



## Notice of a public meeting of

### Planning Committee

- To:** Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre, S Barnes, Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Richardson, Shepherd and Warters
- Date:** Thursday, 12 May 2016
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

### AGENDA

Would Members please note that the mini-bus for the site visits for this meeting will depart from Memorial Gardens at 10:00am on Tuesday 10 May 2016

#### 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 3 - 22)

To approve and sign the minutes of the meeting of the Planning Committee held on Thursday 21 April 2016.

### 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 **5pm on Wednesday 11 May 2016**. 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 Officers for the meeting, on the details at the foot of this agenda.

#### Filming or Recording Meetings

“Please note this meeting will be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

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

The Council’s protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at [https://www.york.gov.uk/downloads/file/6453/protocol\\_for\\_webcasting\\_filming\\_and\\_recording\\_council\\_meetingspdf](https://www.york.gov.uk/downloads/file/6453/protocol_for_webcasting_filming_and_recording_council_meetingspdf)

### 4. Plans List

This item invites Members to determine the following planning applications:

**a) Yorwaste, Harewood Whin, Tinker Lane, Rufforth, York (16/00635/FUL) (Pages 23 - 30)**

Variation of condition 1 (removal by 31 December 2017) of planning permission 12/01378/FUL for compost pad extension to allow retention and continued use until 31st December 2030.

[Rural West York Ward] *[Site Visit]*

**b) Yorwaste, Harewood Whin, Tinker Lane, Rufforth, York (16/00357/FULM) (Pages 31 - 48)**

Construction of a waste transfer station with associated ancillary buildings, hard-standings, car parking and alterations to access. [Rural West York Ward] *[Site Visit]*

- c) **York Racecourse, Racecourse Road, Knavesmire, York, YO23 1EJ (15/02733/FUL)** (Pages 49 - 62)

Construction of a single lane service road adjacent to racing surface.  
[Micklegate Ward] *[Site Visit]*

- d) **Poppleton Garden Centre, Northfield Lane, Upper Poppleton, York, YO26 6QF (16/00878/FUL)** (Pages 63 - 74)

Part use of car park as mobile storage unit for public use for bulk re sale or recycling of clothing, shoes and clothing accessories (retrospective).  
[Rural West York Ward]

- e) **Plot 1B - Call Centre, White Rose Close, Nether Poppleton, York (16/00179/FULM)** (Pages 75 - 90)

Erection of motor vehicle dealership with associated vehicle parking and display. [Rural West York Ward] *[Site Visit]*

- f) **Fire Station, 18 Clifford Street, York, YO1 9RD (15/02155/FULM)** (Pages 91 - 128)

Demolition of buildings in the conservation area and building works to create 7no. dwellings and restaurant (Class A3) with 7 flats above.  
[Guildhall Ward] *[Site Visit]*

**5. Appeals Performance and Decision Summaries** (Pages 129 - 144)

This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 January and 31 March 2016, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

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

Democracy Officers:

Name: Louise Cook/Catherine Clarke (job-share)

Contact Details:

- Telephone – (01904) 551031
- E-mail

[louise.cook@york.gov.uk/catherine.clarke@york.gov.uk](mailto:louise.cook@york.gov.uk/catherine.clarke@york.gov.uk)

(When emailing please send to both email addresses)

For more information about any of the following please contact the Democratic Services Officers 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

**PLANNING COMMITTEE****SITE VISITS****TUESDAY 10 MAY 2016**

<b>TIME</b>	<b>SITE</b>	<b>ITEM</b>
<b>10:00</b>	<b>Coach leaves Memorial Gardens</b>	
<b>10:15</b>	<b>Plot 1B, White Rose Close, Nether Poppleton</b>	<b>4e</b>
<b>10:40</b>	<b>Harewood Whin, Tinker Lane, Rufforth</b>	<b>4a &amp; 4b</b>
<b>11:20</b>	<b>York Racecourse</b>	<b>4c</b>
<b>11:50</b>	<b>Former Fire Station, Clifford Street</b>	<b>4f</b>

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City of York Council

Committee Minutes

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Meeting	Planning Committee
Date	21 April 2016
Present	Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre, S Barnes, Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Funnell, Richardson, Shepherd, Warters and Gillies (as a Substitute for Cllr Doughty)
Apologies	Councillor Doughty

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**87. Site Visits**

Application	Reason	In Attendance
Former Grain Stores, Water Lane	As objections had been received and the officer recommendation was to approve	Councillors Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Galvin, Reid, Richardson and Shepherd.
Elvington Water Treatment Works, Kexby Lane, Elvington	To familiarise members with the site	Councillors Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Galvin, Reid, Richardson and Shepherd.
Land West of Hagg Wood, Broad Highway, Wheldrake	As objections had been received and the officer recommendation was to approve	Councillors Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Galvin, Reid, Richardson and Shepherd.
Connaught Court, St Oswalds Road	As objections had been received and the officer recommendation was to approve	Councillors Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Galvin, Reid, Richardson and

		Shepherd.
Hudson House, Toft Green	As objections had been received and the officer recommendation was to approve	Councillors Cullwick, D'Agorne, Dew, Galvin, Reid and Richardson

## 88. Declarations of Interest

At this point in the meeting, members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda in relation to the following items:

### Plans Item 4a (Land West of Hagg Wood, Broad Highway, Wheldrake)

Councillor Richardson declared a personal and prejudicial interest as he had carried out some work for Mr Hobson, the applicant. He withdrew from the meeting for consideration of this item and took no part in the debate or vote on this application.

### Plans item 4b (Royal Masonic Benevolent Institute, Connaught Court, St Oswalds Road)

Councillor Dew declared a personal and prejudicial interest as he made charitable donations to both RMBI and to Connaught Court and also visited Connaught Court. Councillor Cuthbertson also declared a personal and prejudicial interest as he had a business connection with Fulford Parish Council who had been consulted on the application. They both withdrew from the meeting for consideration of this item and took no part in the debate or vote on this application.

Councillor D'Agorne declared a personal non prejudicial interest. He advised Members that he had declared a prejudicial interest in relation to a previously considered application but did not feel he had a prejudicial interest in the application now being considered.

## 89. Minutes

Resolved: That the minutes of the last meeting held on 17 March 2016 be approved and signed by the chair as a correct record.



**90. Public Participation**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general matters within the remit of the committee. However it had been agreed that Councillor Aspden, Ward Member for Fulford, who had registered to speak on plans item 4b (Connaught Court, St Oswalds Road) on behalf of local residents, would speak at this point in the meeting as he had to leave to attend another meeting before that application would be considered.

Councillor Aspden asked Members to note the large number of consultation responses received due to the following concerns of residents:

- Impact on traffic congestion on St Oswalds Road and the already busy Main Street and Fulford Road
- Proposed housing in size and type was not in keeping with character of surrounding area and lack of an affordable element
- Failure of the scheme to consider the heritage implications of development.
- Damage caused by loss of important remaining green areas of space, of historic parkland and to the conservation area.
- No proposals had been put forward to mitigate the harm to the conservation area - one improvement could be to refresh or replace some of play equipment nearby.

**91. Plans List**

Members then considered the following reports of the Assistant Director (Development Services, Planning and Regeneration) relating to the following planning applications, which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers.

**92. Land West of Hagg Wood, Broad Highway, Wheldrake, York (15/02439/OUTM)**

Members considered a major outline application by Mr Christopher Hobson for the erection of an agricultural building for egg production.

Officers provided a written update, a copy of which has been attached to the online agenda papers for information. They advised that since publication of the agenda a further 57 representations had been received. The representations reiterated the concerns expressed with regard to the impact of traffic associated with the proposed development along Broad Highway and within Wheldrake Village together with concerns relating to odour, attraction of rats and vermin, archaeology, noise as well as the potential impact on wildlife, the conservation area itself and on watercourses.

In addition a letter on behalf of the Parish Council and residents was circulated to Members with concerns ranging from the effect of regular HGV movements on the character of Wheldrake Conservation Area, health and safety issues associated with HGVs using Broad Highway and the local highway network to health risks to the vulnerable and arising from the risk to water contamination and the potential spread of avian flu and the impact on local wildlife. Officers advised that the salient issues were covered in the existing officer report.

Officers advised that a further letter from a Mr. Newlove had been circulated raising concerns around the wider environmental impact with it not being a free range unit and the site itself being within the Nitrate Vulnerable Zone. Other concerns included the packing and distribution element not being agricultural, the lack of provision for hazardous waste handling and removal, adjoining woodland being omitted from the ecology report, lack of consultation with local businesses and the safety of residents. Officers responded to those concerns in some detail.

A letter from Alison Chalk was circulated referring to the ownership of the application site, financial charges registered against the applicant company and the possibility of issuing a personal permission. Officers advised that the matters raised in this letter would not affect the Council's ability to determine the planning application before it. They stated that a personal consent would not meet the tests for condition and referred Members to the National planning guidance.

Officers informed members that a petition against the development had now exceeded 2000 signatories.

David Randon, Chairman of Campaign to Protect Rural England (CPRE) York and Selby District Committee and Chair of Wheldrake Parish Council addressed the committee in objection to the application. He asked Members to consider the detailed grounds for objection put forward by CPRE, Wheldrake Parish Council and local residents. He stated that the proposal was for large scale intensive production business which was not compatible with other agricultural operations in that part of the green belt and would be at odds with the most recent draft York Local Plan sustainability objectives.

Ann Boyens, a local resident stated that Broad Highway was not suitable for use by large vehicles. She advised that there had been a large increase in its use over previous years due to the increase in use of Wheldrake Woods for leisure and recreational uses and the two proposed passing places were inadequate. She advised that no independent survey had been undertaken to look at the impact on Hagg Wood which bordered the development.

Angie Roberts, a local resident, then addressed the committee. She raised health concerns stating that the facility would attract rats which would be drawn to hen food, the rats would then be poisoned and would become prey for other wildlife and birds with catastrophic effect on York's ecosystem. She advised that there was no mention of avian flu in the report but a high risk of disease spreading. She also raised concerns about smells and pollution from the facility as well as safety concerns about lorries travelling through the village.

Ian Pick, agent for the applicant, advised the committee that the owners of the existing business, based around dairy and arable practices, were under considerable pressure and suffering losses. The applicant had worked proactively with the council to resolve issues and mitigate concerns including agreeing passing places which had been supported by the highways agency. He advised that the proposals were acceptable in terms of neighbour amenity. He responded to queries raised by Members.

Chris Barber, on behalf of Wheldrake Parish Council, advised Members that 196 written objections had been submitted as well as a petition. He expressed concerns that the report did not refer to the conservation area other than that access to the site was by passing through the conservation area. He stated that

long articulated vehicles would cause damage to the conservation area and there was a risk of gridlock situations at school times. He stressed that the benefit of Broad Highway to the community was priceless.

Councillor Mercer, Ward Member for Wheldrake, addressed the committee on behalf of local residents. She stated that Wheldrake had been founded as a farming community and had become a desirable village to live in. She expressed sympathy with the farmer's plight into diversification but conveyed residents' concerns that the proposed development would impinge on residents' enjoyment of Broad Highway which was used for walking, cycling and horse riding. Regular vehicle movements were a cause for concern, as they passed through the village and past the school and suggested a condition to limit HGV movements to weekdays and that enclosed trailers be used.

Members suggested that, in view of the concerns raised regarding the impact on the amenity of residents who used Broad Highway for recreational purposes, if approved, a condition be added to restrict vehicles movements to weekdays and to avoid school pick up/drop off times. Officers advised that they did not consider this appropriate due to the limited number of proposed vehicle movements but Members felt that this would improve the amenity for local residents. It was also agreed that condition 7 (landscaping and planting scheme) be tightened to refer to the lifetime of the development.

Some Members felt that the proposed development was a large scale production business which would be intrusive and have an unacceptable impact on the openness of the greenbelt, would create unacceptable harm to the environment impacting on existing habitats and biodiversity and was in conflict with the Village Design Statement.

While acknowledging the great strength of feeling within the village against the application, other members noted that the officer's view was that there were no sustainable planning reasons to refuse the application. Members accepted that this was an agricultural use within an agricultural area, which was outside the village and that traffic movements would be minimal. They noted that, although it was a large building, it would be adequately screened and felt that with the additional proposed conditions, this was acceptable.

Councillor Galvin moved, and Councillor S Barnes seconded, approval subject to the conditions listed in report and subject also to an additional condition to limit deliveries to the site to weekdays and avoid school drop off/pick up times and an amendment to condition 7 (landscape and planting scheme) so that it referred to the “lifetime of the development” rather than replacement planting for the first 5 years only. On being put to the vote, this motion fell.

Councillor Derbyshire then moved, and Councillor Shepherd seconded, refusal on the grounds of the negative impact to the openness and visual amenity of the greenbelt. On being put to the vote, this motion fell.

In light of previous motions falling, from the Chair, Councillor Reid then moved ,and Councillor Galvin seconded, the original proposal for approval subject to the conditions listed in the report and the proposed additional and revised conditions detailed above regarding the timing of deliveries and landscaping scheme. On being put to the vote, this motion for approval was carried.

Resolved:

That the application be approved subject to the conditions listed in the report and the additional and amended conditions below.

#### Amended Condition 7

The building shall not be occupied until a detailed landscape and planting scheme for the area shown on drawing IP dated Feb 16 titled 'Area Available for Landscaping', has been submitted to and approved by the Local Planning Authority. The approved landscape and planting scheme shall thereafter be implemented within 8 months of occupation. If any tree, hedge or shrub planted dies or is lost through any cause *within the lifetime of the development* it shall be replaced in the next planting season with others of similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: To help integrate the building with its surroundings.

#### Additional Condition 20

During the operation of the development, vehicular movements to and from the site shall take place as specified on page 8 of

the submitted Design and Access Statement. Other than staff travelling to and from the site, there shall be no vehicles entering or leaving the site at the following times and days:-

- Between 07:30 to 09:30 hours, and 14:45 to 18:00 on weekdays.

- On Saturdays, Sundays and Bank Holidays.

Reason: To ensure the site is appropriately managed, and to minimise the impact of traffic associated with the development on the amenity of residents and on the free flow of traffic along Broad Highway.

Reason:

Agricultural development is not inappropriate development in the Green Belt. It is considered however that the negative impact on the openness of the green belt should be balanced against the economic benefits from the proposed farm diversification. In respect of economic issues, the proposal does not conflict with four of the five purposes that the Green Belt serves (paragraph 4.17 above) and that the purposes of safeguarding the countryside from encroachment and the impact on the openness of the green belt should be balanced against the economic benefits from the intensification and diversification of its agricultural use.

**93. Royal Masonic Benevolent Institute, Connaught Court, St Oswalds Road, York, YO10 4QA (13/03481/FULM)**

Members considered a major full application by the Royal Masonic Benevolent Institute (RMBI) and Shepherd Homes Ltd for the erection of 14 dwellings following the demolition of the existing bowling clubhouse and garage block.

A letter from Fulford Friends outlining their main reasons of objection and a statement from Lindsay Cowle, Conservation Consultant on behalf of Fulford Friends with regard to the impact of the proposals on heritage assets were circulated to committee members.

Officers provided a written update (full details of which are attached to the published online agenda for information). They advised that additional internal consultation responses had been received from the Planning and Environmental Management

(Conservation Architect) who advised that the drawings and documents summarized at 1.2 and 1.3 of the Planning Statement Further Addendum report dated February 2016 did not change the scheme in a way which is significant to heritage interests. Additionally, the Planning and Development Manager, School Services, had advised that as a result of slightly lower per pupil cost multipliers and updated pupil number projections, a revised contribution was sought as follows:

- £12,147 Primary – towards one additional place at St Oswald's CE Primary
- £30,368 Secondary – towards two additional places at Fulford School

Officers stated that further external responses had been received from Fulford Parish Council who advised that the proposal would cause substantial harm to the Fulford Village Conservation Area and the setting of the Fulford Road Conservation Area and that Development in Area A would dominate and harm the open setting of the former gatehouse for the park which was a listed building. They also felt that the lack of an open space contribution weighed heavily against the proposals in the planning balance and that very few public benefits had been identified and these did not outweigh the harm to heritage assets.

Officers advised that additional representations had been received from Fulford Friends who raised the concerns in relation to misleading comparisons made to the refused 2005 scheme, misleading references to flooding in the area, the need for a full bat survey, harm to the conservation areas and listed building and harm to the historic setting of York. They advised that the proposals included no affordable housing, that a local green corridor would be interrupted with the loss of habitats, that no open space facilities would be provided on site and that no contribution had been offered towards off-site facilities. A letter outlining their main concerns for objection was circulated to Members.

With regard to further publicity and neighbour notification, Officers informed Members that an additional 15 letters had been received which raised objections similar to those already summarised at paragraph 3.53 of the main report and some new or different points. These included concerns in relation to capacity on St Oswalds Road and potential for further congestion due to proposed limited parking, increased flood risk

to surrounding properties and the wider river corridor as a result of changes in land levels and the introduction of walls, fences and gardens impeding flow of water. They also noted the need to retain the gap between Fulford Parish and Fishergate and the loss of open space for care home residents.

With regard to the additional representations and consultation responses, officers advised that the majority of the issues had been discussed within section 4.0 of the officer's report however they provided further responses in respect of flood risk including floor levels, post and rail fences, removing permitted development rights in garden areas, ecology, the impact of the proposal on bats and on green corridors and the consistency of decision making with regard to decisions in the green belt and elsewhere.

They then provided further information to clarify the sections of the report relating to relevant planning history, policy context, housing land supply, impact on heritage assets, flood risk and drainage, education provision and also provided a revised conclusion to include the reference to paragraph 134 of the NPPF and separate the aspects of contributions from the planning balance.

Officer advised that recommended condition 2 should be revised so add the following text: "Plot 6 to be House Type B as confirmed by Richard Wood Associates dated 20/04/2016" and that condition 9 be amended to amend the list of plans to refer to Drainage Layout - 34511 003K. They recommended that, should Members be minded to grant the application, a further condition be added to remove permitted development rights for fences forwards of plots 1,2 and 3 in the interest of conservation and to protect the root protection zone of trees.

Stephen Wilkinson, a local resident, addressed the committee in objection to the application. He informed Members that the proposed development failed to preserve or enhance the character of Fulford. He drew members attention to the high number of objections comments received and advised that, while there was a need for affordable homes, there was no justification for the damage to the conservation area for the provision of 14 high end properties.

Mrs Urmston then spoke as a local resident and also on behalf of Fulford Friends, in objection to the application. She stressed



that the public benefits of the proposed development did not outweigh the harm to heritage assets and that the application failed in respect of the economic, social and environmental elements.

Representations were then heard from Mr Lindsay Cowle, an independent heritage consultant, who spoke on behalf of Fuford Friends with regard to the impact of the proposals on heritage assets. A written statement was circulated to Members. Mr Cowle advised Members that the scheme was over intensive and inappropriate bearing in mind the location of the site within the conservation area and the scheme lacked a heritage input with no specialist heritage advice having been sought by the council to allow them to judge the heritage impact of the proposals.

