfaced it would create a new, or multiple, 'desire lines' which will cause long term damage to the grassland sward.
- There is already pressure to introduce artificial lighting across the Stray which would have a negative impact on wildlife, and this proposal would add to this pressure.
- There will be pressure either at construction stage or through future use, to remove trees and introduce lighting within the woodland on site on the grounds of safety/feeling of security.

5.48 Given these fundamental concerns and noting that part of the indicative route would be outside of the applicant's control, this was removed from the current application.

5.49 It is agreed with the Council's Highways Officer that there is the potential for an adverse impact to highway safety as a result of the proposed development. However, it is also a material consideration that planning inspectors have consistently found that the use of restrictive tenancy agreements meet the 6 tests required for the use of planning conditions. It is considered with this in mind that the impact on highway safety as a result of the proposed development would be acceptable, if tenancy restrictions were applied and properly enforced via a Section 106 agreement to cover the following, which the applicant has agreed in principle to:

- Management agreement to include the restriction on residents' cars through the tenancy agreement
- Monitoring of current on-street parking and future surveys to monitor, with provision for funding a residents parking zone if it proves that this is required in future – completion of the S106 would be subject to a reasonable cap on the funding of the RPZ and clarification on the phasing and triggers for surveys and any payments.
- Widening of the pedestrian refuge on Fulford road outside the site, to better accommodate increased numbers of pedestrians and cyclist crossing movements arising from the development – YCC cost estimate capped at £15,000
- Replacement of the kissing gate along the pedestrian route between Kilburn Road and the Stray to facilitate cyclists using this route. YCC cost estimate capped at £10,000.

## ECOLOGY

5.50 Policy GI2 of the Draft Plan seeks to conserve and enhance York's biodiversity. Where appropriate, any development should result in net gain to, and help to improve, biodiversity. The proposed development includes the demolition of

the existing office building known as Frederick House. The Ecological appraisal submitted by the applicant has been considered by the Council's Ecologist who concurs with the assessment in that the existing buildings on site are of very low potential for the potential to support roosting bats. It is also noted that the two single storey buildings will have green roofs and there will be an increase in soft landscaping and tree planting when contrasted with the existing extensive hardstanding at the site.

## DRAINAGE

5.51 The application site lies wholly within an area at low risk of flooding (flood zone 1). It is relevant that the site is currently a brownfield site contain buildings and extensive hardstanding in the form of car parking. There is currently limited soft landscaping which would allow for surface water drainage. As a result of the development, 6 new residential buildings will be erected with ancillary buildings such as the energy centre.

5.52 The applicant's drainage strategy states that there is a public foul water sewer in Fulford Road, at a point to the west of the site. There is no public surface water sewer shown within the vicinity of the site and this suggests that surface water discharges to a soakaway (assumed to be at the eastern end of the site). The proposed strategy for surface water drainage is by soakaway. Foul water drainage is proposed to be via an underground gravity pipe network discharging to a package pumping station. As per the sustainable drainage hierarchy this method is acceptable in principle. Relevant conditions are recommended.

## SUSTAINABILITY

5.53 Policy CC1 of the 2018 Draft Plan states that new buildings must achieve a reasonable reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable. This should be achieved through the provision of renewable and low carbon technologies in the locality of the development or through energy efficiency measures. Emerging Policy CC2 states that proposals for new residential buildings will be supported where they achieve the following at least a 19% reduction in Dwelling Emission Rate compared to the Target Emission Rate and a water consumption rate of 110 litres per person per day. Emerging Policy CC3 strongly supports the development of decentralised energy, including both combined cooling, heating and power (CCHP) and combined heating and power (CHP) distribution networks

5.54 The highest energy demand for this type of development is hot water. The energy strategy for the development is for a central energy centre, incorporating natural gas fired boilers, with a natural gas fired combined heat and power (CHP)

plant. Efficiency measures include high efficiency condensing boilers, variable speed fans and pumps, energy efficient lifts and lighting controls. The applicant's sustainability statement shows that the new blocks will achieve between a 26% and 34% carbon emissions saving against the target emission rate and the BREEAM pre assessment report demonstrates the proposed development will achieve a prospective BREEAM 2018 new construction rate of 'excellent', which accords the emerging policy requirement. A condition is recommended to require measures to be incorporated to ensure that the BREEAM level is met.

## **6.0 CONCLUSION**

6.1 Paragraph 11 of the NPPF states that where there are no relevant development plan policies planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. In this case, there are no restrictive NPPF policies that give a clear reason for refusing the proposals and the proposed development is considered to be acceptable in principle with justification for the student housing provided. It is also noted that the provision 368 student housing beds is positive with regard to the national and local policy requirements for new housing. A condition is recommended that the site be restricted to student housing, otherwise affordable housing contributions would be required. With regard to the loss of employment at the site it is noted there is a permitted development fall back to convert the existing building to a residential use. Furthermore it is noted that the existing building due to its scale and age is unlikely to be attractive to potential commercial operators.

6.2 The revised design of the site is considered to be an improvement to both the original submitted scheme in 2018 and also the initial resubmission in 2019. It is noted that there is relatively limited public view of the site and that some of the design constraints of the site such as the 'dead end' nature and the lack of access to the south and east are outside of the applicant's control to remedy. The landscaping scheme is considered acceptable and the TPO'd trees on site can be retained. Conditions are proposed with regard materials, landscaping and tree protection.

6.3 The proposed development, including the erection of new buildings, the alterations to the Guard House and the retention of the protected trees are considered to preserve the character of the Fulford Road conservation area.

6.4 The proposed development is also considered to be acceptable with regards to ecology, noise, light, privacy, contaminated land and also archaeology subject to recommended conditions.

6.5 It is recognised that there are concerns with regard to parking and highway safety that include an objection from the Highways Officer and also from local residents. This is primarily due to the distance of the site from the University of York, particularly during inclement weather or poor light which will reduce the appeal of travelling via Walmgate Stray to the university. The resultant concerns are that this will lead to increased use of Kilburn Road both by cyclists and also for on street parking. The applicant has proposed measures to restrict private car usage including subject to a legal agreement covering car ownership in student tenancies, parking surveys and if deemed contributions towards permit parking for residents of nearby streets.

6.6 In the planning balance it is considered that the identified benefits of the site, including the re-use of brownfield land for residential use and the sustainable transport measures proposed. Significant weight should be given to the acceptable design and the positive landscaping scheme in favour of granting planning permission, as should the sustainable design and construction measures. Limited weight should also be attached to the proposed ecological enhancements. While the objection from Highways is acknowledged and this should carry appropriate weight in the decision making process, moderate weight should also be attached to previous appeal decisions that have indicated that the principle of using planning conditions or obligations to control student parking via tenancy agreements is acceptable. Overall, the proposal is considered to comply with Paragraph 11 of the NPPF in that the adverse impacts do not significantly or demonstrably outweigh the identified benefits.

**7.0 RECOMMENDATION:** Approve subject to Section 106

1 TIME2 Development start within three years

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

(415)1808-GWP-00-XX-DR-A-(PA)-0057-P05  
(415)1808-GWP-01-GF-DR-A-(PA)-0030-P06  
(415)1808-GWP-01-GF-DR-A-(PA)-0031-P06  
(415)1808-GWP-01-GF-DR-A-(PA)-0048-P06  
(415)1808-GWP-01-GF-DR-A-(PA)-0049-P02  
(415)1808-GWP-01-ZZ-DR-A-(PA)-0035-P06  
(415)1808-GWP-01-ZZ-DR-A-(PA)-0045-P06  
(415)1808-GWP-01-ZZ-DR-A-(PA)-0046-P02  
(415)1808-GWP-01-ZZ-DR-A-(PA)-0047-P06  
(415)1808-GWP-04-00-DR-A-(PA)-0036-P06

(415)1808-GWP-04-00-DR-A-(PA)-0037-P06  
(415)1808-GWP-04-E-DW-A-(PA)-0058-P05  
(415)1808-GWP-04-GF-DR-A-(PA)-0055-P06  
(415)1808-GWP-04-GF-DR-A-(PA)-0056-P06  
(415)1808-GWP-XX-00-DR-A-(PA)-0007-P09  
(415)1808-GWP-XX-00-DR-A-(PA)-0008-P04  
(415)1808-GWP-XX-00-DR-A-(PA)-0009-P04  
(415)1808-GWP-XX-00-DR-A-(PA)-0010-P03  
(415)1808-GWP-XX-00-DR-A-(PA)-0075-P01  
RFM-XX-00-DR-L-0001-S1-PL03  
RFM-XX-00-DR-L-0003-S1-PL04  
(415)1808-GWP-XX-00-DR-A-(PA)-0017 P05  
(415)1808-GWP-XX-00-DR-A-(PA)-0018 P05  
(415)1808-GWP-XX-00-DR-A-(PA)-0019 P05  
(415)1808-GWP-XX-00-DR-A-(PA)-0020 P05

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

3 DRAIN1 Drainage details to be agreed

4 VISQ8 Samples of exterior materials to be app

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

Detailed bay elevations and sections for all fenestration types including ground to roof level parts to demonstrate interfaces at scale 1:20

Window reveals and wall pane recesses at scale 1:10

Details of all fixed equipment to the exterior of the proposed buildings.