Mr Richard Wood, the agent for the applicant, spoke in support of the application. He reminded members that the scheme had now been approved twice by City of York Council and there were no material changes to what had been approved previously. With regard to the flood issue raised, he advised that it was only the lower levels of the gardens which were in flood zone 3. He informed members that the scheme provided much needed housing in a sustainable location and that members had previously given a clear and consistent view that they considered the details submitted to be acceptable.

Karin de Vries, Chair of Fulford Parish Council, expressed the Parish Council's opposition to the application. She stressed that no heritage assessments had been carried out at any stage in the process and asked Members to consider whether they were certain as to whether there was only unsubstantial or insignificant harm. She expressed concern that the proposals would be harmful to the areas of open space and to the conservation area as described in the Fulford Village Conservation Area appraisal.

Officers confirmed that the council's conservation architect had had input into the preparation of the Conservation Area appraisal and the view of the conservation architect on this proposal was that it constituted minor harm.

Members asked whether it was possible to remove permitted development rights (PDR) for changes to the area fronting onto St Oswalds Road. Officers advised that a condition could be

imposed to remove PDR for the creation of driveways. Condition 11 (which prevented any structure, enclosure or building to be erected within FZ3) could be amended to make it explicit that fences should not be changed due to the impact on both conservation area and flooding.

Some Members commented that the scheme was significantly better than what had originally been proposed and expressed the view that they didn't find significant harm. However others felt that conflicting advice had been received from officers on the important view from the lngs and the effect on the conservation area, and expressed the view that no added benefit to the city had been proven stating that they would prefer the applicant to come back with better scheme.

Resolved:

That the application be approved subject to a Section 106 Agreement, the conditions listed in the report and the amended and additional conditions below to remove permitted development rights.

Amended Condition 2

As detailed in report with addition of following text: "Plot 6 to be House Type B as confirmed by Richard Wood Associates dated 20/04/2016"

Amended Condition 9

As detailed in report with amendment the list of plans to refer to Drainage Layout - 34511 003K

Additional Condition

Notwithstanding the provisions of Article 3 Schedule 2 Part 2 Class A of the Town and Country Planning (General Development Order 2015), (or any Order revoking or re-enacting that Order), no fences, gates, walls or other means of enclosure shall be erected between the front walls of plot nos. 1, 2 and 3 and the boundary of the application site with St Oswalds Road (other than those shown on drawing nos. Y81:822.03Q, Y81:822.28 and Y81:822.29).

Reason: In the interests of the character and appearance of the conservation area and to protect the roots of the existing trees along the boundary of the site.

Additional Condition

Notwithstanding the provisions of Article 3 Schedule 2 Part 2 Class B of the Town and Country Planning (General Development Order 2015), (or any Order revoking or re-enacting that Order), there shall be no formation, laying out or construction of a means of access to plots 1, 2 and 3 other than as shown on approved drawing no. Y81:822.03Q.

Reason: In the interests of the character and appearance of the conservation area and to protect the roots of the existing trees along the boundary of the site.

Reason:

In accordance with paragraph 134 of the NPPF, the identified harm to heritage assets is outweighed by the application's public benefits of providing housing in a sustainable location within defined settlement limits and with good access to public and sustainable transport links and local services. This is in line with the aim of the NPPF to boost, significantly, the supply of housing and to deliver a wide choice of high quality homes. In terms of flood risk the site fails the sequential test as there appears to be reasonably available sites for the proposed development in areas with a lower probability of flooding. However following consultation with the Environment Agency the development would be appropriately flood resilient and resistant, limited parts of three of the proposed houses would be in flood zone 2 (areas of medium risk of probability of river flooding) with the remainder within flood zone 1. Whilst paragraph 100 of the NPPF states that development should not be permitted in such cases, it is considered that on balance the development provides wider benefits with the provision of new housing and that the submitted flood risk assessment has demonstrated that the site can be safely developed without increasing the risk of flooding elsewhere. A Section 106 Agreement would fund contributions towards providing additional capacity at St Oswalds Primary school and Fulford Secondary School and improvements to bowling green facilities at Scarcroft Green.

**94. Elvington Water Treatment Works, Kexby Lane, Elvington, York (15/02639/FULM)**

Members considered a major full application by Kelda Energy Services for the installation of solar photovoltaic array with

associated infrastructure including kiosks, security fencing, cctv and internal access track.

Officers advised that should Members be minded to approve the application, as it was both non-residential development of over 1ha in size and was defined as inappropriate development within the Green Belt, and was considered to have a significant impact on the openness of the Green Belt, then the application must be referred to the Secretary of State. Planning permission could not be granted for a period of 21 days following the start of the consultation to allow the Secretary of State to consider whether he would determine the application. (The Town and Country Planning (Consultation) (England) Direction 2009)

Officers advised that, as there had been some uncertainty about the ownership of the hedgerows surrounding the site, that condition 10 (landscaping) should be amended to require that the scheme included details of new hedges or hedgerows to be planted along the inside of the existing hedgerows immediately adjoining the site.

Mr Paul Kelly, on behalf of the applicant Kelda Energy Services Ltd, addressed the committee in support of the application. He explained that the water treatment works was a very energy intensive operation and the company was looking to reduce reliance on carbon energy with a programme of wind, solar and biogas to produce renewable energy. He advised Members that Elvington was the largest water treatment works in Yorkshire and used a lot of energy but if approved this scheme would produce 15% of the works' demand through renewable energy.

Members enquired as to whether vegetation would be allowed to grow around the panels and how this would be managed. The applicant advised that a bio diversity plan would be in place which would allow natural flora and fauna to flourish. Members were advised that a disposal plan would be put in place for when the units came to the end of their life.

Resolved:

That the application be approved after referral to the Secretary of State subject to the conditions listed in the report and the amended condition below.

Amended Condition 10 (Landscaping)

No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. The scheme shall include details of new hedges or hedgerows to be planted along the inside of the existing hedgerows immediately adjoining the site. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants or any parts of the new hedges or hedgerows which during the life-time of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: To ensure the maintenance of screening to the site and to protect the appearance and character of the area and so that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

Reason:

The site is within the Green Belt and the proposals comprise inappropriate development in the Green Belt with additional impact on openness and permanence. However, in the overall balancing exercise, even when substantial weight is given to the harm to the Green Belt and the additional harm to the landscape character of the site, the benefits of the generation of significant amount of renewable energy and the particular site circumstances are considered to clearly outweigh the identified harms. These therefore amount to very special circumstances necessary to justify the inappropriate development in the Green Belt.

**95. Former Grain Stores, Water Lane, York, (15/02856/FULM)**

Members considered a major full application by Mr Jason Stowe for the erection of a food store with car park with access off Water Lane.

Officers advised that since the report was written, a detailed landscape scheme in an acceptable form had been submitted

and therefore recommended that condition 5 should be amended. They also advised members of amendments to the following recommended conditions:

- Condition 2 – to substitute plan refs: - 3851-SK6-Rev C, 1439-210 G and SF 2466 LL01 Rev K for the drawings previously included.
- Condition 10 - to include the wording "excluding the refrigeration unit" after "Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted" as the issue has been addressed in the submitted noise report.
- Condition 11 – to read "Prior to development, an investigation and risk assessment (in addition to any assessment undertaken in association with the planning application) shall be undertaken"
- Condition 24 - the access and parking layout has been revised and as a consequence this condition should be amended to substitute drawing refs: - 210-G and 3851-SK6 Rev C for those previously included.
- Condition 26 vi) – the list of comparison goods should be amended to delete magazines.

Members noted that at the site visit the general view of members of the public was very much in favour of the application. They asked whether any consideration had been given to putting solar panels on the building. Officers advised that this was not a requirement of policy but the committee agreed that the applicant should be made aware that this was something they would welcome if possible.

Resolved:

That the application be approved subject to the conditions listed in the report and amendments to conditions 2, 5, 10, 11, 24 and 26 vi) as follows:

Amended Condition 2

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

Drawing Refs:-3851-SKA; 1439 210 G; 1439 214B; 1439 213; 1439 215; 1439 211; 1439 212; W635 E200 P1, 3851-SK6-REV-C; SF 2466 LL01 Rev K.

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

#### Amended Condition 5

The development hereby authorised shall not be undertaken otherwise than in strict accordance with the detailed landscape scheme outlined in drawing ref: - SF 2466 LL01 Rev K within the first planting season following completion of the development.

Reason: To safeguard the visual amenity of the wider street scene.

#### Amended Condition 10

Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted (excluding the refrigeration unit), which is audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval. These details shall include maximum sound levels ( $L_{Amax}(f)$ ) and average sound levels ( $L_{Aeq}$ ), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. 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 background noise level 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 local residents

#### Amended Condition 11

Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons. A

written report of the findings shall be produced, submitted to and 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 shall 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.

#### Amended Condition 24

The site shall not be used for the purpose of food retail until the following highway works (as shown indicatively on drwgs; 210 Rev G and 3851-SK6 Rev C) have been implemented in accordance with the aforementioned approved plans or arrangements entered into which ensure the same;

1) Widening of the existing footway to 3m along the Water Lane frontage from the Toucan crossing to the pedestrian/cycle access to the store (save for a localized pinch point around the BT cabinet)

2) Formation of a new bus stop on Water Lane consisting of a bus half layby with associated footway and kerb works

Reason: In the interests of providing a safe means of access to the site by all modes of transport and to, minimise disruptions to the free flow of traffic.

Reason: In the interests of the safe and free passage of highway users.



Amended Condition 26 (vi)

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended or any order amending, revoking or re-enacting that Order, or the description of development associated with this permission, no more than 249 square metres or 20% of the net floor space (whichever is the lower figure) of the retail development hereby authorised shall be used for the display and sale of comparison goods.

Comparison goods are defined as follows:-

- i) Clothing, footwear and fashion accessories (including jewellery and watches);
- ii) Music, Video/DVD recordings and computer games;
- iii) Cameras (including camcorders) and other photographic equipment;
- iv) Electronic Goods (incl TVs, Video, DVD, PC's and hi-fi equipment);
- v) Toys;
- vi) Books, and stationery;
- vii) Household Textiles;
- viii) Sports Goods;
- ix) Gardening Equipment and Furniture;
- x) Camping Equipment and tents;
- xi) Luggage;
- xii) Mobile phones and communication equipment

Reason:

The proposal has been subject to a detailed sequential test and retail impact assessment. It is concluded that there are no sequentially preferable sites and the proposal is found to be acceptable in terms of its impact upon the vitality and viability of the City Centre. The applicant has been able to convincingly demonstrate that the site has not been successfully marketed for employment use.

The levels of parking and access arrangements have been demonstrated to be acceptable and subject to the detailed landscaping of the site being conditioned as part of any planning permission the proposal is felt to be acceptable.

**96. Hudson House, Toft Green, York (15/01256/FULM)**

Members considered a major full application by Signal Property Investments LLP for the conversion of first, second and third

floors of wings A and B and all floors of wing C from offices to 82 flats (use class C3) and external alterations.

Officers advised that it had originally been proposed that all the education contribution would go towards the project to expand Scarcroft School. However as this project did not currently involve pre-school facilities it was proposed that the pre-school contribution instead be used towards pre-school facilities in the catchment area. It was confirmed that there had not been more than five contributions towards such facilities.

Members questioned whether it was possible to provide a car club bay on site but officers advised that two spaces were available on North Street and that it was not part of the proposals to finance a car club parking space at Hudson House. The applicant's representatives, who were present at the meeting, were asked to look into the possibility of one car parking space at Hudson House being allocated as a car club space.

Resolved:

That the application be approved subject to the conditions listed in the report and a Section 106 Agreement.

Reason:

Giving significant weight to Government priorities in this respect, there are no policy grounds to resist the change of use of the majority of the building and overall the external works will improve the setting. There would be no harm to designated heritage assets. A Section 106 agreement would secure contributions towards car club membership and drive time, which would be offered to residents of the host building, and towards local education provision at Scarcroft School and pre-school facilities in the catchment area.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 7.55 pm].

**COMMITTEE REPORT**

**Date:** 12 May 2016  
**Team:** Major and Commercial Team  
**Ward:** Rural West York  
**Parish:** Parish Of Rufforth With Knapton

**Reference:** 16/00635/FUL  
**Application at:** Yorwaste Harewood Whin Tinker Lane Rufforth York  
**For:** Variation of condition 1 (removal by 31 December 2017) of planning permission 12/01378/FUL for compost pad extension to allow retention and continued use until 31st December 2030  
**By:** Yorwaste Ltd  
**Application Type:** Full Application  
**Target Date:** 27 May 2016  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 Harewood Whin comprises a waste disposal by landfill operation located in an area of open countryside within the designated York Green Belt to the west of the City Centre. The site, which also encompasses a range of recycling and green waste composting activities, operates under a series of permissions dating back from the mid 1980s. The current principal permission was granted in 2003. Planning permission has previously been given ref:-12/01378/FUL to extend the life of the composting operation at the site to December 2017. The current proposal seeks the retention of the existing concrete composting pad with extension to the north of the recycling building at the north western edge of the site to handle the throughput of green waste material suitable for composting until 31st December 2030.

**2.0 POLICY CONTEXT**

2.1 RSS:- The general extent of the York Green Belt is defined within saved Yorkshire and Humber RSS Policies YH9C and Y1C as such Central Government Policy in respect of Green Belts as outlined in the National Planning Policy Framework applies.

2.2 Central Government Planning Policy as outlined in paragraph 87 of the National Planning Policy Framework indicates that inappropriate development within the Green Belt is by definition harmful to the Green Belt and should not therefore be approved other than in very special circumstances. Paragraph 88 establishes the weight to be given to a submitted case to establish "very special circumstances". This clearly argues that when considering a planning application Local Planning Authorities should ensure that substantial weight should be given to any harm to the Green Belt. "Very special circumstances" will not be held to exist unless the

potential harm by reason of inappropriateness and any other harm are outweighed by other considerations.

#### STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN (2005 4th SET OF CHANGES):-

2.3 The York Development Control Local Plan (4th Set of Changes) was approved for Development Control purposes in April 2005; its policies remain material considerations in respect of Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

#### STATUS OF THE EMERGING LOCAL PLAN:-

2.4 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only limited weight. Where relevant and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

### **3.0 CONSULTATIONS**

#### INTERNAL:-

3.1 Public Protection raises no objection to the proposal.

#### EXTERNAL:-

3.2 The Environment Agency raises no objection to the proposal.

3.3 Rufforth with Knapton Parish Council raises no objection in principle to the proposal but wishes to see any development within the site restricted to the existing built foot print within the centre of the site and the access to the B1224 Wetherby Road re-designed to lessen the amenity risk of vehicles accessing the site travelling via Rufforth village.

### **4.0 APPRAISAL**

#### KEY CONSIDERATIONS:-

##### 4.1 KEY CONSIDERATIONS INCLUDE:-

- \* Impact upon the openness and purposes of designation of the York Green Belt;
- \* Impact upon the residential amenity of neighbouring properties.

## PLANNING POLICY CONTEXT:-

4.2 GREEN BELT:- Central Government Planning Policy as outlined in paragraphs 79 to 90 of the National Planning Policy Framework identifies Green Belts as being characterised by their openness and permanence. New built development is automatically taken to be inappropriate and therefore harmful to the Green Belt unless it comes within one of a number of excepted categories. Other development may only be permitted where a case for "very special circumstances" has been forthcoming. Paragraph 88 of the National Planning Policy Framework indicates that "very special circumstances" will only be held to exist where potential harm to the Green Belt and any other harm are clearly outweighed by other considerations.

4.3 WASTE PLANNING:- Central Government Planning Policy in respect of Waste Planning as outlined in the National Planning Policy Statement for Waste (October 2014) paragraph 4 urges Local Planning Authorities to give significant weight to the need to co-locate waste management facilities wherever possible and to have clear regard to the proximity principle so that waste facilities are located as close as possible to the areas where the waste is generated.

4.4 AMENITY:- Central Government Planning Policy as outlined in paragraph 17 of the National Planning Policy Framework "Core Principles" urges Local Planning Authorities to give significant weight to the need to provide and safeguard a good standard of amenity for all new and existing occupiers of land and buildings.

## IMPACT UPON THE OPENNESS AND PURPOSES OF DESIGNATION OF THE YORK GREEN BELT:-

4.5 Central Government planning policy as outlined in paragraph 90 of the National Planning Policy Framework indicates that certain engineering operations are not inappropriate within the Green Belt providing they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The proposal envisages the continuing use of the existing concrete composting pad with associated extension some 6,910 sq metres in area up until December 2030. The pad is used to store and turn compostable materials in linear masses or windrows for periods of 6 to 12 weeks at a time to make compost. The size of the pad allows for the processing of a maximum of 70,000 tonnes of material which would meet current expectations of demand over the application period. The pad is centrally located within the built footprint of the site directly to the north of the site office and the Materials Recycling Facility. As such it does not impact upon the open character and purposes of designation of the Green Belt and therefore complies with the requirements of paragraph 90 of the NPPF.

## IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES:-

Application Reference Number: 16/00635/FUL

Item No: 4a

4.6 The composting operation is subject to a regularly reviewed odour management plan which was conditioned as part of the previous planning permission. The plan controls receipt and management of material, the regime of turning and treating the material to contain potential odours and provides for site monitoring and complaint resolution. The height and content of material are strictly controlled with the waste shredded and mixed at the earliest opportunity upon receipt. Levels of heat and moisture are also regularly monitored in order to effectively programme the regular turning of the material to prevent anaerobic conditions becoming established with the consequent capacity for odour nuisance taking place. The operation is also at the same time regulated by an Environment Agency Environmental Permit. Since the present odour monitoring and control regime has been in place occurrence of odour pollution instances has been minimal and it is felt that the residential amenity of neighbouring properties would not be adversely affected by the continued use of the pad. The proposal is therefore felt to be acceptable in terms of its impact upon residential amenity.

## **5.0 CONCLUSION**

5.1 The existing composting pad has not exceeded its 70,000 tonne capacity during the period of operation and there has been no material change in planning circumstances over that period. The odour management plan has also been effective in dealing with the management of the composting process and any potential sources of nuisance.

5.2 The proposed retention of the compost pad would comply with the requirements of paragraph 90 of the National Planning Policy Framework and would not give rise to any harm to the open character of the Green Belt. As such the proposal is felt to be acceptable in Green Belt terms and it is therefore recommended that a further temporary permission be given until 31st December 2030.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

1 The hard-standing hereby authorised shall be removed by 31st December 2030 and the site reinstated to its previous condition unless prior to that date a renewal of the permission shall have been granted in writing by the Local Planning Authority.

Reason:- The applicant has requested a consent on a temporary basis and to secure the openness and purposes of designation of the York Green Belt in accordance with paragraphs 89 and 90 of the National Planning Policy Framework.

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

Drawing Refs:- HAR-PLOO-YO852-010; HAR-PLOO-YO627-001 1. Date Stamped 13th March 2009

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 odour management scheme for the pad hereby authorised, dated October 2010 and approved on 14th March 2011 shall be reviewed on a yearly basis to ensure that the development has been undertaken in accordance with the submitted and approved details and associated monitoring procedure. The review must be submitted in writing along with any amendments to the odour management scheme to the Local Planning Authority for written approval, once approved these changes shall be implemented immediately and works/operations shall be undertaken in accordance with the approved details at all times.

Reason:- To protect the amenity of nearby residents from odour and to secure compliance with Policy MW5 of the York Development Control Local Plan.

## **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 (paragraphs 186 and 187) and having taken account of all relevant national guidance and local policies including imposition of appropriate conditions, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

### **2. ODOUR MANAGEMENT PLAN:-**

If the developer is notified by the Local Planning Authority that the composting activities are giving rise to odour at any residential site boundary which is likely to amount to a loss of amenity, a revision of the odour management plan shall be submitted to the Local Planning Authority for written approval within a timescale to be notified by the Local Planning Authority, this revised odour management plane shall be implemented from the date of approval, unless otherwise agreed in writing by the Local Planning Authority.

**Contact details:**

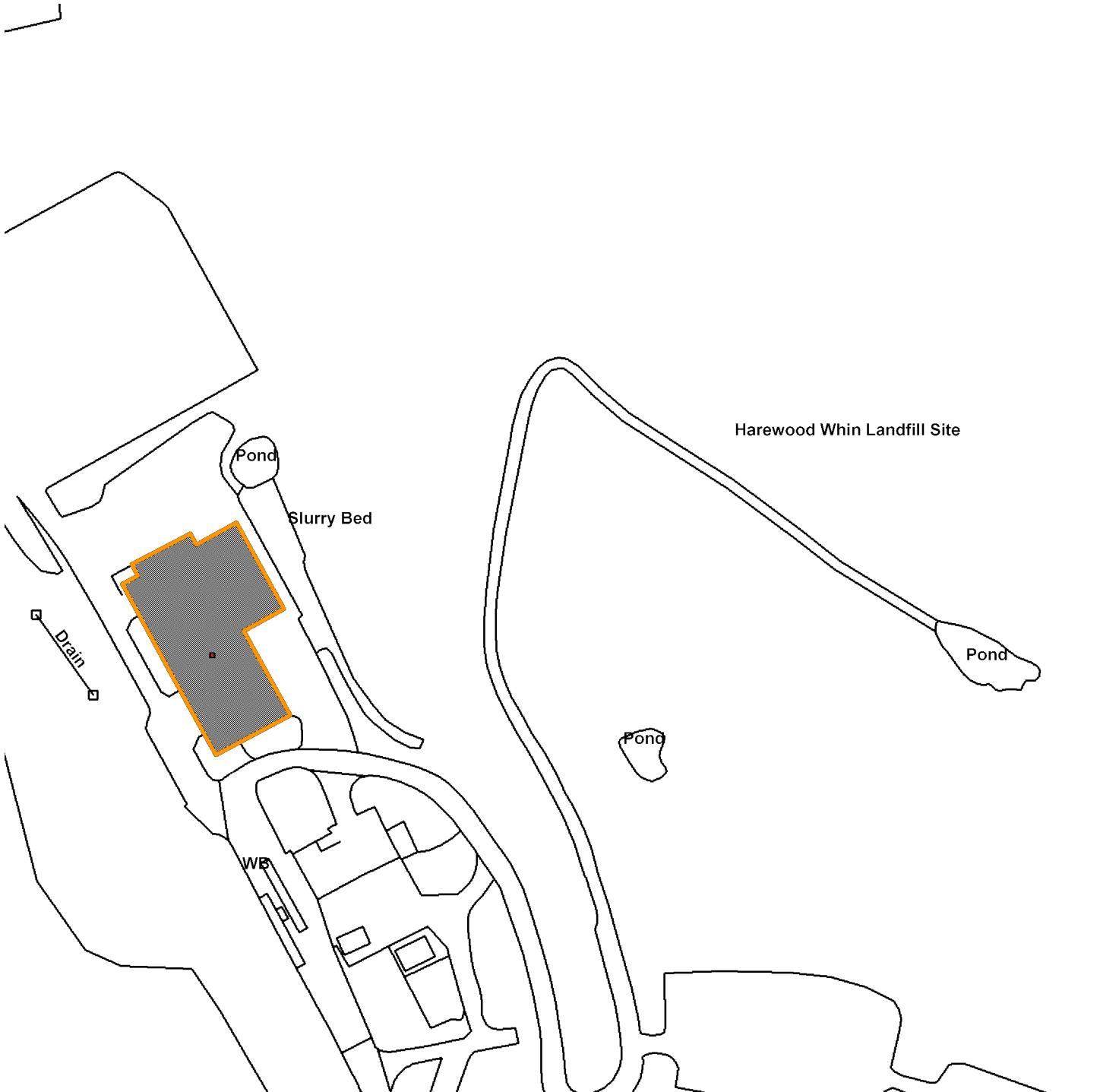
**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416



16/00635/FUL

Yorwaste, Harewood Whin Tinker Lane Rufforth



Scale : 1:2119

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	03 May 2016
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 12 May 2016                      **Ward:** Rural West York  
**Team:** Major and                      **Parish:** Parish Of Rufforth With  
Commercial Team                      Knapton

**Reference:** 16/00357/FULM  
**Application at:** Yorwaste Harewood Whin Tinker Lane Rufforth York  
**For:** Construction of a waste transfer station with associated  
ancillary buildings, hard-standings, car parking and  
alterations to access  
**By:** Yorwaste Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 14 June 2016  
**Recommendation:** Subject to submission of detailed drawings of the  
access/egress amendments and a satisfactory stage 1 safety  
audit, approve subject to Section 106 Agreement

**1.0 PROPOSAL**

1.1 Harewood Whin comprises a waste disposal by landfill operation lying within the Green Belt to the north east of Rufforth village and to the west of the City Centre. Planning permission is sought for the erection of a Waste Transfer Station some 79 m x31 metres in area to be used for the bulking up and transference of materials to be used in the proposed Allerton Park Waste Incinerator. The application is subject to Environmental Impact Assessment as falling within Schedule 2 to the 2011 Town and Country Planning(Environmental Impact Assessment) Regulations.

1.2 Additionally the proposal seeks to rationalise the existing office and welfare accommodation and vehicle parking within the built foot print occupying the centre of the site. Alterations are also proposed to the site access road with the B1224 Wetherby Road to tackle the long standing amenity issue of Heavy Goods Vehicles accessing and egressing the site via Rufforth village. The applicant has also agreed as part of the development proposal to contribute towards the provision of a cycle track along the Wetherby Road frontage and to unilaterally revoke an extant planning permission for a biomass plant within the north western section of the site.

**2.0 POLICY CONTEXT**

2.1 RSS:- The general extent of the York Green Belt is defined within saved Yorkshire and Humber RSS Policies YH9C and Y1C as such Central Government Policy in respect of Green Belts as outlined in the National Planning Policy Framework applies.

2.2 Central Government Planning Policy as outlined in paragraph 87 of the National Planning Policy Framework indicates that inappropriate development within the Green Belt is by definition harmful to the Green Belt and should not therefore be approved other than in very special circumstances. Paragraph 88 establishes the weight to be given to a submitted case to establish "very special circumstances". This clearly argues that when considering a planning application Local Planning Authorities should ensure that substantial weight should be given to any harm to the Green Belt. "Very special circumstances" will not be held to exist unless the potential harm by reason of inappropriateness and any other harm are outweighed by other considerations.

#### STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN (2005 4th SET OF CHANGES):-

2.3 The York Development Control Local Plan (4th Set of Changes) was approved for Development Control purposes in April 2005; its policies remain material considerations in respect of Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

#### STATUS OF THE EMERGING LOCAL PLAN:-

2.4 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only limited weight. Where relevant and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

The NPPF is the most up to date representation of key relevant policy issues and the proposal should principally be assessed against this policy Framework.

#### STATUS OF THE EMERGING LOCAL PLAN:-

2.5 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only limited weight. Where relevant and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

The NPPF is the most up to date representation of key relevant policy issues and the proposal should principally be assessed against this policy Framework.

### 3.0 CONSULTATIONS

#### INTERNAL:-

3.1 Public Protection raise no objection to the proposal subject to any permission being conditioned to secure mitigation of any land contamination along with control of any noisy plant or machinery.

3.2 Design, Conservation and Sustainable Development (Ecology) raise no objection to the proposal subject to any permission being conditioned to secure habitat enhancements around the site boundary.

3.3 Planning and Environmental Management raise no objection to the proposal as being necessary to secure the long term waste processing needs of the City subject to the amenity issues surrounding access by HGVs through Rufforth village being satisfactorily being resolved.

3.4 Highway Network Management raise concerns in respect of the proposed access improvements on the basis that the design of the existing access is technically acceptable, the adjoining section of Wetherby Road is not eligible for the imposition of a weight restriction, the amenity issue involving traffic through Rufforth village could be resolved by CCTV and the proposed access amendments may impede visibility for vehicles exiting the site. Concerns over clarity of layout for all highway users and potential confusion; risk of non compliance/abuse and overall highway safety are also raised. A Stage one Highway Safety Audit with associated drawings has been sought and commissioned in respect of the proposed layout which will be reported at the meeting.

3.5 Waste Services were consulted in respect of the proposal on 2nd March 2016. No response has been received at the time of writing.

3.6 Strategic Flood Risk Management were consulted in respect of the proposal on 2nd March 2016. No response has been received at the time of writing.

#### EXTERNAL:-

3.7 Rufforth with Knapton Parish Council raise no objection in principle to the proposal subject to additional landscaping being undertaken at the site boundary and the access from the site to Wetherby Road being designed to minimise the risk of heavy vehicles using the site accessing and egressing via Rufforth village.

3.8 Natural England raises no objection to the proposal.

3.9 The Environment Agency raises no objection to the proposal subject to suitable mitigation measures being provided to prevent ingress of landfill gas into the building complex.

3.10 Yorkshire Water Services raises no objection to the proposal.

3.11 The Foss (2008) Internal Drainage Board objects to the proposal on the grounds that insufficient information has been made available to assess the impact of the surface water flows from the development on Board maintained assets.

3.12 The Ainsty Conservation Trust was consulted in respect of the proposal on 2nd March 2016. No response has been forthcoming at the time of writing.

3.13 The York Gliding Club was consulted in respect of the proposal on 2nd March 2016. No response has been forthcoming at the time of writing.

3.14 The Rufforth Neighbourhood Planning Group raises no objection in principle to the proposal subject to the revocation of the existing permissions within the site outside of the existing developed foot print, the provision of additional landscaping at the site boundary to the south and south west and alterations to the site access to the B1224 Wetherby Road to tackle the existing amenity issue of heavy traffic using the site accessing and egressing via Rufforth village. Further amendments are at the same time suggested over and above those previously brought forward by the applicant.

3.15 Two letters of representation have been submitted in respect of the proposal expressing broad support conditional upon the design of the site access with the B1224 Wetherby Road being amended to deter Heavy Goods Vehicles from accessing and egressing via Rufforth village and thereby harming local amenity.

## **4.0 APPRAISAL**

### **KEY CONSIDERATIONS:-**

#### **4.1 KEY CONSIDERATIONS INCLUDE:-**

- Impact upon the open character and purposes of designation of the York Green Belt;
- Impact upon the safety and convenience of highway users on the local network;
- Impact upon the residential amenity of properties within Rufforth village and the surrounding area;
- Other Environmental Impact Assessment issues.

## PLANNING POLICY CONTEXT:-

4.2 GREEN BELT:- Central Government Planning Policy as outlined in paragraphs 79 to 90 of the National Planning Policy Framework identifies Green Belts as being characterised by their openness and permanence. New built development is automatically taken to be inappropriate and therefore harmful to the Green Belt unless it comes within one of a number of excepted categories. Other development may only be permitted where a case for "very special circumstances" has been forthcoming. Paragraph 88 of the National Planning Policy Framework indicates that "very special circumstances" will only be held to exist where potential harm to the Green Belt and any other harm is clearly outweighed by other considerations.

4.3 WASTE PLANNING:- Central Government Planning Policy in respect of Waste Planning as outlined in the National Planning Policy Statement for Waste (October 2014) paragraph 4 urges Local Planning Authorities to give significant weight to the need to co-locate waste management facilities wherever possible and to have clear regard to the proximity principle so that waste facilities are located as close as possible to the areas where the waste is generated.

4.4 AMENITY:- Central Government Planning Policy as outlined in paragraph 17 of the National Planning Policy Framework "Core Principles" urges Local Planning Authorities to give significant weight to the need to provide and safeguard a good standard of amenity for all new and existing occupiers of land and buildings.

4.5 ENVIRONMENTAL IMPACT ASSESSMENT:- The 2011 Town and Country Planning(Environmental Impact Assessment) Regulations through schedules 1 and 2 identify clear categories of development including waste management facilities which are likely to have significant non-local environmental effects. Schedule 3 and the accompanying Circular gives clear guidance as to how those effects can be assessed and mitigated against.

## IMPACT UPON THE OPEN CHARACTER AND PURPOSES OF DESIGNATION OF THE YORK GREEN BELT:-

4.6 The application site comprises a waste management facility of long standing within the site of a former military airfield within the York Green Belt. The proposal represents a partial re-submission of an earlier proposal which was withdrawn following earlier serious concerns in terms of its impact upon the open character and purposes of designation of the York Green Belt. The current proposal envisages the construction of a large industrial shed type structure within the central previously developed section of the site together with the construction of a modular site office and welfare facilities to the south west along with the rationalisation of existing parking in two areas to the south and south west. Central Government Planning Policy in respect of Green Belts as outlined in paragraph 89 of the National Planning Policy Framework indicates that the partial or complete re-development of a previously

developed site whether vacant or in continuing occupation would not be inappropriate within the Green Belt providing it did not have a greater impact upon the openness or purposes of designation of the Green Belt. As such the proposal as amended is felt to be appropriate development within the Green Belt.

4.7 In terms of impact upon openness the proposal envisages the construction of a waste transfer station building aligned south east/north west partially on the site of the existing parking and office compound within the centre of the site. A new modular site office would be located directly to the south with a reconfigured car parking area directly to the west. Additional parking areas would be provided within the re-profiled tipped area to the west and adjacent to the access road to the south. A partially enclosed bale store along with a modular welfare building would also be provided within the existing built foot print to the north. The southern limit of development would be the subject of further landscaping to reinforce the existing mature planting. The elements of the proposed development would be largely incorporated within the existing developed built foot print within the centre of the site and would not be readily perceptible in long or short distance views from outside of the site. There would not therefore be any material harm to the open character of the Green Belt.

#### IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS ON THE LOCAL HIGHWAY NETWORK:-

4.8 The operational waste management site has over a long period of time given rise to an amenity issue through the passage of heavy vehicles through Rufforth village. The application proposes a modification to the site access to ensure that Heavy Goods Vehicles using the site can not then turn right out of the site and travel through Rufforth village. This would then be combined with a CCTV system located at the site entrance to identify vehicles having travelled into the site from the direction of Rufforth and any vehicles that fail to observe the revised junction layout and then travel into the village. Concern has been expressed in relation to the possibility of vehicles entering the site from the direction of Rufforth village through the revised layout and suggested amendments have been put forward involving the location of movable barriers within the approach from Rufforth village. That would however place undue restrictions on other users of the access connected with the adjacent gun club and would also hamper the ability of the operator to move equipment on and off site for operational reasons. The proposed CCTV system is therefore felt to be the most appropriate means of controlling traffic entering the site from the Rufforth direction.

4.9 Other highway concerns have been expressed in terms of the principle of alterations to an access that is technically efficient in terms of its design to control heavy goods vehicle traffic from a B Class road which would not otherwise qualify for a weight restriction. Concern has also been expressed in terms of the safety of vehicles exiting eastwards through the amended layout towards the A1237 Outer



Ring Road in terms of visibility of on-coming traffic on Wetherby Road from the Rufforth direction, along with the risk of additional traffic waiting on the main road to enter the site and the need to light the access. However, whilst the current access may be technically workable and whilst the adjacent Wetherby Road may not qualify for a legal weight restriction in terms of heavy goods vehicles, there has been a long standing amenity issue in terms of volumes of heavy goods vehicles often at slow speeds using Rufforth village to access the waste management site. The access will be required to be lit in any event in order for the CCTV system to work effectively. At the same time the nature of the vehicles which use the site is such that they require to approach the access slowly and at times queue. In terms of the visibility concern the majority of vehicles using the amended access would be heavy good vehicles which sit much higher off the road and which in a number of cases have a wider field of vision. In order to firmly establish the suitability of the proposed layout a Stage One Highway Safety Audit of the proposed access arrangements has been sought and commissioned, the results of which will be reported to the meeting. Subject to the audit yielding a positive result the proposed amendments to the site access are therefore felt to be acceptable.

#### IMPACT UPON THE RESIDENTIAL AMENITY OF PROPERTIES WITHIN RUFFORTH VILLAGE AND THE SURROUNDING AREA:-

4.10 Concern has previously been expressed in relation to both noise and odour nuisance arising from waste management operations at the site over a long period. The submitted Environmental Impact Assessment identifies a continuing risk of harm in terms of noise and odour in relation to the closest residential properties if current best practise is not followed. The risks are however clearly capable of mitigation as with the existing open air composting and land-filling activities taking place at the site. The proposed processes taking place at the site would involve the unloading, sorting and batching of materials prior to their onward dispatch to the Allerton Park energy from waste facility. The operations would take place as part of a sealed system with no element of the sorting or processing taking place in the open air. Any noise or odour nuisance would therefore be minimal. In order to minimise any harm to amenity during the construction of the premises it is recommended that any permission be conditioned to require the submission and prior approval of a CEMP (Construction Environmental Management Plan) as well as a detailed lighting assessment.

#### OTHER ENVIRONMENTAL IMPACT ASSESSMENT ISSUES:-

4.11 In addition to issues of amenity, landscape and location the Environmental Impact Assessment also examined issues of water resources and flood risk, soils resource and agriculture , ecology, cultural heritage and lighting. In terms of water resources and flood risk the site lies to the south of a major water bearing aquifer and is within Flood Zone 1 and so is at the lowest deemed risk of flooding. The development is designed to channel any surface water discharges in to the existing

processing system for the wider site which is subject to a system of attenuation before release in to surrounding water courses. In terms of soils resource and agriculture the site is classified as Grade 4 in terms of the agricultural land use classification and contains several buried structures associated with the former military use, as such any impact upon local agricultural land quality arising from the proposal would be modest. In terms of ecology a series of bat and breeding bird surveys have been undertaken at the site and no evidence of material harm has been forthcoming. At the same time in terms of cultural heritage an archaeological desk top survey has been submitted which relates evidence of the former airfield use of the site but no remains of such significance as to merit recording or preservation in situ are identified as being present. In terms of lighting the overall site is subject to a lighting strategy which would also apply to the new built development with the proposed new landscape planting around the southern edge of the site further contributing to its mitigation.