The Guard House window reveal at scale 1:10

Reason: So that the Local Planning Authority may be satisfied with these details.

6 Sample panels of all the types of brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. These panels



shall be retained until a minimum of 2 square metres of wall of the relevant building has been completed in accordance with the approved samples.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

7 The development shall not be occupied until a detailed landscaping scheme in accordance with the approved General arrangement and Planting strategy has been submitted to the Local Planning Authority for approval in writing. This shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants; and seed mixes, sowing rates and mowing regimes where applicable. It will also include details of ground preparation; tree planting details; paving, and street furniture. The proposed tree planting shall be compatible with existing and proposed utilities. This scheme as approved shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species and other landscape details across the site, since the landscape scheme, is integral to the amenity of the development.

8 Before the commencement of development including demolition, excavations, building operations, an up to date detailed Arboricultural Method Statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. Amongst others, this statement shall include details and locations of protective fencing, ground protection, a schedule of tree works if applicable, site rules and prohibitions, phasing of works, site access during demolition/construction, types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, locations for stored materials and means of moving materials around the site, locations and means of installing utilities, location of site compound and marketing suite. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material is proposed within the root protection area of existing trees. A copy of the document will be available for reference and inspection on site at all times. The development shall be carried out in accordance with the approved Arboricultural Method Statement.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development.

9 The development hereby approved shall be occupied only for the purposes of student accommodation by either students engaged at all times in full-time or part-time further or higher education courses within the City of York administrative boundary or by delegates at all times attending courses or conferences within the City.

Reason: In order to control the future occupancy of the development in the event of it any part of it being sold or rented on the open market without securing adequate levels of affordable housing, in accordance with Policy H7 of the 2018 Draft Plan.

10 A programme of post-determination archaeological evaluation is required on this site.

The archaeological scheme comprises 3-5 stages of work. Every stage shall be completed and approved by the Local Planning Authority (LPA) before the condition can be discharged.

A) No archaeological evaluation, grubbing up of foundations or development shall take place until a written scheme of investigation (WSI) for evaluation and watching brief has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

D) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an

amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

E) No development shall take place until:

- details in D have been approved and implemented on site

- provision has been made for analysis, dissemination of results and archive deposition has been secured

- a copy of a report on the archaeological works detailed in Part D should be deposited with City of York Historic Environment Record within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

11 A programme of archaeological building recording, specifically a written description and photographic recording of the Guard House and any other historic structures on site to Historic England Level 2 is required for this application.

The archaeological scheme comprises 3 stages of work. Each stage shall be completed and approved by the Local Planning Authority before it can be discharged.

A) No demolition/ alteration of the Guard House or other associated historic structures shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

B) The programme of recording and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and digital archive deposition with ADS will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report shall be deposited with City of York Historic Environment Record and digital archive images with ADS to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The buildings on this site are of archaeological interest and must be recorded prior to alteration or removal of fabric.

12 No development shall take place until a detailed scheme of noise insulation measures for protecting current and proposed residents from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

Reason: To protect the amenity of people living in the new property from externally generated noise and in accordance with the National Planning Policy Framework.

13 No above ground construction work shall take place until details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed

in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

14 The lighting levels achieved at the development shall not exceed those stated in the lighting report by Desco dated: 1 September 2019 reference: 1809-60-RPT-01-External Lighting Assessment Report.

Reason: To protect the amenity of the surrounding area.

15 There shall be no external lighting between the hours of 23:00hrs and 07:00hrs by obtrusive lights (as defined in the External Lighting Assessment Report by Desco dated 3<sup>rd</sup> September 2019 as A1 and C1) at the site, other than those necessary for emergency and security lighting. A scheme outlining which lights will be switched off between these hours shall be submitted to and agreed by the Local Authority in writing before use of the site commences and the curfew implemented in accordance with the said scheme as approved thereafter.

Reason: To protect the amenity of the surrounding area

16 VISQ4 Boundary details to be supplied

17 Prior to first occupation or use of the development hereby approved four integrated features providing a roosting crevice for bats must be constructed across the site within the fabric of the new buildings, and four Swift nest boxes.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 175 d) of the NPPF (2019) to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

18 HWAY18 Cycle parking details to be agreed

19 HWAY19 Car and cycle parking laid out

20 Before the occupation of the development 1 Electric Vehicle Recharging Point shall be provided and retained in a position and to a specification to be first agreed in writing by the Council. Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Parking bay marking and signage should reflect this. The charge points should include

sufficient cabling and groundwork to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point of the same specification, should demand require this in this future. Within 3 months of the first occupation of the development, the owner will submit to the Council for approval in writing an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 10 years. The approved Electric Vehicle Recharging Point Maintenance Plan shall thereafter be implemented in accordance with its terms

Reason

To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

21 Details of the reduction in carbon emissions the development hereby approved would achieve when compared against Part L of the Building Regulations (the notional building) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the building and the development shall be carried out in accordance with the approved details.

The details shall demonstrate a reduction in carbon emissions of at least 28% through the provision of renewable or low carbon technologies or through energy efficiency measures and at least a 19% reduction in dwelling emission rate compared to the Target Emission Rate (calculated using Standard Assessment Procedure methodology as per Part L1A of the Building Regulations).

Details shall also be submitted that demonstrate that the development shall also achieve a water consumption rate of no more than 110 litres per person per day (calculated as per Part G of the Building Regulations).

Reason: In the interests of sustainable design and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018.

22 LC1 Land contamination - Site investigation

23 LC3 Land contamination - remedial works

24 LC4 Land contamination - unexpected contam

25 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the

hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays.

The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason: To protect the amenity of local residents

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

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

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

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable

measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

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

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

Reason: To protect the amenity of the locality

27 No part of the development shall be occupied until a Full Travel Plan has been submitted and approved in writing by the LPA. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

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

Reason: To ensure that traffic flows from the site can be safely accommodated and to promote the usage of sustainable means of transport.

28 The area shown as 'potential future cycle storage' on drawing no (415) 1808-GEP-XX-00-DR-A-(PA)-0007 -P09 shall be reserved for cycle parking only at all times throughout the lifetime of the development unless it is first agreed in writing with the local planning authority that it is no longer necessary for this purpose.

Reason: To encourage the use of sustainable transport modes.