#### SECTION 106 ISSUES:-

4.12 In order to secure the effective mitigation of the harm generated by the proposal the applicant has offered a number of items which may be effectively secured by means of Section 106 Agreement . They are summarised below and support is recommended to secure:-

- i) Agreement not to implement Planning Permissions 12/00908/FULM and 07/02914/FULM;
- ii) The remaining land between the application site and the B1224 Wetherby Road remaining free from built development;
- iii) Provision of an off road cycle route along the site frontage of Wetherby Road within the site across the site frontage;
- iv) CCTV control of the site access, and
- v) Commuted sum payment to enable the site access to be reconfigured to reduce the number of HGV movements through the village of Rufforth (in consultation with the Highway Officers).

#### 5.0 CONCLUSION

5.1 The proposal is a revised partial re-submission of an earlier proposal that was withdrawn as a consequence of concerns in terms of its impact upon the openness of the Green Belt. The current proposal envisages the re-development of the existing built footprint within the restored area at the centre of the site with a modest expansion to the west to allow for additional car parking. The revised proposal is now therefore felt to be appropriate development within the Green Belt in terms of paragraph 89 of the National Planning Policy Framework. In view of the tightly configured location of the proposal within the centre of the site which is not readily perceptible in long or short distance views from outside of the site it is not felt that there would be material harm upon the open character of the Green Belt. Whilst

some concern has been expressed in terms of the proposed access amendments at the site, it is felt that in view of the long standing concern in terms of heavy traffic accessing the site via Rufforth village that the proposed works can be justified. Subject to detailed drawings demonstrating acceptable arrangements for left turn only exit and a satisfactory works being stage 1 safety audit being undertaken , the proposal is felt to be acceptable in planning terms and approval is recommended.

**6.0 RECOMMENDATION:** Subject to submission of detailed drawings of the access/egress amendments and a satisfactory stage 1 safety audit, approve subject to satisfactory completion of a Section 106 Agreement to secure:

- i) Agreement not to implement Planning Permissions 12/00908/FULM and 07/02914/FULM;
- ii) The remaining land between the application site and the B1224 Wetherby Road remaining free from built development;
- iii) Provision of an off road cycle route along the site frontage of Wetherby Road within the site across the site frontage;
- iv) CCTV control of the site access, and
- v) Commuted sum payment to enable the site access to be reconfigured to reduce the number of HGV movements through the village of Rufforth( in consultation with the Highway Officers).

And the following conditions:

- 1 TIME2 Development start within three years
- 2 The development hereby permitted shall be carried out in accordance with the following plans:-

Drawing Refs:- 5117 002C; 2015.2.37/1a Rev A; 2015.2.37/1D Rev A; 7566 AO52; 7566 AO53; 7566 AO56; 7566 AO60; 7566 AO61; 7566 AO71; 7566 AO72; 7566 AO73; 7566 AO75; 7566 AO80; 7566 AO55.

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

- 3 VISQ4 Boundary details to be supplied
- 4 VISQ7 Sample panel ext materials to be approved
- 5 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees , shrubs and hard landscaping. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five

years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

6 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. 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).

For dust details should be provided on measures the developer will use to minimise dust blow off from site, i.e. wheel washes, road sweepers, storage of materials and stock piles, used of barriers, use of water bowsers and spraying, location of stockpiles and position on site. In addition I would anticipate that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any).

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 local residents

7 NOISE7 Restricted hours of construction

8 LC1 Land contamination - Site investigation

9 LC2 Land contamination - remediation scheme

10 LC3 Land contamination - remedial works

11 LC4 Land contamination - unexpected contam

12 Prior to the commencement of the development hereby authorised above foundation level a full Lighting Impact Assessment for all proposals involving floodlighting, must be undertaken by an independent assessor and approved by the Local Planning Authority (not the applicant or the lighting provider), and should include:

A description of the proposed lighting: number of lighting columns and their height, and proposed lighting units.

Proposed level of lighting

Drawings showing the illuminance levels (separate drawings for each item listed):

Plan showing horizontal illuminance levels( $E_h$ ), showing all buildings within 100 metres of the edge of the site.

Plan showing vertical illuminance levels ( $E_v$ ), showing all buildings within 100 metres of the edge of the site.

Specification of the Environmental Zone of the application site, as defined in The  
Application Reference Number: 16/00357/FULM                      Item No: 4b

Institution of Lighting Professionals' Guidance Notes for the  
Reduction of Light Pollution.

A statement of the need for floodlighting.

Note :  $E_v$  is the average vertical illuminance, which is a measurement of the quantity of light at height of 1.5 metres above the ground.

$E_h$  is the average horizontal illuminance, which is a measurement of the quantity of light falling on a horizontal plane.

The development shall thenceforth be undertaken in strict accordance with the details thereby approved and shall be retained thereafter.

Reason: To protect the amenity of future residents and local businesses.

13 The development hereby permitted shall not be occupied/commence operation until the following biodiversity enhancements have been installed/constructed;

The felled trees will be used to create wood piles within the retained mixed plantation woodland;

Provision of three bat boxes within the retained mixed plantation woodland, the location to be determined by an ecologist; and

Provision of three bird nesting boxes with the retained mixed plantation woodland.

Reason: To ensure that there is a net gain in biodiversity in line with NPPF Section 11.

14 HWAY19 Car and cycle parking laid out

15 HWAY21 Internal turning areas to be provided

16 HWAY31 No mud on highway during construction

17 ENVA1 Surface water drainage through oil inter

18 ENVA2 Prevention of pollution - tanks etc

19 Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 , or any subsequent legislation revoking or re-enacting that Order, no fixed plant or machinery, buildings, structures or private ways, shall be erected, extended, installed or replaced at the

site, other than those expressly authorised by this permission without the prior written approval of the Local Planning Authority.

Reason: - To safeguard the character of the site in the interests of visual amenity and to secure compliance with Policy GB1 of the York Development Control Local Plan.

20 Piling or any other foundation design using invasive methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant risk to groundwater. The development shall be carried out in strict accordance with the approved details.

Reason: - To protect controlled waters.

21 No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such scheme shall include:-

Surface water discharge to be regulated to the green field run-off rate from a 1 in 1 year storm with the on-site drainage system able to accommodate the storm water from a 1 in 100 event without harming neighbouring properties.

Such scheme shall be implemented before the construction of impermeable surfaces draining to the system unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To safeguard the water environment and to minimise flood risk.

22 Prior to the first operation of the building and plant hereby authorised, the developer shall submit a formal BREEAM assessment or equivalent, for the Design and Procurement stages for the building and plant hereby approved. All assessments shall be followed by a BREEAM Post Construction review to be submitted after construction at a time to be agreed in writing by the Local Planning Authority. All assessments shall confirm the minimum "Very Good" rating or equivalent, anticipated in the preliminary BREEAM assessment submitted with the application, and to be agreed in writing by the Local Planning Authority.

Reason: - In the interests of sustainable development, in accordance with the requirements of Policy GP4a) of the York Development Control Local Plan and the Council's Planning Guidance Interim Planning Statement (IPS) on Sustainable Design and Construction.

23 Prior to the commencement of development above foundation level full details of all measures to vent, disperse and prevent build up of any accumulation of landfill gas within the buildings hereby authorised, their foundations and immediate environs shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby authorised prior to being first brought into use.

Reason:- To prevent pollution of the surrounding environment.

## **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 (paragraphs 186 and 187) 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:

Clarification in respect of the proposed re-aligned access arrangement.

#### **2. NESTING BIRDS:-**

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

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

#### **3. CONTROL OF POLLUTION ACT 1974:-**

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:

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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

**Contact details:**

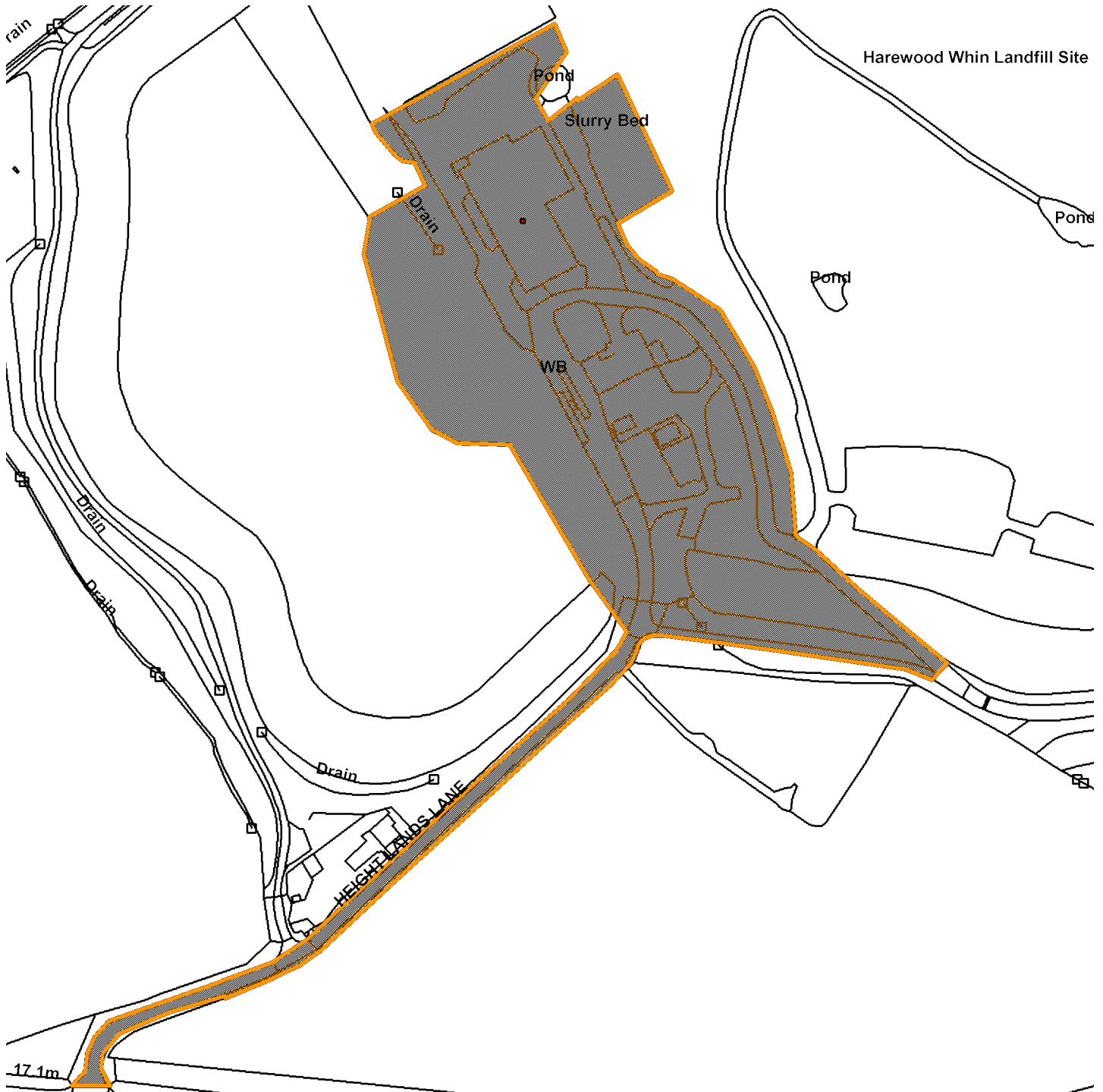
**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

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16/00357/FULM

Yorwaste, Harewood Whin Tinker Lane Rufforth



Scale : 1:2967

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	03 May 2016
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 12 May 2016  
**Team:** Major and Commercial Team  
**Ward:** Micklegate  
**Parish:** Micklegate Planning Panel

**Reference:** 15/02733/FUL  
**Application at:** York Racecourse Racecourse Road Knavesmire York YO23 1EJ  
**For:** Construction of a single lane service road adjacent to racing surface  
**By:** Mr William Derby  
**Application Type:** Full Application  
**Target Date:** 13 May 2016  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 Planning permission is sought for an access road to the east side of the 12th and 14th furlong. The tarmac road would be to the east of the two sets of fences and would extend 382 metres. The majority of the road would be 3.5 metres in width, however at the northern part it would extend to 12 metres in width, and at the southern end 8.9 metres in width. The proposed road would be set 4 metres to the east of the nearest fence. The proposed road would be for the use of vehicles (such as ambulances, racecourse maintenance vehicles) during races. The agent has confirmed that access between the proposed road and the existing circular road across the racing surface would be open on non-race days. This part of the track is used up to 13 times a year.

1.2 The racecourse land is owned by the Council but leased by the Racecourse.

1.3 During the application a revised plan has been submitted correcting drafting errors together with further justification for the siting of the road.

1.4 The proposed development does not comprise 'Schedule 1' development where an Environmental Impact Assessment is always required. The proposed development is however of a type listed at 10 (f) in column 1 of Schedule 2 (construction of road) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The site does not meet the 1 hectare threshold. It is the view of Officers that the proposed site is not within or adjacent to an environmentally sensitive area (as specified in the regulations) and taking into account the characteristics of the proposed development, the location of the development, and characteristics of the potential impact and the proposed development would not result in significant environmental effects and therefore an Environmental Impact Assessment is not required.

1.5 The proposed site is within the general extent of the greenbelt. It is adjacent to and affects the setting of the Tadcaster Road Conservation Area, as well as the Racecourse Conservation Area .The site is within Flood Zone 3.

## **2.0 POLICY CONTEXT**

2.1 Please see paragraphs 4.1 to 4.8 of Appraisal for national and local policy context.

## **3.0 CONSULTATIONS**

### **INTERNAL CONSULTATIONS**

#### **ENVIRONMENTAL MANAGEMENT (LANDSCAPE)**

3.1 Due to the flat nature of the site, the existing service roads are not overtly apparent in the long views experienced across the racecourse except at close quarters. The service roads are a familiar feature of the race course, i.e. the development does not introduce a foreign or new element to the landscape. Furthermore, they provide a convenient surface for walking, wheelchairs, and push chairs, for much of the time when the race course is not in use.

3.2 Seen in the context of the white rails in the relatively large scale landscape of the Knavesmire, the visual impact of the development would not have a significantly detrimental impact on the amenity of the Knavesmire.

3.3 The land rises across the Knavesmire common to Tadcaster Road, giving elevated views, but the width of the proposed track is not so excessive as to take away from the fundamental characteristics of the Knavesmire racecourse, namely a large grassed area with far-reaching views of the city surrounds, such as South bank, the race course complex, Terrys factory, and the attractive buildings on Tadcaster Road. Provided the need is justified, the proposal is acceptable in landscape terms

#### **ENVIRONMENTAL MANAGEMENT (CONSERVATION)**

3.4 No Comments.

### **FLOOD RISK MANAGEMENT TEAM**

3.5 No objection, seek condition requesting no raising of ground levels to construct the road, and all excess spoil arising from the works is to be removed from the flood plain

## EXTERNAL CONSULTATIONS/REPRESENTATIONS

### MICKLEGATE PLANNING PANEL

3.6 No comments received

### ENVIRONMENT AGENCY

3.7 No objection subject to a condition specifying no increase in ground levels.

## 4.0 APPRAISAL

### 4.1 Relevant site history:-

- 07/01311/FULM - Widening of South Bend of race course, surfacing of service track and associated works including drainage works - Approved
- 07/01644/EIASN - Screening opinion for whether an environmental impact assessment (EIA) is required in connection with the proposed alterations and development of the Melrose Stand, John Carr building, Racecourse – No EIA required

### 4.2 KEY ISSUES:-

- Planning policy
- Green Belt and consideration of very special circumstances
- Design and landscape considerations
- Setting of Tadcaster Road Conservation Area and the Racecourse and Terry's Factory Conservation Area
- Drainage

## PLANNING POLICY

### Development Plan

4.3 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and

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

## Local Plan

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

## Emerging Local Plan

4.5 The planned consultation on the Publication Draft of the City of York Local Plan, which was approved by the Cabinet of the Council on the 25 September 2014, has been halted pending further analysis of housing projections. The emerging Local Plan policies can only be afforded weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF.

4.6 The most relevant of the document's policies is Policy SS2 (The Role of York's Green Belt) and GB1 (Development in the Green Belt) the aim being that proposed development should not conflict with the purposes of including land within the Green Belt; the scale, location and design of development would not detract from the openness of the Green Belt; and should not prejudice harm those elements which contribute to the special character and setting of York. In the emerging draft York Local Plan the site is allocated as green belt land.

4.7 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key relevant policy issues (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.

4.8 Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development, unless specific policies in the NPPF indicate development should be restricted. This presumption does not apply in Green Belt locations.

4.9 The National Planning Practice Guidance (NPPG) explains how weight may be given to policies in emerging plans. Arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the NPPF and any other material considerations into account.



4.10 The NPPF states that the refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

## GREEN BELT STATUS OF THE SITE

4.11 As noted in the above Planning Policy section of this report, the site is located within the general extent of the York Green Belt as described in the RSS. In the DCLP (2005) and the emerging local plan the application site is designated as green belt. These allocations have not been tested by public consultation and as such, the potential allocation of this land can only be given very limited weight at this stage. There is currently no public confirmed timetable for the Local Plan to be submitted to public consultation or to the Planning Inspectorate.

4.12 Additionally, when the site is assessed on its merits (in paragraphs 4.14 to 4.16 below) it is concluded that whilst the York Green Belt has not yet been fully defined, the site falls within the general extent of the Green Belt and serves a number of Green Belt purposes. As such, the proposal falls to be considered under the restrictive Green Belt policies set out in the NPPF.

## OPENNESS AND PURPOSES OF THE GREEN BELT

4.13 The NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open and that, the essential characteristics of the Green Belt are its openness and permanence. The Green Belt serves 5 purposes:

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

4.14 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 90 states certain other forms of development are not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. Within this list are 'engineering operations', a service road would be considered to be an engineering

operation however the proposed service track would have a greater impact on the openness than the existing and for this reason it is not considered that the site falls within this exception. The proposed road therefore is inappropriate development in the Green Belt. The proposed development would result in coalescence of development and encroachment of development into the Green Belt therefore resulting in harm to the openness and permanence of the greenbelt.

4.15 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4.16 The fundamental purpose of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The proposal gives rise to harm to the green belt by reason of inappropriateness which should not be approved except in very special circumstances. The proposal would result in harm to the openness and permanence of the Green Belt. It also conflicts with the Green Belt purposes of preventing encroachment into the countryside and coalescence of development. The NPPF states that local planning authorities should ensure that substantial weight is given to any harm to the green belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

#### ASSESSMENT OF THE CONSIDERATIONS FORWARDED BY THE APPLICANT

4.17 The Applicant has forwarded the following factors to be considered as very special circumstances:

- (i) Safety and recovery of riders and horses
- (ii) Economic benefit to the city
- (iii) Access for maintenance vehicles and allow transit and positioning of the starting stalls
- (iv) Public access
- (v) Safety and recovery of riders and horses

4.18 The applicant argues that the service road is required to meet the level of safety and recovery for the riders and horses set out by the 'British Horseracing Authority' (BHA), a supporting letter from the BHA has been accompanied the application. The Racecourse Manual (2014) and the General Instructions (2015) both by the BHA requires a service track adjacent to the racecourse. The proposed service road would be used on race days for vehicles such as ambulances, doctors and vets, allowing them to respond safely and quickly in an emergency situation from the 14 furlong start to the back straight. These vehicles are required to maintain a similar speed to the racing horses and the applicant argues that the current grass surface makes this difficult. The vehicles currently travel alongside on the existing grass for the first 2 furlongs of a 14 furlong race, before they join the existing service road around the inside of the course. This 12 to 14th furlong section

of the racing surface is currently the only section where there is not an adjacent service road allowing access to the course. The applicant argues that in wet weather conditions the ability of emergency teams to respond to a fallen rider or injured horse is impaired by the lack of a formal surface, as is the braking distances and control of these vehicles in slippery conditions placing both the emergency teams and other users of the Knavesmire at risk. It is considered that the service road would continue to increase the resilience of York Racecourse, allowing the continuation of racing in inclement weather conditions and the above arguments are considered to have weight.

(ii) Economic benefit to the city

4.19 The applicant argues that the course is considered a Grade 1 racecourse, and to maintain this standard the road is required. Currently 15%/13 races start from this part of the course, including the Ebor race. Without the proposed road the applicant argues that there would be a reduction in the number of races throughout the season. This part of the track forms a fundamental part of the racecourse due to the long stretch and the races could not be started from another position around the track. The applicant argues that the proposed road future proofs the racecourse. The races bring a significant amount of income into the city hotels, restaurants, public houses, retails, transport, the services provided to the racecourse from local business etc. The reduction in the number of races would be a detriment to the visitor experience and the economic benefit of the city. It is an existing successful racecourse, much of the course has an adjacent road, it is considered that the additional road to the 12 to 14th furlong would help to future-proof the track and continue to provide a good quality course and this argument is considered to have weight.

(iii) Access for maintenance vehicles and allow transit and positioning of the starting stalls

4.20 The applicant argues that the new service road will also aid with the transit and positioning of the starting stalls at the 14th furlong start in wet weather. In addition they argue that the proposed road would allow maintenance vehicles outside race days to access the racing surface. This justification is considered to have little weight, as maintenance vehicles can access the racing track without the need for a tarmac road and the number of times the type of access would be required is not considered to merit a permanent road.

(iv) Public access

4.21 There is an existing tarmac circular access road (07/01311/FULM) around the rest of the race track and this is considered to be a benefit to the public users of the Knavesmire. It allows for a walking/running/cycle track/wheelchair access particularly when the surrounding ground suffers from drainage issues. The

proposed additional track would be a benefit to public access. However it is not considered to add significantly to the public access and amenity of the Knavesmire by virtue of its location, and the relationship to the pedestrian access to Knavesmire and as it is separated from the existing circular road by the racetrack. The racecourse will vary the exact crossing point over the north bend so to spread the wear over the racing surface. This reason is considered to have limited weight.

## DESIGN AND LANDSCAPE CONSIDERATIONS

4.22 Unlike the existing service track which is sited adjacent to the fence, the proposed service road would be sited 4 metres from the closest track fence, and as such there would be a degree of detachment. The agent has stated the reason for not siting the road closer is that the area adjacent to the fence is occupied by drainage runs and the sprinkler system. The applicant argues that the 4 metre distance creates a safe and optimum distance between vehicles and the horses.

4.23 Due to the flat nature of the site, the existing service roads are not overtly apparent in the long views experienced across the racecourse except at close quarters. The land rises across the Knavesmire common to Tadcaster Road, giving elevated views, but the width of the proposed track is not so excessive as to take away from the fundamental characteristics of the Knavesmire racecourse, namely a large grassed area with far-reaching views of the city surrounds. The service roads are a familiar feature of the racecourse; as such the development does not introduce a new element to the landscape. Seen in the context of the white rails in the relatively large scale landscape of the Knavesmire, the visual impact of the proposed development would not have a detrimental impact on to the visual amenity of the Knavesmire.

## IMPACT TO SETTING OF CONSERVATION AREA

4.24 The NPPF states that Local Authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and that they should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including any development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise (para 129).

4.25 In accordance with section 72 of the Planning (Listed Building and Conservation Area) Act 1990, the Local Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in exercising its planning duties. Section 66 of the same Act requires the Local planning authority to have regard to preserving the setting of features of special architectural or historic interest it possesses.

4.26 Within views from adjacent Tadcaster Road Conservation Area and the nearby Racecourse conservation Area the road would be visible as part of a wider landscape and as such would have a limited impact and viewed in contact of the existing race track and access road. The proposed service road is considered to be a minor additional intervention and is not considered to result in any harm to the setting of the nearby conservation areas or any listed buildings.

## DRAINAGE

4.27 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan policy GP15a 'Development and Flood Risk' advises there is a presumption against development within the functional floodplain outside of settlement limits. The LPA must be satisfied that any flood risk will be successfully managed with the minimum environmental effect. Discharges from new development should not exceed the capacity of existing and proposed receiving sewers and watercourses and long term run-off from development sites should be less than the level of pre-development rainfall run-off.

4.28 The application site is within functional flood Zone 3b. A flood risk assessment has been submitted. The proposed development would fall within 'water-compatible development' in the EA Flood Risk Vulnerability Classification as such development can be appropriate within Flood Zone 3b, and therefore an exception test is not required.

4.29 The proposed road would have a camber on it, and no formal drainage is proposed. The developer proposes that the surface water would run off the road into the surrounding ground. It is unlikely that the proposal would result in an increase in surface water.

4.30 The proposed site is functional floodplain and regularly floods. No flood proofing of the service road is proposed. The Flood Risk Assessment submitted by the applicant states that when the Knavesmire floods the proposed service road (as with the existing service road) would also flood. The proposal would not result in an increase in land levels and loss of flood storage volume. The proposal would not result in an increased flood risk to surrounding property. For the aforementioned reasons together with the implementation of conditions the proposed development is considered to comply with part 10 of the NPPF. The Flood Risk Engineer and the Environment Agency have no objections to the proposed development.

## 5.0 CONCLUSION

5.1 Having regard to S72 and S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal does not cause any harm to either the adjacent Conservations Areas or the setting of listed buildings.

5.2 The application site is within the general extent of the Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 88 of the NPPF, and by definition causes harm to the Green Belt. The road would result in harm to the openness and permanence of the Green Belt.

5.3 Cumulatively the safety and recovery of riders and horses, the economic benefits to the city, the limited visual impact on the Knavesmire, the absence of any harm to the adjacent Conservation Areas and the absence of any harm to the setting of the listed building are considered to amount to 'very special circumstances' to clearly outweigh the definitional harm to the openness and permanence of the greenbelt and any other harm, even when substantial weight is given to any harm to the Green Belt. Approval subject to the following conditions is recommended.

5.4 The proposed service road is not considered to have a significant impact on the openness of the Green Belt and therefore under the Town and Country Planning (Consultation) (England) Direction 2009, need not be referred to the Secretary of State, if members are minded to approved the application.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Approve**

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

Drawing Number Y-SB-BSP-4864-15-100 Revision A received 04 April 2016;  
Drawing Number Y-SB-BSP-4864-15-101 Revision A received 04 April 2016;

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

2 TIME2 Development start within three years

3 There shall be no raising of ground levels to construct the road, and all excess spoil arising from the works is to be removed from the flood plain and disposed of appropriately.

Reason: To ensure that there is no loss of storage from the floodplain and that flood waters are not displaced to other areas.

### **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 (paragraphs 186 and 187) 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:

- Request additional information
- Request revised plans
- Use of conditions

### **Contact details:**

**Author:** Victoria Bell Development Management Officer

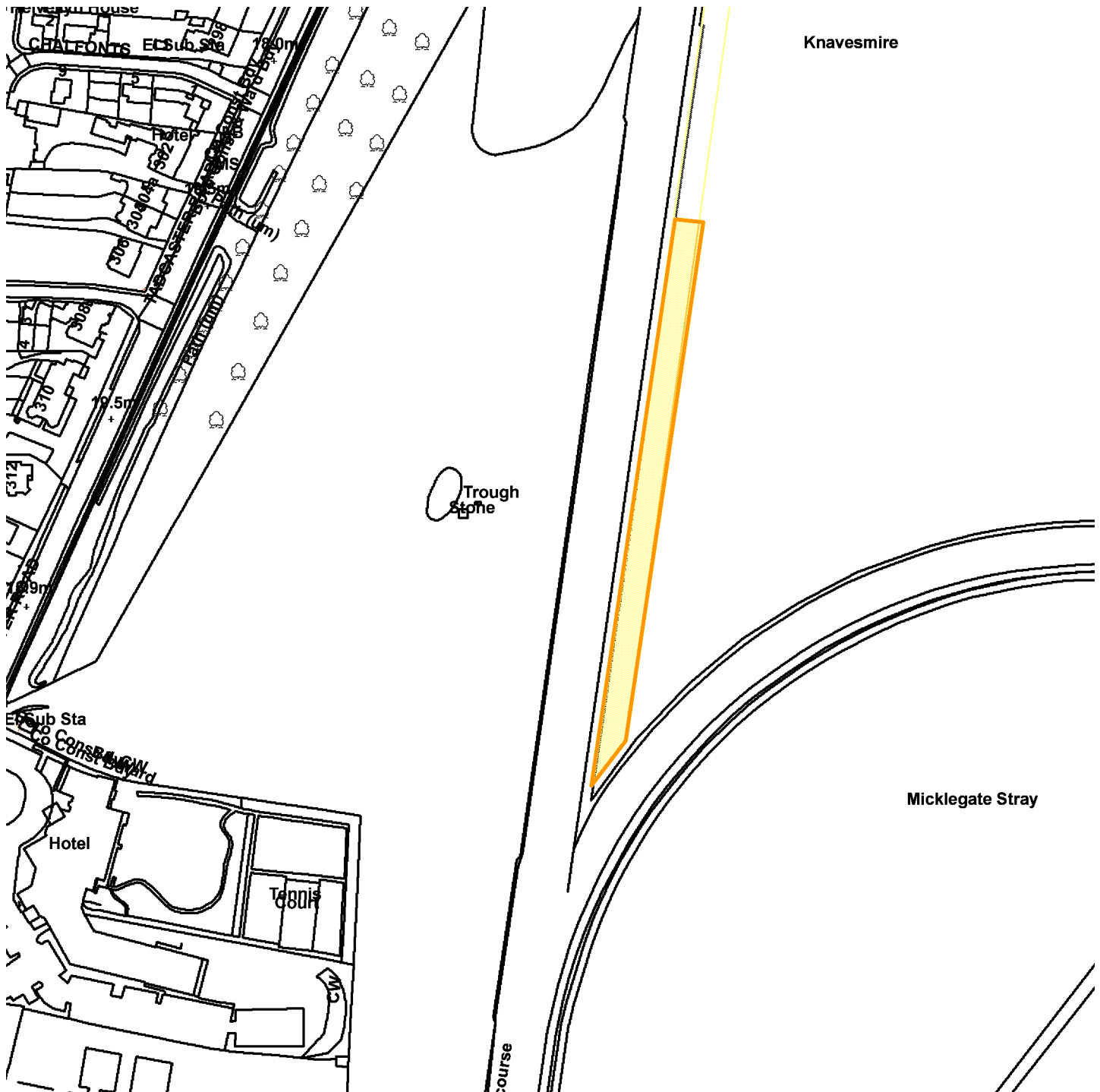
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15/02733/FUL

Racecourse Road, Knavesmire



Scale : 1:2543

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<b>Organisation</b>	City of York Council
<b>Department</b>	CES
<b>Comments</b>	Location plan
<b>Date</b>	03 May 2016
<b>SLA Number</b>	Not Set

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## COMMITTEE REPORT

**Date:** 12 May 2016  
**Team:** Major and Commercial Team  
**Ward:** Rural West York  
**Parish:** Upper Poppleton Parish Council

**Reference:** 16/00878/FUL  
**Application at:** Poppleton Garden Centre Northfield Lane Upper Poppleton York YO26 6QF  
**For:** Part use of car park as mobile storage unit for public use for bulk re sale or recycling of clothing, shoes and clothing accessories (retrospective)  
**By:** Mr Ian Woods  
**Application Type:** Full Application  
**Target Date:** 8 June 2016  
**Recommendation:** Delegated Authority to Refuse

### 1.0 PROPOSAL

1.1 Planning permission is sought for the change of use of part of the car park for the siting of a modular storage unit. The site is to the northern boundary of the car park adjacent to the junction of the junction of the A59, Northfield Road and Station Road

1.2 The single storey modular unit 3.2 metres by 6.08 metres, and 2.3 metres in height. The unit would be used as a point for the collection of clothes, for cash reward. The collected clothes are recycled at a different site. Two full time employment positions would be created. The business is separate to the garden centre.

1.3 The application is retrospective.

1.4 The site is within the general extent of the greenbelt and is within Flood Zone 1. The proposed site sits outside the settlement envelope of Poppleton. The A59 is one of the main transport routes into the site.

### 2.0 POLICY CONTEXT

2.1 Please see paragraphs 4.1 to 4.11 of Appraisal for national and local policy context.

### **3.0 CONSULTATIONS**

#### INTERNAL CONSULTATIONS

3.1 No representations have been received at the time of writing the report; any submissions received will be reported at the committee meeting.

#### EXTERNAL CONSULTATIONS/REPRESENTATIONS

##### UPPER POPPLETON PARISH COUNCIL

3.2 No comments received

### **4.0 APPRAISAL**

#### RELEVANT SITE HISTORY:-

4.1 The planning history for the site relates to the garden centre; there is no planning history for structures within the existing car park.

#### KEY ISSUES:-

- Planning policy
- Green belt and consideration of very special circumstances
- Design and landscape considerations
- Impact to residential amenity
- Highways

#### PLANNING POLICY

##### Development Plan

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

## Local Plan

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

4.4 Policy GB1 'Development in the Green Belt' of the DCLP sets out a number of criteria of considering new sites, whilst some of the specific criteria do not comply with the NPPF the general aim of the policy is considered to be in line with the NPPF.

4.5 Policy SP2 'The York Green Belt' states that the primary purpose of the green belt is to safeguard the setting and historic character of the city. Policy SP3 'Safeguarding the Historic Character and setting of York' states high priority will be given to the historic character and setting of York, particularly the protection of main gateway transport corridors into York from development which, cumulatively, could have an adverse impact on the setting of the corridor and surrounding environment (d). The general aim of the policy - take account of the different roles and character of different areas, - is considered to be in line with the NPPF.

## Emerging Local Plan

4.6 The planned consultation on the Publication Draft of the City of York Local Plan, which was approved by the Cabinet of the Council on the 25 September 2014, has been halted pending further analysis of housing projections. The emerging Local Plan policies can only be afforded weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF.

4.7 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key relevant policy issues (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.

4.8 Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development, unless specific policies in the NPPF indicate development should be restricted. This presumption does not apply in Green Belt locations.

4.9 The National Planning Practice Guidance (NPPG) explains how weight may be given to policies in emerging plans. Arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the

adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the NPPF and any other material considerations into account.

4.10 The NPPF states that the refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

4.11 The Poppleton Neighbourhood Plan is at an early stage; pre-submission consultation has been undertaken. Whilst the weight given to such a report grows as it passes each consultation stage, the weight that can be given to the plan is currently very limited.

4.12 The Poppleton Village Design Statement was adopted as supplementary planning guidance in 2003 following consultation. It has a number of relevant design guidelines including: Any further commercial and industrial development within or within direct influencing distance of Poppleton should be well screened and not exceed existing height; The attractive green corridor approach to York along the A59 should be protected and development along this road should be discouraged.

## GREEN BELT STATUS OF THE SITE

4.13 As noted in the above Planning Policy section of this report, the site is located within the general extent of the York Green Belt as described in the RSS. In the DCLP (2005) it is designated as green belt. In the emerging local plan the application site is allocated for a general employment. These allocations have not been tested by public consultation and as such, the potential allocation of this land can only be given very limited weight at this stage. There is currently no public confirmed timetable for the Local Plan to be submitted to public consultation or to the Planning Inspectorate.

4.14 Additionally, when the site is assessed on its merits (in paragraphs 4.15 to 4.19 below) it is concluded that whilst the York Green Belt has not yet been fully defined, the site falls within the general extent of the Green Belt and serves a number of Green Belt purposes. As such, the proposal falls to be considered under the restrictive Green Belt policies set out in the NPPF.

## OPENNESS AND PURPOSES OF THE GREEN BELT

4.15 The NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open and that, the essential

characteristics of the Green Belt are its openness and permanence. The Green Belt serves 5 purposes:

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

4.16 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 89 states that the construction of new buildings is inappropriate in the Green Belt, save in the case of a list of exceptions. The wider site is used as a garden centre and the proposed site is within the car park. As such the site is considered to be previously developed. However by virtue of the proposed location of the site and unit: set away from the building, it appears detached, and so it has a greater impact on the openness of the greenbelt and purposes of including land within it than the existing development. Therefore the proposed change of use of the land for the stationing of a modular unit does not fall within the exceptions of paragraphs 89 and 90. The change of use is therefore inappropriate development in the Green Belt. The proposed development by virtue of the use and structure would result in an increase in the built form and a coalescence of development and encroachment of development into the Green Belt in a particularly prominent location adjacent to a main transport route into the city therefore resulting in harm to the openness and permanence of the greenbelt.

4.17 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4.18 The site was not identified in the City of York Local Plan - The Approach to the Green Belt Appraisal (2003) which the Council produced to aid in the identification of those areas surrounding the City that should be kept permanently open. However, whilst this documents identifies key important areas, which do not include this site, it leaves large areas of countryside as similarly not being of particular importance and it does not set out that all that remaining land within the extent of the Green Belt is necessarily suitable for development or that it has no Green Belt purpose.

4.19 In general terms, it is not appropriate to assume every piece of land within the general extent of the Green Belt should necessarily be considered as Green Belt, rather each case should be considered on its own merits. The surface car park acts as a visual buffer between the village of Poppleton and the development to the south, and thus contributes to the aim of preventing the encroachment, sprawl and coalescence of development and therefore maintaining the essential Green Belt

characteristics of openness and permanence. Additionally, the site can not reasonably be considered to be close to the inner boundaries of the greenbelt because there is a clear gap created by fields between Acomb and Poppleton. These fields have been considered through the site selection process for the LDF and the emerging Local Plan. However they did not progress as they were assessed as having importance in the setting and special character of the city. As such it is considered that the application site should be treated as falling within the general extent of the Green Belt.

4.20 The fundamental purpose of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The proposal gives rise to harm to the green belt by reason of inappropriateness which should not be approved except in very special circumstances. The proposal would result in harm to the openness and permanence of the Green Belt. It also conflicts with the Green Belt purposes of preventing encroachment into the countryside and coalescence of development. The NPPF states that local planning authorities should ensure that substantial weight is given to any harm to the green belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

#### ASSESSMENT OF THE CONSIDERATIONS FORWARDED BY THE APPLICANT

4.21 The Applicant has forwarded the following factors to be considered as very special circumstances:

- Reduced landfill
- Economic Benefit

#### REDUCTION IN LANDFILL

4.22 The applicant states that they process 10,000 tonnes of textiles that are saved from being sent to landfill, these are collected from over 60 sites in Britain as well as collections through schools and from charity shops. The reduction in materials to landfill is admirable; however it does not provide justification for why the unit is required to be sited within a Green Belt location rather than an urban location closer to large residential areas and the source of the unwanted textiles. As such this argument is considered to have little weight.