## 8.0 INFORMATIVES:

### Notes to Applicant

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

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

#### Revised Plans

#### 2. INFORMATIVE:

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

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

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

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

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

(f) There shall be no bonfires on the site

### 3. LEGAL AGREEMENT

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

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

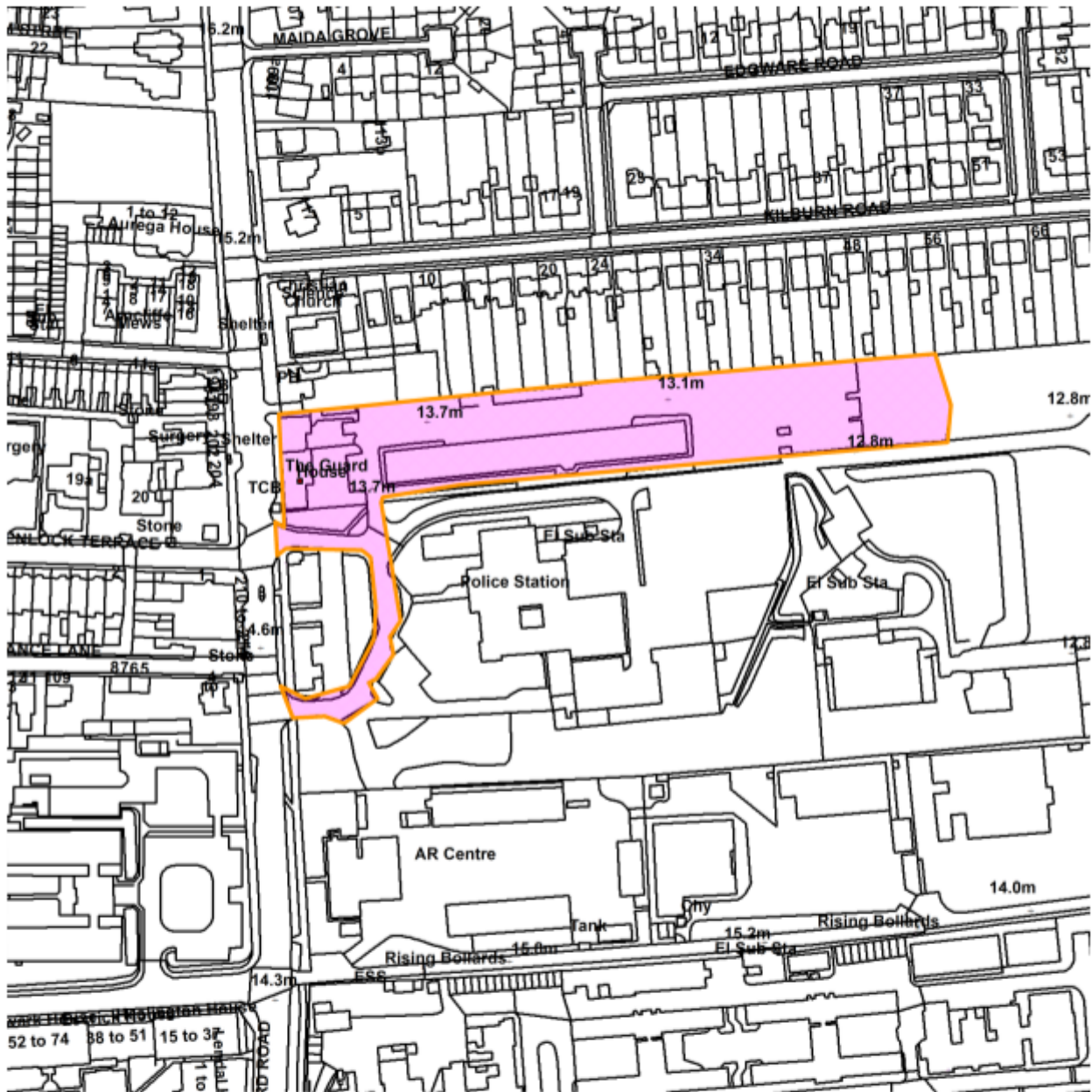
Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the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

**Contact details:**

**Case Officer:** Tim Goodall  
**Tel No:** 01904 551103

19/00603/FULM

Frederick House, Fulford Road



Scale : 1:2147

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	08 October 2019
<b>SLA Number</b>	

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and landscaping, together with a pond for surface water attenuation. It is also proposed to plant a tree belt along the northern boundary of the site.

1.5 The proposals indicate that the existing B8 (Storage or Distribution) uses currently on site would not be retained.

1.6 The plans have been substantially revised. The proposals to introduce units specifically for a B1 (business) use have been withdrawn. The agent does however suggest that there may be ancillary office accommodation across the site. In summary the revised proposals involve additional units as follows:

Units 25, 26 and 27

- positioned on the western boundary with 'Gardenia'. The plans indicate the existing low level wall removed and replaced with a 1.8m high close boarded fence. There is a blockwork wall measuring 2.5m high to Gardenia. The units will be set back 0.6m to allow for access to the rear. It will have a mono-pitched roof with the lower eaves level on the western side boundary within the neighbouring property.

In total these units will measure:

63.3m x 11m x 2.48m (to eaves) / 3.45m (to ridge) equating to an external footprint of 696sqm.

Units 22, 23 and 24

- will be positioned adjoining existing units (identified as No's. 3, 5, 6, 7, 8, 9, 10, 11) on the southern side and will partly replace existing units that will be demolished. One unit on the existing units will also be demolished.

In total these units will measure:

81.9m x 11m x 3.5m (to eaves) / 4.7m (to ridge) equating to an external footprint of 900sqm

1.7 All units will be constructed in metal cladding to the roof and walls, with roller shutter doors to the units.

1.8 Whilst the applicant previously sought a 24hour use, they are now agreeable to the imposition of the operating hours previously imposed on the application to regularise development at the site (Ref: 12/01667/FULM) which are Monday to Sunday 07:00 to 21:00 hours.

1.9 In terms of other works, the application seeks the stopping up of the northern access off the A64 and a continuation of the grass verge. A single point of entry will be provided. Internally within the site there will be a rationalisation of layout with designated parking areas and sealed access road. The plans have been further revised with a reduction in the number of car parking spaces reduced from 158 to 107 with 8 of these being accessible spaces and an increase in cycle parking spaces from 6 to 16.

1.10 The additional landscaping includes a 15m wide woodland planting along the whole of the northern boundary. Part of the original scheme proposed a 3m high landscape embankment along the southern and eastern sides, continuing westwards along the southern boundary with hedgerow planting to the southern boundary, this has now been removed from the scheme. However it is noted that the landscape embankment is partly in situ.

### Planning History

01/03567/OUT- Outline application for employment development with associated access and parking; Application refused in March 2003 because of the location of the site in the Green Belt and the unsustainable location of the site. Appeal dismissed in June 2004 (APP/C2741/A/03/1116987)

05/00623/FUL - Change of use of redundant farm buildings to general industrial (Class B2) and storage/distribution (Class B8) use; Application permitted 31.01.2007  
Of note, condition 4 of this permission confined the uses to the following permitted hours:

- 0800 to 2100 Mondays to Saturdays
- 0900 to 1800 Sundays and Bank Holidays.

07/01436/AGNOT - Construction of an agricultural building under the agricultural notification procedure (Unit 2)

09/00845/FULM - Change of use of existing agricultural building into a waste sorting station; Application permitted 14 August 2009 (Unit 17)

11/00361/FUL - Change of use of agricultural building to 15 no. individual storage units (use class B8). Erection of general industrial unit (use class B2) following demolition of existing agricultural unit; Application withdrawn to allow the applicant to submit a comprehensive application to regularise all unauthorised development at the site.

12/01667/FULM - Retrospective application for;

- retention of unit 1 as a car wash
- retention of units 3-12 incl, 13 to 16 incl. and unit 18 for B2/ B8 industrial/storage use
- retention of units 20 - 34 for B8 storage use
- unit 19 Demolition and replacement of existing building for B2/B8 use (part retrospective)
- retention and provision of car parking to serve the
- provision of area for external storage of agricultural equipment

Approved 12 February 2013

Of particular note, this consent was granted with a condition restricting hours of operation to Monday to Sunday 07:00 to 21:00 hours.

## 2.0 POLICY CONTEXT

### 2.1 Yorkshire and Humber Regional Spatial Strategy (RSS) 2008 (partially revoked)

#### Saved Policies

YH9(C) Green Belts

Y1(C1 and C2) York Sub area policy

### 2.2 PUBLICATION DRAFT LOCAL PLAN 2018

The policies which are directly and most relevant are:

SS2	The Role of York's Green Belt
EC1	Provision of Employment Land
EC2	Loss of Employment Land
EC5	Rural Economy
D1	Placemaking
D2	Landscape and Setting
D11	Extensions and Alterations to Existing Buildings
GI4	Trees and Hedgerows
GB1	Development in the Green Belt
ENV3	Land Contamination
ENV5	Sustainable Drainage
T1	Sustainable Access

### 2.3 DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

The policies which are directly and most relevant are:

GP1	Design
GP3	Planning against Crime
GP4a	Sustainability
GP4a	Air Quality
GP6	Contaminated Land
GP9	Landscaping
GP15a	Development and Flood Risk
NE1	Trees, Woodlands and Hedgerows
HE11	Trees and Landscape
GB1	Development in the Green Belt
GB10	Major Developed sites in the Green Belt
GB11	Employment Development Outside Settlement Limits
T4	Cycle Parking Standards
T5	Traffic and Pedestrian Safety
E3b	Existing and Proposed employment sites



### 3.0 CONSULTATIONS

#### INTERNAL

#### COUNCILLOR DOUGHTY

3.1 Clarification requested in respect to boundary treatments and green belt issues

#### FORWARD PLANNING TEAM

3.2 Comments were received following the submission of the original scheme stating;

3.3 The York green belt has been established for many years but has never been formally adopted. Whilst the Regional Spatial Strategy for Yorkshire and Humber has otherwise been revoked, its York Green Belt policies have been saved together with the key diagram which illustrates those policies and the general extent of the Green Belt around York. It is therefore the role of the new Local Plan to define what land is in the Green Belt and how Green Belt purposes are interpreted in the York context. Until a Local Plan for York is adopted, development management decisions in relation to proposals falling within the general extent of the Green Belt (as defined in the RSS) will be taken on the basis that land is treated as Green Belt. This application site falls within the general extent of the York Green Belt and should be afforded the commensurate protection of Green Belt policy.