#### ECONOMIC BENEFIT

4.23 The NPPF states that planning policies should support economic growth in taking a positive approach to sustainable new development. Nevertheless, this policy does not outweigh green belt policy, as the presumption in favour of sustainable development does not apply to sites within the green belt.



4.24 The applicant argues that the proposed development creates an economic benefit to the adjacent garden centre by virtue of rent and footfall. The rent would benefit the garden centre and there may be some limited increase in footfall to the garden centre. However this economic advantage is considered to be relatively minor and have very little weight.

4.25 The applicant also argues that the proposal benefits the public with a cash reward for the used clothing (50p per kilo of clothes/shoes/handbags etc). The likely monetary advantage to members of the public disposing of their goods is considered to be very limited. In addition it could be argued that in providing cash reward it is encouraging people to travel to the site rather than use the nearby clothing recycling bins in city car parks and supermarkets or to send clothes to local charity shops. By virtue of its location outside of the urban area it is likely that they would travel by private vehicle and as such the sustainability of the location is questionable.

4.26 The applicant argues that each unit supports a local charity, but provides no further details; as such no weight can be given to this justification.

4.27 The proposed development would create 2 full time equivalent jobs. Individually or cumulatively the aforementioned 'economic benefit' is considered to have very little weight and provide very little benefit to the city.

4.28 No evidence of consideration of other sites has been submitted. No justification has been submitted as to why the proposed unit is required to be located on this particular site in the greenbelt rather than a site within the urban area closer to larger residential population.

## DESIGN AND LANDSCAPE CONSIDERATIONS

4.29 The proposed site is within a car park of the garden centre to the east, to the south is a restaurant, to the west are Northfield Lane and the recent park and ride development, and the village of Poppleton to the north.

4.30 When travelling along the A59 in an east-west direction, the proposed site is at a point where the landscape around the road opens out with wide views of the open landscape, and it is against this backdrop that the unit is viewed. The proposed unit creates a cluttered appearance adjacent to a relatively complicated road layout (with large number of associated signs and signals). By virtue of its close proximity to the road the proposed development is prominent and jarring within the streetscene, particularly as the existing development on this side of the road is significantly set back. Whilst the site is a car park, the proposed modular unit is larger than the parked vehicles. Any parked vehicles are there during opening hours only while the proposed unit would be permanently located. The proposed site is visible from a significant distance along Station Road. The proposed unit creates a solid block in an area of general open character. It is considered that screening of the proposed

development would not overcome the harm of the proposed location; it would likely exacerbate the prominence of the development. The proposed use and unit would not be compatible with the prevailing character of the area. The proposed change introduces development adjacent to the road and would result in a reduction in the quality of the landscape. The proposed development is considered to result in significant other harm in addition to the inappropriateness of the development in the greenbelt.

4.31 There is an existing car wash and canopy adjacent to the proposed site however it should be noted that this does not have planning permission and is subject of a Planning enforcement investigation.

#### IMPACT TO RESIDENTIAL AMENITY

4.32 Opening hours have not been specified in the application form. By virtue of the distance from the nearby dwellings it is not considered that the proposed development would result in disturbance or harm to residential amenity.

#### DRAINAGE

4.33 The site was hardstanding prior to the placement of the unit. The proposed development would not result in additional surface water run-off and as such it is considered unreasonable to require further details for the surface water drainage method.

#### TRAFFIC, HIGHWAY, PARKING AND ACCESS ISSUES

4.34 The proposed development results in a minor loss of parking spaces. The garden centre has a generous number of vehicle parking spaces and it is considered that that demand for all of the parking spaces is limited as such the reduction in number is not considered to result in on-street parking or harm.

### **5.0 CONCLUSION**

5.1 The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 87 of the NPPF which states 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 (harm to visual amenity and character of the A59 transport corridor). National planning policy dictates that substantial weight should be given to any harm to the Green Belt.

5.2 In addition to the harm to the Green Belt by reason of inappropriateness, it is considered that the proposal would have a harmful effect on openness and that the proposal would undermine two of the five Green Belt purposes. Substantial weight is attached to this harm which the proposal would cause to the Green Belt. Planning permission should only be granted if the potential harm caused to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. It is only if those 'other considerations' are of sufficient weight that very special circumstances will exist. It is the cumulative weight of these other factors that matters; they do not individually need to be 'very special' in their own right.

5.3 The applicant has advanced the following factors which they consider to amount to very special circumstances in respect of the proposal:-

- Economic benefit to garden centre and public
- Reduction of materials sent to landfill

5.4 The Local Planning Authority has carefully considered the justification put forward by the applicant in support of the proposals and, having weighed these considerations against the harms that have been identified, has concluded that these considerations do not individually or cumulatively clearly outweigh these harms. It is concluded that very special circumstances do not exist to justify the proposal. The consultation period runs until 16.05.2016 as such Officers seek delegated authority to refuse the application once this period has run. If any representations are received after the meeting that present further planning issues not addressed above the application will be brought back to for committee to determine.

## **6.0 RECOMMENDATION:**

- (i) Defer pending expiry of the statutory consultation period on 16<sup>th</sup> May 2016, and subject to no new material planning considerations being raised within any consultation responses during this period,
- (ii) Delegated Authority be given to the Assistant Director of Development Services, Planning and Regeneration to Refuse for the following reasons:

1 The application site is within the general extent of the Green Belt as set out by policy Y1 of The Yorkshire and Humber Plan - Regional Spatial Strategy. In accordance with paragraph 89 of the National Planning Policy Framework it is considered that the change of use of the site for a modular unit to allow the collection of clothes, shoes etc constitutes inappropriate development which, according to Section 9 of the Framework is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal conflicts with the essential characteristics of Green Belts (their openness and their permanence) and the purposes of including land within the Green Belt by resulting

in encroachment of development into the countryside, the sprawl, merging and coalescence of development; and is harmful to the openness of the Green Belt. The Local Planning Authority has carefully considered the justification put forward by the applicant in support of the proposals but has concluded that these considerations do not clearly outweigh the harm to the Green Belt and other harm (harm to visual amenity and character of the A59 transport corridor) when substantial weight is given to the harm to the Green Belt. As such very special circumstances do not exist to justify the proposal. The proposal is therefore contrary to Section 9 of the National Planning Policy Framework and policy YH9 of the Yorkshire and Humber Plan and also conflict with Draft Development Control Local Plan (2005) policy GB1: Development in the Green Belt.

2 The application site in area which is open in character and appearance and contributes to the character and setting of the A59 transport corridor. The proposed change of use of the land and the modular unit, by virtue of its location adjacent to a junction on the A59 transport corridor, would be unduly prominent and intrusive in the streetscene in addition to create a cluttered appearance as such the proposed development would fail to respect the character of the area and cause harm to the visual amenity and open character and therefore would conflict with Policy SP3 and GP1 of the City of York Council Development Control Local Plan (2005) and contrary to the core principles and part 7 of the National Planning Policy Framework.

## **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 (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

Considered the applicant's submissions in support of the application.

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

#### **Contact details:**

**Author:** Victoria Bell Development Management Officer

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16/00878/FUL

Poppleton Garden Centre, Upper Poppleton



Scale : 1:1059

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<b>Organisation</b>	City of York Council
<b>Department</b>	CES
<b>Comments</b>	Location plan
<b>Date</b>	03 May 2016
<b>SLA Number</b>	Not Set

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**,COMMITTEE REPORT**

**Date:** 12 May 2016                      **Ward:** Rural West York  
**Team:** Major and                      **Parish:** Nether Poppleton Parish  
Commercial Team                      Council

**Reference:** 16/00179/FULM  
**Application at:** Plot 1B - Call Centre White Rose Close Nether Poppleton York  
**For:** Erection of motor vehicle dealership with associated vehicle  
parking and display  
**By:** Mr Andrew Hodgson  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 13 May 2016  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application site comprises a 0.85 hectare unused plot within the York Business Park. The site is bounded to the east by the East Coast Mainline, to the north by a series of pub and restaurant uses and to the south by an office development. The site is allocated in both the Development Control Local Plan and the (Publication) Draft Local Plan as employment land.

1.2 Planning permission is sought for the construction of a 1863 square metre car dealership building with ancillary servicing and valeting functions and external car parking. The application details have been amended subsequent to submission to clarify the servicing, access and parking arrangements. Further details have also subsequently been submitted in terms of the unsuccessful marketing of the site as employment land.

**2.0 POLICY CONTEXT****STATUS OF THE EMERGING LOCAL PLAN:-**

2.1 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only limited weight. Where relevant and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

The NPPF is the most up to date representation of key relevant policy issues and the proposal should principally be assessed against this policy Framework.

### 3.0 CONSULTATIONS

#### INTERNAL:-

3.1 Public Protection raise no objection to the proposal subject to any permission being conditioned to require appropriate mitigation measures against the impact of plant and operational noise as well as lighting.

3.2 Design, Conservation and Sustainable Development (Ecology) raise no objection to the proposal.

3.3 Planning and Environmental Management initially raised concerns in terms of the loss of employment land. However, the submitted further information in terms of marketing the site demonstrates that all reasonable efforts have been made for employment use without success and as such the issue has been addressed.

3.4 Strategic Flood Risk Management raises no objection in principle subject to the concerns of Yorkshire Water being adequately resolved. 3.5 Highway Network Management raise no objection to the proposal.

#### EXTERNAL:-

3.5 Nether Poppleton Parish Council raise no objection to the proposal subject to the height of the proposed building being restricted to that specified, sufficient parking being provided within the site for staff and visitors and lighting of the site being strictly conditioned.

3.6 Network Rail raises no objection to the proposal subject to any permission being strictly conditioned to safeguard the boundary to the operational railway.

3.7 The Ainsty(2008) Internal Drainage Board object to the proposal on the grounds that the impact of surface water discharge at the suggested rate is untested and that as a consequence it is likely to increase flood risk along a water course already subject to flooding during significant rainfall events.

3.8 Yorkshire Water Services Limited have objected to the proposal on the grounds that the proposed development would impact upon the required easement across the site to secure maintenance access to the surface water sewer and water main crossing the site. The applicant has subsequently submitted a detailed plan which demonstrates that the site can be satisfactorily developed without impinging upon the company's public infrastructure.

3.9 Two letters of representation have been received in respect of the proposed development expressing concern in respect of the proximity of the proposal to the



generator serving an adjacent business and also expressing concern in respect of the need to resolve problems of on-street parking in the locality.

#### **4.0 APPRAISAL**

##### **KEY CONSIDERATIONS:-**

##### **4.1 KEY CONSIDERATIONS INCLUDE:-**

- Employment Land Issues;
- Impact upon Local Biodiversity;
- Impact upon the Local Surface Water Drainage Network;
- Impact upon the safety and convenience of local highway users;
- Sustainability.

##### **PLANNING POLICY CONTEXT:-**

##### **STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN (2005 4th SET OF CHANGES):-**

4.2 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in respect of Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

##### **STATUS OF THE EMERGING LOCAL PLAN:-**

4.3 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only limited weight. Where relevant, and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

4.4 The NPPF is the most up to date representation of key relevant policy issues and the proposal should principally be assessed against this policy Framework.

4.5 Loss of Employment Land: - Central Government planning policy as outlined in paragraph 22 of the National Planning Policy Framework indicates that where there is no reasonable prospect of allocated employment sites being used for the allocated employment use then applications for other alternative uses should be judged strictly on their merits. Whilst the policy may only be afforded very limited weight, Policy EC3 of the (Emerging) Publication Draft York Local Plan(2014) sets out presumption against the loss of land allocated for employment use unless it can

clearly be demonstrated that the site has been marketed for a prolonged period (a minimum of six months) for employment use without any success.

4.6 Impact upon Local Biodiversity:- Central Government Planning Policy as outlined in paragraph 118 of the National Planning Policy Framework indicates that Local Planning Authorities should seek to safeguard local biodiversity by ensuring that where significant harm arising from a development can not be avoided that it is adequately mitigated and that if that is not possible that planning permission should be refused. Whilst the policy itself may only be afforded very limited weight Policy G12 of the (Emerging) Publication Draft Local Plan seeks to ensure the retention and enhancement of sites of local biodiversity interest within new development proposals.

4.7 Impact Upon Flood Risk:- Central Government Planning Policy as set out in paragraph 103 of the National Planning Policy Framework indicates that in determining planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere.

#### LOSS OF EMPLOYMENT LAND:-

4.8 The application site forms a large undeveloped section of the York Business Park which was given planning permission in the late 1990s for a mix of B1 (business) and B8 (storage and distribution) uses. The proposed dealership whilst including elements of employment use including servicing and repair of cars and commercial vehicles and storage of vehicles for sale and awaiting repair would represent a change of use outside these use classes to a sui generis use and a loss of land for employment development. However, Officers consider that there are material considerations which justify the proposed dealership. The northern section of the Park has a concentration of car dealerships of some long standing, at the same time planning permission was very recently given for similar proposal by Arnold Clarke on a nearby site ref:-15/01307/FULM. The applicant has an existing dealership at Monk's Cross and the proposal is seen as necessary to deal with a significant increase in demand for the range of Fiat/Alfa Romeo and Jeep cars traded there and is thus a significant expansion of a business already present within the City. The applicant has indicated that the proposal if implemented would be their principal trading outlet within the wider locality and would employ, ultimately some 40 full time staff with other posts created in the locality for suppliers. The site was historically the site of an Outline Planning Permission for offices from 1999 and then speculatively for a Call Centre in 2006 but these were never implemented and have since expired. The site has subsequently been marketed unsuccessfully for employment use since 2006 as confirmed by additional information submitted by the applicant and evidences by marketing material available on the property agents' websites. As such the proposal is felt to be acceptable in terms of the loss of employment land and in terms of the other economic development benefits it would bring.

#### IMPACT UPON LOCAL BIODIVERSITY:-

4.9 The site represents a good example of semi-improved natural grassland providing an important habitat for several important wild flower species such as the creeping cinqfoil and tufted vetch along with the small tortoiseshell butterfly. It is more importantly a foraging habitat for the kestrel. The Clifton and Rawcliffe Ings SSSIs lie within 700 metres to the east and south east of the site beyond the East Coast Main Line. Other sections of the Business Park to the south and south west have been designated as a SINC (Site of Interest for Nature Conservation) on the basis of the richness of their grassland habitat. However, the application site has not been so designated and providing the proposed landscaping to the site boundaries is executed as indicated and the level of lighting is controlled by condition attached to any planning permission, then the development is felt to be appropriate in terms of its impact upon local biodiversity.

#### IMPACT UPON THE LOCAL SURFACE WATER DRAINAGE NETWORK:-

4.10 Concern has been expressed by the local Internal Drainage Board in respect of the proposed attenuated rate of surface water run-off from the site of 3.5 litres per second which they feel would harmfully increase water levels in the nearby water course they maintain and which has been subject to episodes of flooding during severe rainfall events. The applicant has submitted a detailed surface water drainage scheme which indicates that surface water run-off from the proposal would be attenuated within the site prior to discharge to the nearby Yorkshire Water surface water sewer and ultimately a local water course maintained by the Ainsty IDB and the River Ouse. It is felt that the proposed rate of run off for the site is the lowest that may be practically achieved and one which is entirely consistent with that previously suggested for the nearby Arnold Clark site. As such it is felt that the surface water drainage scheme is acceptable and that the requirements of paragraph 103 of the National Planning Policy Framework can be complied with.

4.11 Concern has been expressed by Yorkshire Water Services Limited in respect of the relationship of the proposed building complex to the required easement associated with their surface water sewer and operational water main which cross the site. However, the applicant has submitted a detailed plan which is able to demonstrate that the proposed development would be carried out to allow for the provision of the appropriate 4 metre easement to either side of the centre line in respect of the surface water sewer and 5 metres in respect of the water main. As such the development is felt to be appropriate in terms of its impact upon public infrastructure, subject to confirmation from Yorkshire Water.

## IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.12 Concern was initially expressed in respect of the access and servicing arrangements to the site and the level of additional traffic flows anticipated on the local highway network. Subsequently the applicant has submitted a detailed travel plan along with clarification in terms of the proposed servicing arrangements. The proposed parking and servicing arrangements are felt to be acceptable with cycle and vehicle parking in line with the adopted standards. It is felt that the overall level of traffic generation would be significantly below that previously anticipated in respect of the approved call centre use with a high incidence of "linked trips" in terms of both retail and service customers. It is felt that the local road network within the Business Park and adjacent section of the A1237 outer ring road would clearly be able to accommodate the additional levels of traffic generated.

## SUSTAINABILITY:-

4.13 The applicants have submitted a detailed BREEAM pre-assessment report indicating that the scheme has been designed to achieve a BREEAM rating of "very good". Energy use would be approached through a "fabric first" design response with enhanced energy controls and insulation. Potable water use would be reduced by 25% compared with their existing operation. Welfare and shower facilities would be provided to encourage staff members to cycle and a "sustainability champion" would be appointed for the site. A sustainable travel plan would also be prepared. The proposal is therefore felt to be acceptable in sustainability terms.

## 5.0 CONCLUSION

5.1. It is accepted that this longstanding vacant site has been marketed unsuccessfully for the previously permitted employment use for a significant length of time, and that therefore it can be concluded having regard to the NPPF that there is no reasonable prospect of this allocated employment site being used for the employment use. The current proposal therefore needs to be considered on its own merits. At the same time the proposal would not materially harm local biodiversity and is acceptable in terms of its impact upon the local surface water drainage network and local public drainage infrastructure. The proposal is also felt to be acceptable in highway terms. Approval is therefore recommended.

## COMMITTEE TO VISIT

### 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:-

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Item No: 4e

Drawing Refs:- 539-07C; SK001 P1; SK002 P1; 539-01; 539-02; 539-03; 539-04; 539-05; 539-06.

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

3 VISQ8 Samples of exterior materials to be app

4 VISQ4 Boundary details to be supplied

5 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees, shrubs and hard landscaping. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

6 HWAY11 Initial 10m of access surfaced

7 HWAY14 Access to be approved, details reqd

8 HWAY18 Cycle parking details to be agreed

9 HWAY19 Car and cycle parking laid out

10 HWAY37 Control of glare etc from lighting

11 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans (ref:- SK 001 P1 and SK 001 P2). Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

12 LC4 Land contamination - unexpected contam

13 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval prior to the commencement of works on site above foundation level. These details shall include maximum sound levels (LA max(f)) and average sound levels (LA eq), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. 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 background noise level 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. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

Reason: To protect the amenity of local residents

14 Prior to commencement of the development, an Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. 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).

For dust details should be provided on measures the developer will use to minimise dust blow off from site, i.e. wheel washes, road sweepers, storage of materials and stock piles, used of barriers, use of water bowsers and spraying, location of stockpiles and position on site. In addition I would anticipate that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any).

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.

Reporting and investigation measures should also cover any pollution/discharge incidents affecting the adjacent open drain.

In addition to the above I would also expect the CEMP to 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.

Reason. To protect the amenity of local residents

15 NOISE7 Restricted hours of construction

16 Prior to the undertaking of construction works above foundation level a full Lighting Impact Assessment undertaken by an independent assessor detailing predicted light levels at neighbouring residential properties including a description of the proposed lighting, a plan showing vertical illuminance levels (Ev) and all buildings within 100 metres of the edge of the site boundary, shall be submitted to and agreed in writing by the Local Planning Authority. Such details shall include all necessary mitigation measures to lessen impact from lighting upon the surrounding areas including the adjacent wildlife habitat and shall be provided in full before the development is first brought into use and maintained thereafter.

Note: Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone

E3 contained within the following table taken from the Institute of Light Professionals Guidance Notes for the Reduction of Obtrusive Lighting.

Environmental Zone Ev [lux]	Sky Glow ULR [Max %]			Light Intrusion (into windows) Building Luminance Pre-curfew		
	Pre-curfew	Post- curfew	Average L [cd/m2]	Pre-curfew	Post- curfew	Average L
E0	0	0	0	0	0	0
E1	0	2	0	2,5000	0	
E2	2.5	5	1	7,500500	5	
E3	5.0	10	2	10,000	1,00010	
E4	15	25	5	25,000	2,50025	

ULR = Upward Light Ratio of the Installation is the maximum permitted percentage of luminaire flux that goes directly to the sky

Ev = Vertical Illuminance in Lux- measure flat on the glazing at the centre of the window

I = Light intensity in Candelas (cd)

L = Luminance in Candelas per Square metre (cd/m2)

Curfew = the time after which stricter requirements for the control of obtrusive light apply, this is generally taken as 23:00

Reason:-To protect the amenity of the area and adjoining land uses

17 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.



18 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority.

Design considerations.

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soak away, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided to discount the use of SuD's.

If SuD's methods can be proven to be unsuitable then In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak surface water run-off from Greenfield developments must be attenuated to that of the existing rate (based on a Greenfield run off rate of 1.40 l/sec/ha).

Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

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

## **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 (paragraphs 186 and 187) 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:

i) Sought clarification in respect of the location of the proposed building works relative to the necessary maintenance easement for the public water main and surface water sewer;

ii) Sought clarification in respect of the detailed access, parking and servicing arrangements within the site.

## 2. NETWORK RAIL INFORMATIVE:-

By virtue of the proximity of the site to the railway line Network Rail have the following requirements:

### Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

## ENCROACHMENT

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

### Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

### Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. In this instance, the proposed development borders access to a bridge under the railway along its south eastern boundary and this access must remain open and

unobstructed at all times both during and after construction at the site.

Network Rail is required to recover all reasonable costs associated with facilitating these works.

**Contact details:**

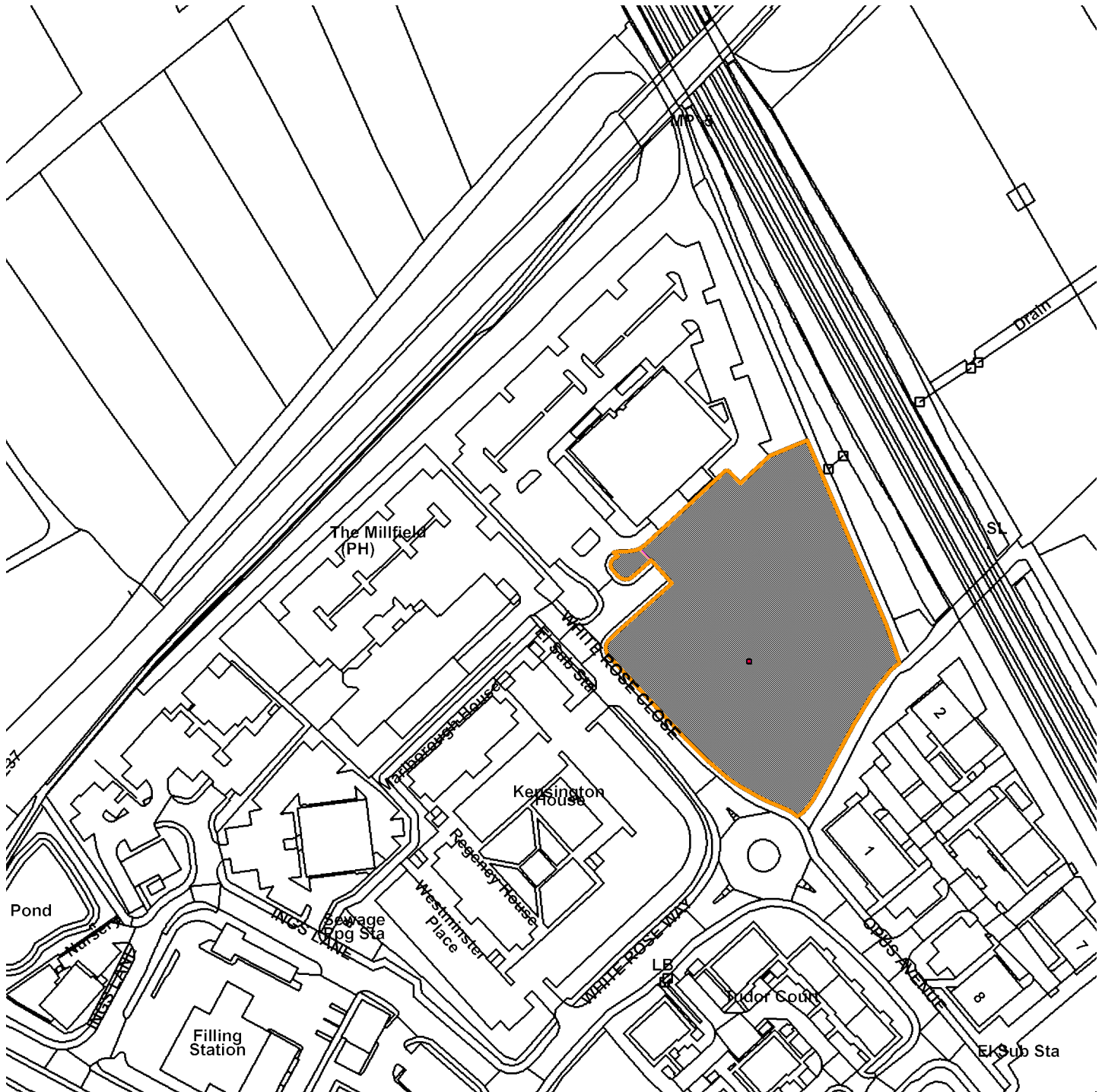
**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

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16/00179/FULM

Plot 1B, White Rose Close, Nether Poppleton



Scale : 1:2119

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<b>Organisation</b>	City of York Council
<b>Department</b>	CES
<b>Comments</b>	Location plan
<b>Date</b>	03 May 2016
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 12 May 2016  
**Team:** Major and Commercial Team  
**Ward:** Guildhall  
**Parish:** Guildhall Planning Panel

**Reference:** 15/02155/FULM  
**Application at:** Fire Station 18 Clifford Street York YO1 9RD  
**For:** Demolition of buildings in the conservation area and building works to create 7no. dwellings and restaurant (Class A3) with 7 flats above  
**By:** Mr David Chapman – DC Architecture  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 29 April 2016  
**Recommendation:** Approve subject conditions and completion of a section 106 agreement and referral to the Government Office (unless Historic England withdraw their objection)

**1.0 PROPOSAL****APPLICATION SITE**

1.1 The application relates to the former fire station site which extends the length of Peckitt Street, between Clifford Street and down to the esplanade. The fire station was established on the site in 1935. It incorporates the gable end elevation of the former Methodist Trinity Chapel which dates from 1856, its attached Sunday school and the 'lodge' building at the bottom of Peckitt Street. There are also two single storey buildings on site and the law courts have a right of access through the site. The buildings have been vacant since the fire service relocated to Kent Street in 2014.

1.2 A Franciscan Friary was founded on the site in around 1230, the South-West boundary wall of which remains at the end of Peckitt Street.

1.3 The site overlooks the river at the SW end and is between listed buildings; the Magistrates Law Court (including accommodation which overlooks the river) listed at grade II, and the C19 terrace along Peckitt Street/Tower Street also listed at grade II.

1.4 The site is within the Central Historic Core Conservation Area and the City Centre Area of Archaeological Importance. Clifford Street was constructed in the 1880's to relieve congestion on Castlegate. It is characterised by C19 red brick civic architecture.

## PROPOSALS

1.5 The application has been subject to revisions following two rounds of consultation. It is now proposed to retain the former chapel and school facades but the 'lodge' it is still proposed to demolish.

1.6 Behind the retained chapel facade there would be a replacement building of the same shape but of a larger scale. In-front of this building there would be a two-storey colonnade fronting Clifford Street. The building would accommodate a restaurant and 7 apartments.

1.7 Behind the school house facade would be a pair of dwellings. A third dwelling would be positioned to the side. The buildings would be 3-storey with accommodation in the pitched roof. The access into the law courts would remain. This would also provide access to the car parking for the apartments, some of which would be in a semi-basement, which can be accommodated as the houses need to be elevated so they are protected from flooding.

1.8 Fronting the river would be a row of 4 dwellings. These would be of traditional design and their height aligned with the terrace along South Esplanade.

1.9 The houses would all have 4 bedrooms; there would be 5 x 2-bed apartments and 2 3-bed apartments.

## 2.0 POLICY CONTEXT

### 2.1 Legislation and National Policy

Planning (Listed Buildings and Conservation Areas) Act 1990

- Section 66 Statutory duty to have special regard to the desirability of preserving the setting of listed buildings.
- Section 72 Statutory duty that within a Conservation Area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

National Planning Policy Framework (NPPF)

The NPPF is the most up to date representation of key relevant policy issues and it is against this policy Framework that the proposal should principally be addressed:

- Chapter 1 Building a strong competitive economy
- Chapter 2 Ensuring the viability of town centres
- Chapter 4 Promoting sustainable transport
- Chapter 6 Delivering a wide choice of high quality homes
- Chapter 7 Requiring good design
- Chapter 12 Conserving and enhancing the historic environment



## 2.2 Draft 2005 Local Plan (4<sup>th</sup> set of changes) DCLP

This was approved for development management purposes in 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.

## 2.3 Relevant Draft Local Plan 2005 Policies:

CYSP6	Location strategy
CYGP1	Design
CYGP3	Planning against crime
CYGP4A	Sustainability
CYGP4B	Air Quality
CYGP15	Protection from flooding
CYH4A	Housing Windfalls
CYHE2	Development in historic locations
CYHE10	Archaeology
CYHE3	Conservation Areas
CYED4	Developer contributions towards Educational facilities
CYL1C	Provision of New Open Space in Development

## 3.0 CONSULTATIONS

### INTERNAL

#### Environmental Management

#### Conservation

3.1 Comments from Conservation following revisions to the scheme will be reported at Committee.

#### Archaeology

#### Background

3.2 On 31<sup>st</sup> March Historic England wrote to City of York Council stating that “the report on the archaeological evaluation exercise provided by YAT falls short of establishing the character and condition of the archaeological deposits.” Historic England highlighted the lack of information about: the potential “halo” effect of below ground structures into waterlogged deposits; the design of the sub-surface car-park and the design of the foundations. Historic England concluded that the “creation of a below ground car park represents unjustified and substantial harm to nationally important heritage assets.” On this basis, Historic England objected to the proposal.

3.3 Historic England point to the release for consultation in 2015 of a draft guidance document “Preservation in situ, condition assessment and monitoring Historic England guidance”. The document suggests that for sites where waterlogged deposits are present, applications for development should include the following actions:

- Early consideration of preservation *in situ*;
- Staged condition assessment – more information at each stage;
- Staged assessment of water levels and availability;
- Continuous process of evaluation of development impacts;
- Decision to preserve in situ or not;
- Review of mitigation options including monitoring.

3.4 The applicants have provided a scheme of investigation (by York Archaeological Trust & dated 25.4.2016) to address the concerns raised by HE. Referred to in comments as the WSI

3.5 The WSI sets out the foundation design for the development and quantifies the direct impact the foundation design and sub-surface car-parking and water attenuation facilities on archaeological deposits.

3.6 The basement car park excavation will impact on 19th/20th century activity (including demolition and levelling material and foundation structures); post-medieval garden soils; and medieval build-up and land reclamation. Within these deposits may survive the following archaeological remains: structural elements of the 19th century Methodist chapel and associated structure; residual fragments of demolition material from the Franciscan Friary within the later garden soils; in-situ remains of Friary structure and associated deposits.

3.7 The potential waterlogged organic deposits identified in the evaluation lie below the formation depth of the basement car park and therefore none of these deposits will be removed by the car park excavation. The waterlogged deposits will be perforated by a total of 148 piles. 1.7% of the potentially waterlogged organic deposits will be directly affected by piling, and the potential waterlogged deposits lie well below the formation depth of the below-ground structures.

3.8 The WSI proposes a further borehole evaluation that will determine the extent, condition and character of the deposits identified in the archaeological evaluation as potentially containing waterlogged organic material and to undertake a programme of water-level monitoring to determine the impact of the development on these deposits.

3.9 The applicant has requested that the WSI and any further mitigation works be covered by a condition or conditions on any planning consent that is might be granted. Historic England have indicated by email to York’s City Archaeologist that

it will need to see the results of the water monitoring work, so until such time as the work is completed, HE maintain their current position on this application.

### *Assessment and Recommendation*

3.10 The development as described in the WSI meets the requirements of City of York Council's archaeology policy: development will normally be allowed where it destroys less than 5% of the archaeological deposits within the application site.

3.11 The inclusion of a basement car park means that far more than 5% of archaeological deposits on this site will be destroyed. However, the deposits that are directly affected by the basement car park are all of low archaeological significance. The loss of these deposits can be mitigated through selective archaeological excavation and monitoring of level reductions through an archaeological watching brief.

3.12 The direct impact by piles for the development on the nationally significant waterlogged deposits will be no more than 1.7%. This would be compliant with local planning policy and would therefore normally be acceptable.

3.13 However, City of York archaeological policy does not take regard of the emerging Historic England guidance on in-situ preservation. The emerging guidance has been through a process of public consultation but has not been released as formal Historic England guidance. Historic England's assessment and comments on this application reflect their emerging guidance document.

3.14 The WSI sets out a programme for assessing the condition of the waterlogged deposits and describes a programme that will monitor groundwater conditions. If this work is carried out to discharge a condition on a planning consent, additional provision will have to be made to allow mitigation work in the future if monitoring indicates that the deposits are in an accelerated state of decay as a consequence of development taking place on the site.

3.15 Historic England have indicated that it wishes to see the WSI implemented and the results of the condition survey and monitoring made available before this application is determined.

3.16 The archaeological position is therefore complicated. All parties agree that further archaeological information on the condition of the waterlogged deposits is required. Historic England state that this must be provided before a decision is made. The applicant will undertake the work but wants the work carried out post-determination.

3.17 Despite the objection by Historic England, officers are prepared to recommend to Development Management and Members that this application is approved subject to the following non-standard and standard conditions:

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Item No: 4f

- No development shall take place until the applicant has
  - (a) submitted letter of appointment/contract to the Assistant Director (Planning and Sustainable Development) evidencing the implementation of the WSI
  - (b) submitted a report to City of York Council and Historic England on the results of the scheme described in (a) above
  - (c) submitted details of mitigation measures that will be implemented if the report required by (b) above indicates nationally significant waterlogged deposits are in a very poor condition and that development will lead to an accelerated rate of decay of the deposits
  
- Standard conditions which require an Archaeological Excavation, Watching Brief and for the agreed foundation design to implemented.

### Education Services

3.18 Officers advise a contribution would be required towards one of the secondary schools in the catchment area. A contribution is requested towards the Kitchen & Dining expansion project at Fulford School. The contribution would be £15,946.12.

### Public Protection

#### Noise

3.19 Officers have assessed the noise assessment submitted. They advise that the attenuation required (up 35dB to achieve adequate average noise levels during the night time) would provide suitable internal noise levels and should be secured through a planning condition. Based upon the noise report there would be events where maximum noise levels would exceed the recommended 45dB max during the night-time. National standards (BS8233) explain the extent that such events are reasonable and with the mitigation proposed these standards would be met. Officers ask for a condition which requires that any plant and machinery introduced on site does not exceed current background noise levels.

#### Air Quality

3.20 The site is adjacent to City of York Council's existing Air Quality Management Area (AQMA). Recent monitoring by CYC has shown that concentrations of nitrogen dioxide have been below health based standards at this particular location on Clifford St for the last 4 years. As such sealed glazing would not be necessary for habitable rooms (bedrooms / living area) to the Clifford St facade. However, the developer may wish to consider a ventilation strategy for apartments with window openings to the Clifford Street facade to allow ventilation of the rooms without having to rely on opening windows.

3.21 To promote the use of low emission vehicles, as required by the National Planning Policy National Planning Policy Framework, officers recommend that a planning condition requires the dwellings have electric vehicle charging facilities installed.

#### Odour

3.22 A planning condition is recommended to ensure cooking smells/odour from the restaurant do not have an adverse effect on amenity.

#### Contaminated land

3.23 Given the history of the site and its former uses it is possible that contamination of the site may have occurred. A planning condition is recommended which would require a site investigation and if necessary implementation of a scheme of remediation.

#### Construction

3.24 Officers ask for there to be a construction management plan agreed, in the interests of residential amenity.

#### Flood Risk Management Team

3.25 Comments pending

#### Highway Network Management

3.26 Manual for Streets promotes the improvement of public realm in order to make walking both enjoyable and practical. Officers would like to see a 3m wide footpath through the site with a kerb instated along Clifford Street. Preference would be for a high quality surfacing such as Yorkstone and for the footpath to be adopted (which would be undertaken through the Highways Act)'; the current adopted highway is approx 2.5m wide in front of the former fire station. The works would also provide an improved crossing over Peckitt Street. Any street trees and their root protection area should be within the application site and not on the footpath, to ensure adequate pedestrian space and to avoid future damage to the footpath.

3.27 Vehicular swept paths for the movements in and out of the Peckitt Street access (which is being narrowed) for prisoner vehicles was requested to assess any impact on the residents parking bays when accessing the narrower access way.

3.28 Contributions as follows were requested:

- Cycle voucher/ bus pass for first occupants (to the value of £160 per dwelling)
- City Car club contributions for first occupants (to the value of £160 per dwelling)
- £5k towards Traffic orders including removal of the proposed site from R11

Residents parking zone

## Lifelong Learning and Leisure

3.29 A contribution is requested to improve sports facilities in the catchment area – a project to improve access to Rowntree Park "tennis" pavilion for the benefit of the Tennis and Canoe Clubs. No off site contributions towards children's play or amenity open space payment are requested, as no projects have been identified in the catchment area where a Community Infrastructure Levy (CIL) Regulations compliant contribution could be sought.