3.4 The primary purpose of York's Green Belt is to preserve the historic character and setting of the City. The key evidence base outlining this is the 'Approach to the York Green Belt Appraisal' (February 2003 and updated 2011 and 2013) and Topic Paper (TP1) 'Approach to Defining York's Green Belt' (May 2018). Common aspects of openness include:

- Views: the perception of an area as being open. The impact of development on views into and across the site, as well as views of important features (eg York Minster) should be taken into account;
- Compactness of urban form. York has a contained concentric form, flat terrain and views and planned rural villages;
- Landscape character and setting, including impacts on York's historic character and setting and on the existing use of land (e.g. agriculture). A key piece of evidence supporting Green Belt policy in the Local Plan includes the 'Approach to the Green Belt Appraisal' (2003, updated 2011 and 2013). The site falls within an 'Extension of Green Wedge' area of historic character and setting for York. Consequently, the impact of the proposed development on the extension of Green Wedge must be taken into account when determining this application. The 'Approach to the Green Belt Appraisal' (2003, updated 2011 and 2013 SD107A) describes the importance of the 'Extension of Green Wedge' to the East of Monks Cross (Area D2), as "to retain open approaches, rural and historic setting of York adjacent to the A1036, an important approach road to the City; and situated

adjacent to Stockton-On-The-Forest conservation area, the character of which is enhanced by the adjoining agricultural landscape.”

3.5 Given the likely impacts on openness, and within the context of NPPF paras 143 to 147, the application amounts to inappropriate development in the Green Belt. Substantial weight should be given to the harm caused by the development's inappropriateness and any other harm to the Green Belt the scheme causes. Development should not be approved except in very special circumstances; it will be for the applicant to prove that very special circumstances exist which would clearly outweigh the potential harm to the Green Belt and any other harm.

3.6 Given the advanced stage of the Plan's preparation, the lack of significant objection to the emerging policies relevant to this application and the stated consistency with the Framework, we would advise that the policy requirements of emerging Plan policies EC1, EC5, D1, D2, GI2, GI3, GI4, and T1 should be applied with moderate weight.

3.7 Given that the overall scale of the proposed development has been reduced significantly compared to the previous version of the application, it is considered that the proposal does not now have a significantly greater impact on the openness of the Green Belt, particularly in the context of NPPF paragraph 145 – criterion (g), and that very special circumstances do not have to be demonstrated in this case.

## HIGHWAYS NETWORK MANAGEMENT

3.8 The site is not in a sustainable location as there are no opportunities for staff and customers to access the site by modes other than the private car. The requirements set out in NPPF paragraph 108 can therefore not be met.

3.9 In terms of road safety, this area of the A64 is an accident cluster identified by the Council and regularly reported to Highways England. Although the additional number of vehicles using the site due to the proposed development might be considered as relatively low, the proposal to close the northern access into the site and focus all movements through the southern access could have a significant impact on road safety in this location as the southern access is in conflict with movements to/from the Highwayman Cafe lay-by. We understand that Highways England has requested a condition related to the organisation's involvement in the detail design process for the stopping up of the northern access and any changes to be made to the southern access but has not requested a Road Safety Audit.

3.10 This was decided at the start of 2019, when the dualling of this portion of the A64 seemed likely. This might have contributed to Highways England judging the road safety risk as limited as the dualling scheme would have addressed this issue. The dualling of this part of the A64 is now looking very unlikely however so the existing issues would remain and the proposed development is likely to increase the risk of collision at this junction.

3.11 Any increases in collisions on this section of the A64 (which is part of Highways England's network) would have significant impacts on the movement of traffic on CYC's road network (including North Lane and the A1237). The local highway authority therefore requests a planning condition to ensure that a full 3 stage Road Safety Audit (RSA) is undertaken to review the proposed changes to access arrangements to the site, with CYC and Highways England officers involved in the RSA, the detailed design and construction process to ensure that recommendations from the RSA are fully implemented.

## DESIGN, CONSERVATION AND SUSTAINABLE DESIGN (LANDSCAPE ARCHITECT)

3.12 The landscape context of the application site is largely experienced from the A64. Approaching from the east, the A64 travels through open arable and pastoral fields, and also significant blocks of woodland relating to Sand Hutton Common in the east, and Stockton Common & Strensall Common in the west, and also at The Hermitage. A full panorama of the developed site and the disorderly over-spill into the area to the east of it, is visible from the A64 once past Barr Lane. The hedge bordering the A64 and a limited number of hedgerow trees, provides some screening; the effect of this varies throughout the year depending on leaf cover and hedge height.

3.13 Whilst the buildings are shed-like, the group of buildings does not have the character/appearance of a farmstead due to the lack of variety within the buildings, and the absence of a farmhouse. The nature of the buildings is industrial. This is already a sizeable built development, which appears as an anomaly in the rural landscape context.

3.14 The hedge bordering the A64 and a limited number of hedgerow trees, provides some screening of the site. Breaks in the vegetation allow regular glimpse views of the site. A full panorama of the developed site and the disorderly over-spill of vehicles and makeshift earth bunding in the area to the east of it, are visible from the A64 once past Barr Lane, and from Barr Lane itself. The sprawling, casual use of the site beyond the industrial units, which are otherwise relatively contained, present a significant detractor to the setting of the development within the wider landscape.

3.15 Relative to the existing arrangement of buildings presently on site, the proposed built development, would not cause significant harm to views from the A64, or the landscape character.

3.16 The proposed woodland belt would not be out of character with the landscape type of the area. However, the bunding – existing and proposed - is an artificial intervention that is at odds with the flat terrain of the wider landscape character type,

and it does not make a positive contribution to the landscape features of the site, or views of it.

## DESIGN, CONSERVATION AND SUSTAINABLE DESIGN (ECOLOGY)

3.17 A phase 1 Habitat survey (dated September 2017) submitted in support of the application. The buildings to be demolished have been assessed and found to have negligible potential to support roosting bats and no evidence of nesting birds was found.

3.18 The Old Foss Beck to the east of the site is suitable for Water Voles or Kingfisher however will not be impacted by the proposals. Standard good working practices, such as included in a Construction Environmental Management Plan, should be followed to ensure that no pollution enters the water course during construction.

3.19 The area where the new buildings are to be constructed is currently bare ground with some ephemeral vegetation, and is of low ecological value.

3.20 As part of the proposed planting, if native species are predominantly used, once established this will provide a biodiversity enhancement to the site. The proposed balancing pond will also provide some benefits to wildlife.

3.21 Planning conditions should be used to secure an appropriate landscaping scheme and to secure native species within the northern woodland belt in order to conserve and enhance biodiversity protecting the local floristic gene pool that has evolved within the local landscape and to prevent the spread of non-native species and those of no local provenance.

## LEAD LOCAL FLOOD AUTHORITY (LLFA)

3.22 There are differences in how the proposed surface water discharge rate has been calculated between the submitted Flood Risk Assessment and Drainage Strategy and with no consideration to the hierarchy of surface water disposal and the use of infiltration methods of surface water disposal. However there is enough information provided and if infiltration methods are not possible, due to the nearby watercourse we are content that a proper drainage design can be achieved and details of this can be sought by way of conditions if the Local Planning Authority are of a minded to grant planning permission.

## PUBLIC PROTECTION

### Noise

3.23 The application involves additional B1 and B2 uses to operate 24hours a day on an existing industrial estate nearby to residential premises. Some uses have the potential to generate noise and other environmental impacts (such as odour, light

and dust), potentially having an adverse impact upon the amenity of local residents. A noise assessment is recommended to be submitted in order to demonstrate that the combined rating level of any noise generating activities proposed at the site from vehicles, plant or equipment would not be excessive.

3.24 Details of any additional lighting which is visible outside of the premises boundary and other activities generating emissions including dust and odour to be submitted for approval.

#### Electric Vehicles

3.25 Recommend 4 car parking spaces providing Electric Vehicle Recharging points to comply with the Council's Low Emission Strategy (LES).

#### Land Contamination

3.26 The ground conditions report submitted with the application indicates that the site currently comprises commercial and industrial properties including a car wash and vehicle maintenance garage. Historically, the site has been used as a piggery, for window tinting and as railway land. The site is identified as a waste facility associated with the historical use as a pig farm (issued January 2010). The report identifies a moderate risk to potential receptors given the historical uses of the site and recommends that site investigation is carried out. The report recommends the site investigation includes trial pits and boreholes and associated soil and groundwater sampling and gas monitoring. The phase I report and proposed site investigation works are acceptable.

#### EXTERNAL

#### STOCKTON ON THE FOREST PARISH COUNCIL

3.27 Whilst the drawings address some of the concerns raised, the whole site remains a matter of concern.

#### HIGHWAYS ENGLAND

3.28 Following submission of additional documents, the proposed development is not considered to have a detrimental impact as to the operation and safety on the A64 at the site location. The initial objections have been withdrawn, subject to further detailed information being required by a necessary Road Safety Audit.

#### ENVIRONMENT AGENCY

3.29 Original objection relating to Flood Risk has now been removed on the basis that it is no longer proposed to raise ground within Flood Zone 3.

3.30 No objections to the proposed development from the perspective of groundwater and contaminated land. The previous use of the site as railway area,

pig farm and vehicle maintenance presents a high risk of contamination that could be mobilised during construction to pollute controlled waters.

3.31 The desk study submitted in support of this planning application provides us with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development. The proposed development will be acceptable subject to conditions requiring the submission of a remediation strategy.

#### YORKSHIRE WATER

3.32 No observation comments to make on revised details (foul still to existing septic tank/package treatment plant and surface water via pond to local watercourse).

#### FOSS INTERNAL DRAINAGE BOARD

3.33 The development is unacceptable because of its proximity to the top of the bank of the watercourse. The permanent retention of a continuous unobstructed area is essential requirement for future maintenance or improvement.

#### DESIGNING OUT CRIME

3.34 No crime or anti-social behaviour within a 200m radius of the site was reported between 1 June 2017 and 31 May 2018. It is important to consider the crime risks that a large number of commercial buildings might inadvertently create, such as numerous paths behind buildings for emergency exits and large areas set aside for car parking. Legitimate activity on industrial estates for example can be very low at weekend, and at night, and this inactivity can attract criminals.

3.35 It is noted that the site will have a clearly defined perimeter. Routes from the car parks to receptions and delivery points should be clearly defined and benefit from overlooking from reception and other occupied buildings.

3.36 Secure cycle parking should be provided, as well as fitting units with security rated windows and doors, alarms and external lighting.

#### PUBLICITY

3.37 Four letters of representation have been received from local neighbours including the Highwayman Café and Forest Park Golf Club, raising the following concerns;

##### Highways

- insufficient parking
- dangerous access
- generate extra traffic

## Noise and disturbance

- neighbours already suffer from excessive noise and disturbance
- will affect local businesses
- hours of business should be same as existing (Monday-Saturday 08:00-21:00, Sunday and Bank Holidays 09:00-18:00)
- B2 use increase noise in close proximity to neighbouring residents
  
- location within the greenbelt
- landscaping and screening should be dense and high enough along the full extent of the boundaries and within the application site
- potential for contamination of The Old Foss Beck
- surface water should be dealt with in such a way as not to cause flooding down the Beck
- previously used for storage of vehicles - there was a major clean up prior to the application
- there have been instances of fires started at the site

## 4.0 APPRAISAL

### 4.1 Key Issues:

- Principle of development
- Employment Need
- Landscape and Visual Impact
- Design (inc Lighting)
- Highways and Access
- Ecology
- Drainage and flood risk
- Land Contamination
- Residential Amenity
- Very special circumstances

## PLANNING LEGISLATION

4.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise. In this area, the development plan comprises the Green Belt retained policies in the Yorkshire and Humber regional Spatial Strategy (RSS), saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013.

## NATIONAL PLANNING POLICY FRAMEWORK (2019)

4.3 The revised National Planning Policy Framework (NPPF) (2019) sets out the government's planning policies for England and how these are expected to be applied. Paragraph 7 states that the planning system should contribute to the achievement of sustainable development. To achieve sustainable development, the

planning system has three overarching objectives; economic, social and environmental.

4.4 In the absence of a formally adopted Local Plan the most up-to date representation of key relevant policy issues is the NPPF (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed. The NPPF sets out the presumption in favour of sustainable development unless the application of specific policies in the NPPF indicate development should be restricted.

4.5 Section 6 of the NPPF seeks to build a strong and competitive economy. In paragraph 80 it states that significant weight should be placed on planning policies and decisions that support economic growth and productivity, taking into account both local needs and wider opportunities for development.

4.6 Sustainable transport is covered in Section 9 of the NPPF advising that significant development should be focused upon locations which are or can be made sustainable through limiting the needs to travel and offering a genuine choice of transport modes (paragraph 103). It continues, stating that opportunities to maximise sustainable transport solution will vary between urban and rural areas, and this should be taken into account.

4.7 NPPF Section 12 seeks to achieve well designed places, with good design being a key aspect of sustainable development, creating better places in which to live and work and helps to make development acceptable to communities (paragraph 124).

4.8 Policies relating to the protection of the Green Belt are in Section 13 of the framework. Further information is provided in section 4 in the main body of the report.

4.9 Section 14 of the NPPF discusses the challenge of climate change, flooding and coastal change. Paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided and where development is necessary, development should be made safe without increasing flood risk elsewhere.

4.10 Planning policies and decisions should contribute to and enhance the natural and local environment and is covered in section 15 of the NPPF.

## REGIONAL STRATEGY FOR YORKSHIRE AND HUMBER (PARTIAL REVOCATION) ORDER 2013

4.11 Policies, YH9(C) and Y1(C1 and C2), relate to York's Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt. The policies state that the detailed inner and rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant



historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

## PUBLICATION DRAFT LOCAL PLAN 2018

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

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

4.13 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The directly relevant evidence base is

- Employment Land Review Update September 2017

## Proposed modifications to the Local Plan

4.14 The Council has undertaken a consultation on proposed modifications to the Local Plan as a result of new evidence primarily regarding the overall approach to the Green Belt and the assessed Objectively Assessed Housing Need (OAHN). The proposed modifications consultation took place between 10 June 2019 and 22 July 2019. In respect to this application, the modifications to the Green Belt do not affect this site or its immediate locality.

## DEVELOPMENT CONTROL LOCAL PLAN (2005)

4.15 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations and can be afforded very little weight in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

## ASSESSMENT

### PRINCIPLE OF THE DEVELOPMENT- ASSESSMENT OF HARM TO THE GREEN BELT

4.16 The application site lies within the general extent of the York Green Belt as shown on the Key Diagram of the saved RSS Green Belt policies and therefore Section 13 (Protecting Green Belt Land) of the NPPF is applicable. Paragraph 133

of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence.

4.17 Paragraph 144 of the NPPF establishes that substantial weight should be given to any harm to the Green Belt. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Paragraph 145 states that the construction of new buildings in the Green Belt should be regarded as inappropriate unless they fall within certain specified exceptions.

4.18 One of these exceptions (paragraph 145 (g)) is limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development;

Whether the proposals reflect limited infilling or partial redevelopment of previously developed land

4.19 It is recognised that the site forms previously developed land, formerly forming an intensive pig farm, and is now in industrial use. The industrial and storage uses were regularised in 2013 and whilst there is an agricultural store on the site this appears to serve the land surrounding the site which is in agricultural use.

4.20 The site covers 4.5 hectares which has a number of buildings providing smaller industrial and storage units within them. The site is managed and owned by Malton Road Developments Ltd. The rear of the site, beyond the current developed area is an area of open land, however there is evidence that this was being used for the storage of vehicles.

4.21 The proposed development now comprises of an extension to an existing building following demolition of a row of units and a new building positioned on the boundary with residential properties to the west of the site. The increase in floorspace in comparison to what is already present at site equates 22.4%.

4.22 There is no definition contained within the NPPF or the 2018 Draft Plan of 'limited infilling'. However an Inspector in a (non-binding) Green Belt appeal decision interpreted that this required consideration of both the scale and form and the minimisation of the loss of significant gaps between buildings.

4.23 The new building and the extension to an existing building are both situated within the developed site, surrounded by existing development. The extension and new building will not be any higher than existing buildings. It is considered that their

size, scale and form would represent limited infilling of previously developed land. It is therefore necessary to assess whether the construction of the new buildings proposed would have a greater impact on the openness of the Green Belt than the existing development.

4.24 Therefore the development would not constitute inappropriate development in the Green Belt and as such, very special circumstances are not required to justify the proposals.

#### Harm to openness and purposes of the Green Belt

4.25 The NPPF states that openness is an essential characteristic of Green Belts. The fundamental purpose of Green Belt policy is keep land permanently open. The concept of 'openness' in this context means the state of being free from development, the absence of buildings, and relates to the quantum and extent of development and its physical effect on the site.

4.26 Paragraph 134 of the NPPF goes onto state that the Green Belt serves five purposes. These are:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.27 The site can be seen when approaching from the north. The backdrop to the development from this direction is a fairly substantial landscaped boundary and open fields. Generally the buildings in their height and massing are reflective of the industrial uses that have been present on the site since the agricultural use has ceased and the introduction of the proposed industrial buildings would not significantly change the overall visual appearance of the site when viewed from this vantage point. Approaching the site from the south it is screened by existing dwellings and their landscaped boundaries.

4.28 The proposed erection of the extension and new building to the southern boundary, due to their nature as built development will reduce openness within this part of the Green Belt, however due to its setting within the existing site, their size and scale being similar to existing buildings, the loss of openness is considered to be limited. When compared to the existing development and taking into account the reduced nature of the proposal, it is considered that the new buildings would not have a significantly greater impact upon the openness of the Green Belt than the existing buildings and therefore it would not constitute inappropriate development in accordance with paragraph 145 g of the NPPF.

4.29 However, paragraph 146 indicates that certain other forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it. These exceptions include engineering operations (para. 146b).

4.30 The construction of a surface water attenuation pond is viewed as an engineering operation. The attenuation pond is not an entirely alien concept in the area and would be consistent with the flat terrain of the wider landscape character. It is considered in this instance that the surface water attenuation pond would preserve the openness of the green belt and would not conflict with the purposes of including land within it. This element of the proposal is therefore considered to be appropriate development in Green Belt policy terms.

## LANDSCAPE AND VISUAL IMPACT

4.31 The application is supported by a landscape and visual impact assessment. The arable fields on the south side of the A64 provide the foreground setting; and the tree cover with gold course forms a wooded backdrop to the development. The buildings on the site are shed-like with industrial character. Whilst previously forming an intensive piggery farm, the site does not have the character/appearance of a farmstead due to the lack of variety within the buildings and the absence of a farmhouse.

4.32 It is not considered that the additional buildings would significantly increase the proportion of the public views that the group of buildings occupy and therefore the development would not have adverse visual impact.

4.33 In respect to the proposed woodland belt, at 15m width this could provide substantial screening once established. It should be planted on natural topography of the field and not on any artificial intervention, such as an earth bund to ensure that it would not be out of character with the landscape of the area. The woodland belt should be planted and managed appropriately to replicate a shelter belt with suitably spaced, healthy trees and a dense under-storey. Conditions could be imposed to ensure this is achieved.

4.34 The surface water drainage basin is considered to represent a positive addition, subject to its topography, landscape treatment and management; it is not an entirely alien concept in the area. Its value is in its potential contribution to biodiversity and landscape interest within the setting.

4.35 Concerns were raised during the course of the application in respect to the planted embankment; work has started on this and the applicants suggest this was to address concerns from the golf course regarding visual impact. This is an artificial landscape feature that does not make a positive contribution to the landscape character of the site. It is at odds with the flat terrain of the wider landscape character type. It is welcomed that this part of the original application has been

removed from the proposals, and whilst the concerns of the Golf Course are noted in respect to visual impact, the application has been amended to such a degree that would significantly reduce the visual impact from wider neighbouring buildings and uses the planted embankment would not be considered a necessary feature.

## DESIGN (inc LIGHTING)

4.36 The new buildings are of a modular metal clad type of building of single storey. They would in all respects match the majority of the building already present on the site in terms of size, scale and materials. It is not considered that the buildings would be consistent with surrounding buildings and would not be harmful to the visual amenity of the area.

4.37 It is likely that given the operating hours of up to 21:00 and the rationalisation of the internal road layout and uses present, there would be a requirement for lighting. In order that the visual amenity of the area is maintained, lighting details shall be secured by condition.

## EMPLOYMENT NEED

4.38 Paragraph 83 of the NPPF states that planning policies and decisions should enable the sustainable growth and expansion of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings.

4.39 Policy SS1 of the 2018 Draft Plan states that development during the plan period will be consistent with certain priorities including providing sufficient land to accommodate an annual provision of around 650 new jobs that will support sustainable economic growth. Policy EC1 of the Plan sets out employment land requirements and allocated sites to meet the forecast demand. Overall, around 38ha of new employment land is required; although B2 uses have been identified as not requiring any additional employment land. It is reinforced that the site is not an allocated site identified in the Plan to provide additional employment uses during the plan period.

4.40 The applicant states that the scheme is to provide small industrial units to meet the needs of local companies. It is however a speculative application and no specific details of companies wishing to relocate to the site have been provided. Currently, the site provides 134 units, which are all let. The application is supported by an industrial market report prepared by Lawrence Hannah (dated 27 March 2018); it provides a summary of the availability or lack of industrial units at existing sites within York and the cost at other sites. They conclude that demand would outstrip supply and it will be difficult to find suitable options for smaller units either immediately or in the medium term.

4.41 The provision of 1220sqm of B2 industrial floorspace on the whole is welcomed, following the significant reduction from the initial application, which sought an increase of B1 and B2 floorspace of over 2666sqm.

4.42 The loss of B1 office use (other than as ancillary) is also welcomed. Planning policy, both nationally and locally seek to provide office development within existing town centres or edge of centre, where there is access to sustainable transport modes. Additionally, York Central has been identified in the 2018 Draft Plan as a key strategic location for office development with Policy SS5 seeking to deliver 100,000sq m of grade A office development. The retention of B1 office use at the application site would give rise to location issues, given that the site is remote from existing settlements and public transport routes. This assessment was supported by the Inspector in the appeal decision (dated 27 April 2004) (and subsequently by the Secretary of State) for office development.

4.43 The application documents are unclear as to the current split between B2 and B8 uses within the existing buildings. The application involves the loss of B8 uses across the whole site, however as the majority existing have a flexible B2 or B8, this loss could occur without requisite planning consent. The site will remain in employment use and therefore policy EC2 of the 2018 Draft Plan would be satisfied. The site uses across the site has already diversified from the former agricultural use to employment uses and therefore Policy EC5 is not applicable in this regard.

## HIGHWAYS AND ACCESS

4.44 The site is located about a mile beyond the outer ring road to the north east of the city. It abuts the A64 (trunk road). The A64 is under Highways England jurisdiction. Access to the site is via two access points on the site frontage. Approximately 45m within the site from the southern access there is a junction with the access lane to the residential properties.

### Location

4.45 The applicant acknowledges in their supporting Transport Statement that there is limited opportunity to travel to the site by non-car modes. The development is and would continue to be car orientated. The site is in an isolated location well outside the nearest settlement. There is no pavement along the road and no street lighting. The road is not conducive to being accessed by walking or cycling. There is no direct access to be able to walk or cycle from the site (without having to cross private land) to access local services and amenities in the village of Stockton-on-the-Forest. However, the site provides existing employment uses and has done since 2013.

### Access

4.46 The proposals involve the stopping up of the northern access, retaining the southern access as a sole two-way entry to/from the A64. Highways England raise no objections to the scheme subject to conditions.

4.47 The Council's Highway Network Management officers have raised concerns as to the proposals regarding access and egress onto the A64 citing that this area has been identified as an accident cluster with collisions on this section of the A64 could have significant impact on the movement of traffic on the Local Highway Authority road network (North Lane and A1237). The A64 is outside the control of the Council as the Local Highway Authority and given this, the design and safety of the stopping up an existing and retaining an alternative access to and from the site from the A64 would be the matter of Highways England. The comments of the Highway Network Management Officers are noted however given that Highways England have not raised any objections to the proposal and subject to appropriate conditions on balance the proposals are considered acceptable.

4.48 Access to the residential properties from the access lane that meets the application site would not be affected. Concern has been raised from local residents that this access could become dangerous, particularly with the intensification of the site. As the proposals have been amended, the increase in employment floorspace is unlikely to generate significant additional traffic. The rationalisation (one way system) of the internal road layout would help to improve traffic flows, and access egress at this junction.

#### Car and Cycle Parking

4.49 Internally within the site there will be a rationalisation of layout with designated parking areas and sealed access road. The car parking arrangements at the site have never been formalised and the application seeks 107 car parking spaces with 8 of these being accessible spaces.

4.50 Paragraph 110 of the NPPF seeks to ensure that developments incorporate facilities for charging plug-in and low emission vehicles. The Council's Low Emission Strategy seeks to provide 2% of all car parking spaces with electric vehicle charging points. Following a reduction in the level of parking across the site, 2 car parking spaces should be provided with these facilities. This can be secured by condition.

4.51 The proposals indicate 16 cycle parking spaces to be provided, however it is not anticipated, that people arriving by bicycle will be encouraged given the danger for cyclists posed by the A64.

4.52 Highways England have requested that a travel plan is sought to encourage sustainable travel choices for users of the site, to maximise knowledge of local transport choice, encourage reduction in car dependency and single occupancy car journey. It is acknowledged that alternative travel options are limited; however there could be further opportunities if the duelling of the A64 is implemented. The use of plug-in and low emission vehicles could be encouraged in the travel plan given the requirements for charging facilities.

## ECOLOGY

4.53 The NPPF seeks to protect and enhance biodiversity and geodiversity. A Phase 1 habitat survey has been submitted in support of the application. The buildings to be demolished have been assessed and found to have negligible potential to support roosting bats and no evidence of nesting birds was found. The area where the new buildings are to be constructed is currently bare ground with some ephemeral vegetation, and is of low ecological value.

4.54 As part of the proposed planting, if native species are predominantly used, once established this will provide a biodiversity enhancement to the site. The proposed balancing pond will also provide some benefits to wildlife.

4.55 Planning conditions securing an Construction Environmental Management Plan could be attached to ensure that standard good working practices prevent pollution from entering the water course during construction and a landscaping scheme could be conditioned to ensure that suitable native species are incorporated, conserving and enhancing the local biodiversity.

## DRAINAGE AND FLOOD RISK

4.56 The site is within the surface water catchment area of the River Foss 5km to the west. The closest watercourse to the application site, Old Foss Beck, is directly to the southern boundary of the site. This watercourse runs to the west where it discharges to the River Foss.

4.57 Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

4.58 The majority of the site is located within Flood Zone 1; however the eastern boundary of the application site is located within flood zones 2 and 3. The development of the buildings and the surface water attenuation pond are all located within flood zone 1. There is to be no development undertaken within Flood zones 2 or 3 following the relocation of the planted embankment and subsequent withdrawal from the scheme. As a result, the Environment Agency has removed their objection. The application is supported by a Flood Risk Assessment, which states that as the proposed works are kept away from flood zones 2 and 3 and as such they are considered not to have any impact on the scheme.

4.59 As such, a sequential nor exception test has not been undertaken by the applicants. The aim of a sequential test is to steer new development to areas with the lowest risk of flooding. The development comprising of two building for general industrial use and the surface water attenuation pond are all located within flood



zone 1 and are classified as either less vulnerable or water compatible as detailed in Table 2: flood risk vulnerability classification of the Planning Practice Guidance. It is noted that these uses are compatible in flood zones 1, 2 and 3a in accordance with Table 3: flood risk vulnerability classification and flood zone compatibility of the Planning Practice Guidance. However, as located within flood zone 1, the development would be located in an area of the lowest risk of flooding. It is therefore considered that the proposed development has been directed away from areas at highest risk of flooding and the development is unlikely to increase the risk of flooding elsewhere, and the application complies with NPPF policy in this regards.

## LAND CONTAMINATION

4.60 The application is supported by a Phase 1 land contamination desk study. The site has had numerous previous uses including piggery, railway and window tinting as well as current uses including car washing and vehicle maintenance. The report recommends that site investigation is carried out which includes trial pits and boreholes and associated soil and groundwater sampling and gas monitoring. Public Protection officers consider this approach to be acceptable. Additionally, no objections are raised from the Environmental Agency in respect to groundwater contamination. Conditions are recommended to ensure the site investigation is undertaken along with any remedial action so the site is brought to a condition suitable for its intended use.

## RESIDENTIAL AMENITY

4.61 Paragraph 127 (f) of the NPPF seeks to ensure that developments create places that have a high standard of amenity for existing and future users. Policy D1 (v) of the 2018 DCLP also seeks to ensure that design considers residential amenity.

4.62 There are four residential properties located on the south side of the site. The property at the entrance to the site known as 'The Gardens' is owned and occupied by the applicant. Two further residential properties are located with an A64 frontage set away from the application area and the fourth property, 'Gardenia' shares the southern boundary with the application site. The proposals include the replacement of an existing low level wall with a 1.8m high close boarded fence along the joint boundary. The area had previously been occupied by a large agricultural building, but records show that this was in situ prior to the 2013 application.

4.63 Public protection officers have raised concern that the uses could have the potential to generate noise and other environmental impacts that adversely impact local residents. Local residents have objected to the potential for increase noise and disturbance.

4.64 The application is supported by a Noise Impact Assessment (dated June 2019). This assessment sets out that a worst-case approach has been undertaken

including assuming all units are occupied by businesses which undertake noisy activities and operate 24 per day. It is also assumed that the development as a whole will load/unload four trucks per hours, during both day time and night time which they state is unlikely to occur in practice. The assessment also considers key features of the development including that the proposal is within an existing industrial/commercial areas and so it is not out of context with the area; the character of rated sound is unlikely to be different from the existing sound due to similar operations already present in the locality and considered unlikely that noise from the development will be distinct from the existing residual sound. Additionally, as the proposed units face away from residential dwellings, they provide screening from the loading bays of the existing units. The assessment concludes that the proposed development is considered to achieve good acoustic design, with all loading bays and workshop entrances screened from residential dwellings and the overall impact associated with the entire business park as a whole is likely to reduce should the development progress.

4.65 Uses and processes falling within Class B2 (General industrial) are wide ranging, however the type of businesses that operate from this site include motor repairs, storage facilities and fabrication business. The previous permission relating to the regularisation of the buildings on site (Ref: 12/01667/FULM) has restricted operating hours to Monday to Sunday 07:00 to 21:00 hours and the applicants are agreeable to the imposition of a similar condition to control the hours of operation of the new buildings.

## **5.0 CONCLUSION**

5.1 There have been substantial amendments to the application scheme since the initial submission. This includes the removal of a landscaping embankment and reducing the number of units/buildings to 6 additional B2 units (provided in two separate buildings). The application also involves landscaping in the form of a tree belt and surface water drainage attenuation pond, as well as the realignment of the internal access roads and alterations to the access including the stopping up of the northern access off the A64 and a continuation of the grass verge.

5.2 The application site is located within the general extent of the York Green Belt. As such it falls to be considered under paragraph 143 of the NPPF which states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.

5.3 National planning policy (para. 145) states that the construction of new building in the Green Belt should be regarded as inappropriate unless it falls within one of the exceptions. It is considered that the buildings comprising of 1596sqm for B2 use

represents limited infilling of previously developed land and due to their size, scale, form and position within the site would not have a greater impact on the openness of the Green Belt than the existing development. The proposal is therefore considered to fall within the exception in paragraph 145g) of the NPPF and is considered to be appropriate development in the Green Belt.

5.4 The other engineering operations presented in this application, namely the surface water attenuation pond is considered to preserve the openness of the green belt and to not conflict with the purposes of including land within it. Therefore it does not constitute inappropriate development by virtue of paragraph 146b) of the NPPF.

5.5 Whilst concerns have been expressed in respect to the stopping up of an access off the A64, this is outside the jurisdiction of the Local Highways Authority and the A64 trunk road is the responsibility of Highways England who have not raised any objections to the alterations of the access arrangements.

5.6 In other respects, the scheme following substantial revisions and subject to appropriate conditions, the scheme is considered acceptable in terms of visual and landscape impact, residential amenity, design, ecology and in respect to other environmental considerations.

5.7 As such, the proposal is considered to accord with national guidance in the NPPF and the Draft Development Control Local Plan policies subject to conditions.

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

105 P10 Proposed Overall Site

110 P01 Proposed Plans and Elevations Units 22-24

111 P01 Proposed Plans and Elevations Units 25-27

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

3 The uses hereby permitted shall be restricted to Monday to Sunday 07:00 to 21:00 hours

Reason: To protect the amenity of neighbouring residents

4 All deliveries to and from the site shall be confined to the following hours:

Monday to Sunday 7:00 to 21:00 hours

Reason: In the interests of the amenity of adjacent residential properties.

5 No parts, containers, waste materials or equipment connected with any process undertaken within any of the buildings the subject of the approval shall be placed or stored on any part of the site other than within a building.

Reason: To protect the openness of the Green Belt and the visual appearance of the site.

6 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval in writing. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment as so approved and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area

7 Prior to the occupation of any unit hereby permitted, details of any additional lighting to be provided which is visible outside of the premises boundary shall be submitted to and approved by the local planning authority in writing. This should detail predicted light levels at neighbouring residential properties including a description of the proposed lighting, a plan showing vertical illuminance levels (Ev).

Reason: To protect the visual amenities of the Green Belt and the amenities of neighbouring occupiers.

8 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- ii. an assessment of the potential risks to:

- human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- iii. an appraisal of remedial options, and proposal of the preferred option(s).

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

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

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

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

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

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

and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

11 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

12 Before the occupation of the units hereby permitted, 2 no Electric Vehicle Recharging Points shall be provided in a position and to a specification to be first agreed in writing by the Council. Within 3 months of the first occupation of the development, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 10 years.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

13 Prior to commencement of development detailed design for the stopping up of the northern access shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved details for the stopping up have been implemented.

Reason: In the interests of highway safety as the proposed development takes access directly from the A64.

14 Prior to the commencement of development detail designs for a single southern access shall be submitted to and approved in writing by the Local Planning Authority. The development shall not brought into use until the approved details for the single southern access have been implemented.

Reason: In the interests of highway safety as the proposed development takes access directly from the A64.

15 Within 6 months of first occupation of either building hereby approved, a travel plan shall be submitted to the Local Planning Authority for approval in writing. The travel plan shall be developed and implemented in line with Department for Transport guidelines and shall be updated annually. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of the approved travel plan. Within 12 months of occupation of the site a first year travel survey shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce private car travel and promote sustainable travel.

INFORMATIVE: The travel plan shall contain; information on how to encourage reduction in car dependency and single occupancy journeys and to maximise knowledge of local transport choice.

16 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order), development of the type described in classes A and C of Schedule 2 Part 8 of that Order shall not be erected or constructed without the prior written approval of the Local Planning Authority following specific application in that respect.

Reason: In order to protect the openness of the Green Belt, in the interests of the visual amenity of the area and to ensure drainage is adequately provided for it is considered that development should be restricted. Furthermore the Highways Agency has expressed concerns about the potential to increase the use of the site and the impact of this on the A64 Trunk Road. In the interests of highway safety it is considered that any further development should be specifically controlled.

17 Notwithstanding the annotation shown on the plan, prior to the construction of the units, a detailed landscaping scheme for the area identified as 'tree belt' on the approved plan (Ref: 105 P10) shall be submitted to and approved in writing by the Local Planning Authority. It shall include the species, stock size, density (spacing), and position of trees, shrubs.

The landscaping scheme shall be implemented within a period of six months of the completion of the industrial buildings. Within three months of the implementation of the 'tree belt' a management plan detailing how the tree belt will be managed shall be submitted to and approved in writing by the Local Planning Authority.

Reason: The plans do not provide details in respect to the 'tree belt' and to ensure that that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the entire site in order to conserve and enhance biodiversity.

18 HWAY19 Car and cycle parking laid out

19 The units hereby permitted shall only be used for Class B2 General Industrial purposes. The units must not be used for any other purpose, including any within Class B1 of the Town and Country Planning (Use Classes) Order 2015 (as amended).

Reason: The location of the site off a busy trunk road with limited access to public transport and cycling facilities is deemed to be an unsustainable location for office development.

20 The use of any units as offices (Class B1) shall only be as ancillary to General Industrial (Class B2) use.

Reason: The location of the site off a busy trunk road with limited access to public transport and cycling facilities is deemed to be an unsustainable location for office development (Class B1).

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

Reason: In the interest of satisfactory and sustainable drainage.

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

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

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH**

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

- Negotiation in respect to green belt issues, access and other works on site



## 2. INFORMATIVE:

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

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

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

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

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

(f) There shall be no bonfires on the site

## 3. INFORMATIVE:

i) The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.

ii) The applicant should be advised that the Foss (2008) Internal Drainage Board's prior consent is required (outside the planning process) for any development including fences or planting within 9.00m of the bank top of any

watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge of surface water and/or treated foul water to the watercourse will also require the Board's prior consent.

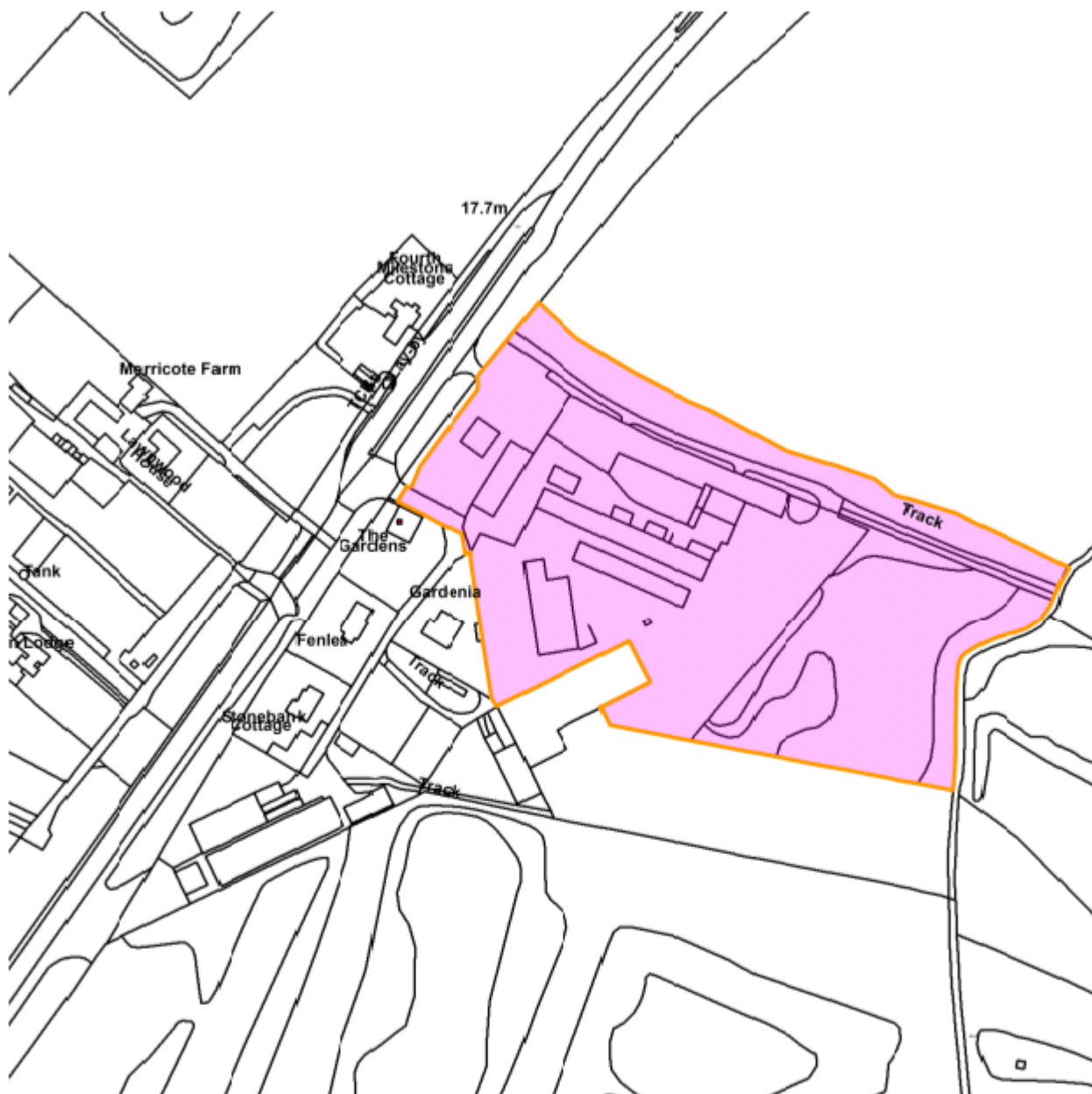
**Contact details:**

**Case Officer:** Lindsay Jenkins

**Tel No:** 01904 554575

18/01128/FULM

The Gardens, Malton Road, Stockton On The Forest



Scale : 1:2863

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<b>Organisation</b>	City of York Council
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	08 October 2019
<b>SLA Number</b>	

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