## EXTERNAL

### Canal and Rivers Trust

3.30 The trust made comment on the elevation facing the river. With regards the design, they recommend that the roof form be in keeping with the traditional forms and materials characteristic with the conservation area. They thought that on the 1st revised set of plans there was too much glazing on the facade.

### Conservation Areas Advisory Panel

3.31 The Panel commented on the original scheme. They considered that the proposed building on this very important site was too high, would detract from the conservation area and would erode the character of Peckitt Street. The demolition of the remnants of the Chapel should be resisted whilst the retention of the forecourt area would maintain the important vistas of the Magistrates' Court.

### Environment Agency

3.32 The agency initially objected to the proposals on the grounds that part of the site is within a flood zone - 3a(i) where York's Strategic Flood Risk Assessment (SFRA) states that 'more vulnerable' development is not acceptable.

3.33 Because the council confirmed that there are material considerations which could justify a departure from the guidance within the SFRA and that the sequential test has been passed, the agency agreed to consider the scheme and assess the site specific flood risk assessment provided.

3.34 The agency no longer object to the proposals, subject to a condition that the development accords with the FRA, in particular that the compensatory flood storage is provided, that finished floor levels (to habitable rooms) be no lower than 11.2AOD, and the provision of floodgates.

3.35 In circumstances where warning and emergency response is fundamental to managing flood risk, the agency advise local planning authorities to formally

consider the emergency planning and rescue implications of new development in making their decisions.

#### Guildhall Planning Panel

3.36 No comments have been received.

#### Historic England

##### *Archaeology*

3.37 HE currently object to the scheme and consider that a full investigation of the impact on waterlogged deposits should be concluded prior to determination.

3.38 HE had asked for more information, to enable an understanding of the impact on archaeology; waterlogged deposits (which implies a high degree of preservation) of national significance. Development affecting the deposits could have a halo effect which would dry out and damage and HE considered there was inadequate information to understand the impact of the proposed basement car parking and piling.

3.39 A written scheme of investigation was prepared and submitted to HE for comment. The scheme concludes that further investigation would be required to fully understand the impact on waterlogged deposits (which would inform mitigation). HE have advised the council's archaeologist that their position remains that they object to the scheme, as they consider this further investigation should be carried out prior to determination of the application.

##### *Architecture*

3.40 HE commented on the revised scheme in March. They advised that they welcomed the retention of the former chapel and school facades and were content with proposals for the Clifford Street elevation.

3.41 HE noted that the riverside setting could be improved by replacement of the single storey building with something of more visual interest. They continued to question the loss of the 'lodge' and would prefer its retention. The detailing on the riverside elevation has been revised to address the HE preference that new development in this area complimented the domestic character of architecture on this side of the river.

#### Police Architectural Liaison Officer

3.42 The proposed entrance to the apartments is in a secluded area at the side of the law courts. Officers recommend the entrance be gated, well-lit and covered by CCTV. They also recommend the basement car park has controlled access.

## Victorian Society

3.43 The society provided comment on the first revised set of plans. The society maintained their original objection to the scheme, which they consider would fail to preserve or enhance the character and appearance of the York Central Area Conservation Area.

3.44 The proposal to retain the vestiges of the former Trinity Chapel is welcomed; a sympathetic and successful redevelopment of the fire station site is impossible without the incorporation of this significant architectural fragment. However issues remain with the height, massing and architectural treatment of the new work.

- The new element is of a dominant scale and subsequently detracts from the importance and setting of the retained facade and obscures views of the Law Courts. The charm and interest of the group's historic roofscape would be substantially eroded by the increased scale and comparatively heavy massing this scheme would introduce behind the principal new building.
- A preference would be for reinstatement of the rose window on the chapel.
- Concerns remain over the architectural treatment of the proposed Clifford Street elevation. The design resembles a type of large scale generic commercial building which is not commensurate with the quality and craftsmanship of the historic fabric to which it would be attached.
- Object to the demolition of the 'lodge'. The lodge is an attractive building and makes a positive contribution to the special interest of the Conservation Area. Its loss would be detrimental to the significance of the conservation area and it would also harm the setting of adjacent listed buildings and structures. Despite the additional information that has been submitted in support of its proposed demolition the society remains unconvinced that the lodge could not relatively simply be retained.

## York Civic Trust

3.45 Comments on the 1st revised scheme were as follows -

- The trust welcomed retention of the former chapel facade but considered the new buildings would be too high in places; the massing of the new buildings is out of proportion to the site; and the quality of architecture shown is not considered to be of sufficient high quality to preserve or enhance the wider conservation area. It is considered the step up in scale immediately behind the former chapel facade is too drastic and dwarfs the scale of the retained structures.
- The design of the proposed buildings are deemed inferior when compared with the historic fabric around. The architectural and design quality of this area of the city has a character which is distinctively high quality Georgian and Victorian, and



the proposals are not distinctively high-quality 21st century. The trust feels that the quality of the Conservation Area would be diminished.

- There was a Franciscan monastery on or near this site: the planning decision should not be taken without a full consideration of the archaeological effects.

## Yorkshire Water

3.46 It is understood that a watercourse exists adjacent to the site. This option should be thoroughly investigated. Alternatively, on-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted.

## Publicity

3.47 The original scheme and the revised proposal dated 16.2.2016 (which reduced the scale of the proposed buildings and introduced the basement car park) were the subject of public consultation.

3.48 Some 32 letters of support for the re-development of the site and the scheme proposed have been received. The letters welcome regeneration of this area and support a development which is predominantly residential.

3.49 Consultation feedback on the 16.2.2016 scheme were as follows -

## Design / amenity

- Development along Peckitt Street would be over-bearing and lead to a loss of light to the buildings opposite. Neighbouring occupants have suggested a mansard roof would be more appropriate, to mitigate the impact.
- Preference for the restaurant entrance to be from Clifford Street, to avoid noise and disturbance along Peckitt Street.
- Preference for the colonnade to the restaurant to be clad in brick rather than stone.
- The riverside elevation should be more respectful of neighbouring houses on this side of the river.
- Preference for retention of the lodge and former school buildings; the heritage assessment concludes that both of these buildings are undesignated heritage assets that contribute to the character and appearance of the conservation area. The Sunday school building is externally virtually intact as a historic structure, the Lodge building entirely so externally, and retaining a very fine Victorian interior. At this time the proposals do not meet the required test within planning legislation as there would be harm to the conservation area.

## Objection from Save Britain's Heritage

- Revisions, including the retention of the Trinity Chapel facade are positive and welcomed. The revised proposal for the fire station building is also an

improvement on that which was originally submitted. However SAVE continue to have concerns about this part of the proposal, notably its massing and height.

- The existing fire station building, whilst having little architectural value in its own right, successfully defers to the neighbouring Grade II listed Magistrates Court. The current proposal by contrast seeks to be much more dominant in its environment, rising to a height which detracts from the setting of the Magistrates Court and draws focus away from it.
- Reinstatement of the original rose window in the southern gable wall of the former Trinity Chapel would be a positive addition.
- Object to the demolition of the riverside lodge, which is a handsome building with considerable townscape value. The issues relating to flooding are noted but Save believe that these can be alleviated without requiring the demolition of the lodge; flooding is a problem for all buildings along this stretch of the river, including numerous 18th and 19th century ones in close proximity to the lodge.

#### Flood risk

- Advice that neighbouring houses which have a similar finished floor level to the lodge have been able to incorporate adequate flood defences and secure insurance for their buildings. As such it should be possible to protect and retain the 'lodge' which is a building of merit.

#### Highway safety

- Desire for traffic calming to slow vehicles approaching Clifford Street from Tower Street.
- There should be at least 1 car parking space per unit. Concern there is already a lack of available car parking in the local respark area.

Objections to the original, now superseded scheme were as follows -

#### Residential amenity

- Loss of amenity to Peckitt Street terrace due to loss of sunlight, overlooking, loss of privacy

#### Architecture / design

#### Objection to the proposed buildings

- The scale of the building puts it in competition with the listed court house where as smaller building would not impose on it. If this is the scale for the building that is desired or required for this elevation then much greater ambition and elegance should be aspired to and some visual interaction on a human scale at street level is much needed.
- The octagonal features on either corner of the development seem to be a reference to similar shaped structures on the municipal building next to which this

development will stand (the court building). It seems strange that when designing what is largely a residential development the architect has looked to a large municipal building for architectural reference rather than the surrounding residential buildings. The "turrets" are an affectation which whilst they reflect, in plan, structures nearby they have none of the style or grace of those structures.

- The modern design with its monolithic turrets just isn't architecturally sympathetic to York and the existing period homes, buildings and surrounding conservation area. It smacks of commercial gain over preservation of the city's architectural heritage and image.
- The building lacks interest at street level, in particular along Clifford Street. It has no distinguishable entrance.
- The balustrade designs, are out of keeping with the other metalwork on the project (e.g. railings at street level on Peckitt st), they are over fussy, and look like an affected attempt at modernity which gives a disjointed look that will date badly.
- This site presents an opportunity to build something beautiful and interesting in a high quality and historic setting. It is clear that the plans for this building will offer nothing of any architectural excitement but instead the design is pastiche and dishonest. It is suggested new design should be honest and sympathetic to its setting. The Hiscox building at Hungate is cited as an example of such. This development is not.
- The row of houses proposed is of undue scale, designed to maximise the amount of development. It fails to relate to the topography and varied roofline of the setting and will over-shadow the street. The use of stone cladding for the entire first floor is not in keeping with other residential property in the immediate area and is out of place here.
- External roof terraces are out of keeping with the area, in particular Peckitt Street and will have an adverse effect on privacy

#### Loss of buildings of merit

- There is significant aesthetic and historic merit in the existing façade of the (former chapel) building facing Peckitt St and also, to a lesser degree, the lodge building. They both make a positive contribution to the visual amenity of the area and both are in keeping with their surroundings. The fact that these structures are not listed does not mean they are without merit. This is a conservation area and it must be satisfied replacement building would be appropriate.
- The statement that the 1930s fire station has no architectural merit, which is hugely subjective and many would argue it most certainly does. It is an

interesting and appropriate scale addition to the street scene which incorporates earlier architectural features in a way that the current developer and architect seem unable to consider.

- Clifford Street is a Victorian set-piece of civic architecture; buildings include the Magistrates' Court, Fire Station, Police Station and Technical Institute. Replacing early Victorian architecture with a large modern building would be detrimental to not only the development site, but the feel of the street, which is an important approach to the historic city centre. In particular, the chapel facade has a positive effect on the setting; it complements the listed neo-Gothic magistrates' court it sits beneath.
- An 'iconic' view of the city is from the River Ouse. The gothic-style 'lodge building' enhances its surroundings from this perspective, whereas a modern building would be to the detriment of the historic buildings around it (mostly Georgian and Victorian).

#### Impact on highways

- There is a lack of parking and therefore demand for on street parking (zone R11), which already has limited numbers. The houses only have one space, but are large houses and typically garages are used for storage. There are only 2 spaces for the 5 flats.
- It is asked how traffic will be managed, what works will be undertaken to improve the quality of the road surface and whether there could be traffic calming at the junction with Tower Street to reduce vehicle speeds.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES

- Development in principle
- Flood Risk
- Heritage Assets (conservation area / archaeology)
- Residential Amenity (noise / air quality)
- Highway Network Management
- Sustainable design and construction
- Planning Gain (open space / education)
- Designing out crime

### DEVELOPMENT IN PRINCIPLE

4.2 The application site is presently vacant. The fire station was relocated to Kent Street in 2014. The 'lodge' building at the end of Peckitt Street was absorbed into the fire station complex in the 1970's and was used as offices. The site is outside

the central shopping area, as defined in the 2005 Draft Local Plan, but within the defined city centre area.

4.3 Because the site is in a sustainable city centre location and is now regarded as 'previously developed land', the re-development proposed accords with the National Planning Policy Framework (NPPF), in particular paragraph 51 which advocates bringing back into residential use empty housing and buildings. The restaurant use is an appropriate city centre use based upon the advice in section 2 of the NPPF; Ensuring the vitality of town centres.

4.4 As such provided the development is regarded as being sustainable then it should be supported. In making such a judgement this requires assessment against policies within the NPPF, which states that permission should be granted unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted, in particular those relating to designated assets and locations at risk of flooding.

## FLOOD RISK

4.5 According to the Environment Agency maps, the former chapel building and the forecourt to the front are in Flood Zone 2 and the rest of the site zone 3. According to national policy the uses proposed can be allowed in flood zone 3 provided that, in respect of the houses, the sequential and the exception tests have been passed.

4.6 However the part of the site beyond the southwest side of the former school building is locally designated (in the York Strategic Flood Risk Assessment) as being within Flood Zone 3a(i), where there is an annual probability of flooding of up to 1 in 25-year (4%) or greater. The assessment advises against residential development in Flood Zone 3a(i).

4.7 Because the site is previously developed and sensitive regeneration would benefit heritage assets, provide needed housing and enhance the viability of the city centre officers have taken the view that provided it is satisfied that the sequential and exception tests can be passed then there would be material planning considerations to justify deviation from the York Strategic Flood Risk Assessment in this case.

### Sequential test

4.8 The aim of the sequential test is to keep development out of flood zones 2 and 3 where possible. National Planning Guidance gives the following relevant advice on the sequential test ;–

*“the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives”.*

In this case the site has historically been developed and accommodates a group of buildings and hard-standing. The site is vacant/previously developed and in a prominent city centre location, being viewed in its riverside setting, along a main route through the city centre and from Clifford’s Tower. Re-development, bringing homes which the city needs, is desirable; to leave the site vacant would harm the appearance of the conservation area. York does not at this time have an NPPF compliant demonstrable housing land supply. It is on all these grounds that, considering the aforementioned national guidance, the sequential test is considered to be passed.

#### Exception test

4.9 For the Exception Test to be passed: it must be demonstrated that a) the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and b) a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

4.10 A sensitive re-development of the site, which is not harmful to designated heritage assets, provides much needed housing and does not have an undue impact on residential amenity and highway safety would amount to a wider sustainability benefit.

4.11 The site specific FRA demonstrates the site would be safe from flood risk for its lifetime and would not increase flood risk elsewhere

- There would be no increase in flood risk elsewhere as there would be an increase in on site flood water storage. Modelling shows that currently there is 206m sq floodwater storage where there is hard-standing. The amount on site would be increased, and this would primarily be accommodated below the buildings which are proposed to front onto the river.
- The development would be safe for its lifetime. It would have flood resilient construction and main living accommodation would be set above the 1 in 100 year flood event, as recommended by the Environment Agency; the finished

ground floor level for the restaurant and houses along Peckitt Street would be at 11.2AOD, some 800mm higher than the December flood levels, the ground floor of the riverside block would be lower at 10.00AOD but the lower level would be used for car parking/storage only. The scheme would have flood gates, which would enable access and egress, via Clifford Street (where ground levels are higher than 11 AOD) during a flood event.

4.12 There is adequate evidence that the sequential and exception tests can be passed. The measures within the FRA would be secured through a planning condition, as recommended by the Environment Agency.

## IMPACT ON HERITAGE ASSETS

### Policy background

4.13 The buildings are within the Central Historic Core Conservation Area and there are listed buildings within the immediate setting; the law courts and the buildings along Peckitt Street. Clifford's Tower is a Scheduled Monument.

4.14 Of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) the following sections set out the statutory tests that must be applied when considering this planning application:

- Section 66 requires the Local Planning Authority when determining planning applications for development that affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- Section 72 requires the Local Planning Authority when determining planning applications for development within a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

4.15 Case law has made clear that when deciding whether harm to a designated heritage asset is outweighed by the advantages of a proposed development, the decision-maker must give considerable weight to any harm. There is a 'strong presumption' against the grant of planning permission in such cases.

4.16 The NPPG states planning decisions should deliver development which will function well and add to the overall quality of the area. National Planning Policy Guidance advises that in assessment of design, consideration, where appropriate should be given to layout, form, scale, detailing and materials. Paragraph 020 is pertinent to the proposed development. It advises that 'a well designed space has a distinctive character. Distinctiveness is what often makes a place special and valued. It relies on physical aspects such as:

- the local pattern of street blocks and plots;
- building forms;
- details and materials;
- style and vernacular;
- landform

4.17 Distinctiveness is not solely about the built environment, it also reflects an area's function, history, culture and its potential need for change'.

## Assessment

### Clifford Street elevation

4.18 The relevant plans are now revision P09. The corner turret feature, which was on the original plans have now been omitted. Objections to the original scheme were primarily that it was a pastiche; a poor imitation of the law courts and civic architecture, which would harm the setting and not sync with the uses proposed for the building.

4.19 The frontage building would accommodate a restaurant and apartments above. It would extend beyond and above the retained gable end of the former chapel. Its scale would be moderated by a 2-storey colonnade which steps forward and makes the transition in building lines between listed buildings to each side, the law courts and the terrace on Peckitt Street which curves into Tower Street. A forecourt would remain, where the existing setts would be re-used and street trees added.

4.20 The taller part of the building would be set back from the street, behind the main facade of the law courts. It would be of similar scale. The form proposed means that the building would respect the Clifford Street scene and not be too dominant or compete for attention with the law courts. The building would form a back-drop to the law courts in views from Clifford Street. From Tower Street and Clifford's Tower the building would only obscure views of the side elevation of the law court. The main facade and the impressive roofscape of the courts would remain dominant in views.

4.21 The materials would be brick and slate as found in the street, and polished stone, a high quality material used in the detailing.

4.22 The facade of the fire station facing Clifford Street was functional and of its time. It is not in keeping with the vernacular of Clifford Street and nor is it of high architectural interest.

4.23 The colonnade proposed, with a restaurant behind, would give an appropriate scale, building line and vitality to the street. Materials will be appropriate to the setting and street trees would bring relief to the environment which is currently dominated by high density buildings and traffic. The proposed development in this



area of the site would respect the setting. There would be no harm to the setting of listed buildings or the character and appearance of the conservation area. This element of the scheme is compliant with national policies relevant to design and heritage assets..

## Peckitt Street

4.24 The former chapel and Sunday school building facades are in the European Gothic style and date from the mid C19. Both have been regarded by Historic England, the Victorian Society and the applicant's heritage statement as making a positive contribution to the conservation area. There is new brickwork evident on both buildings where alterations have had an adverse effect on the facade. Beyond these are a single storey building and the wide access towards the law courts, also used for car parking.

4.25 The terrace opposite comprises of 3 storey buildings, which step up in scale at the corner with tower Street. Otherwise the buildings have a lower eaves level and are setback behind forecourts which are around 2m deep.

4.26 The street scene is weakened by the gap in the street between the school building and the lodge, which exposes the service yard and rear elevations and additions of low quality. The single storey flat roof building at the side of the lodge also detracts from the conservation area setting due to its prominence and lack of interest. The re-development proposed would narrow the access through the site by 2m and the single storey building would be replaced.

4.27 In comparison to the original scheme it is now proposed to retain the facades which make a positive contribution to the appearance of the street and re-develop behind. The houses proposed would now be around 1-storey lower. The new development would now be setback around 2.5m from the main facade and would step down in height as it travelled towards the river.

4.28 The approach allows the retained facades to remain dominant in the street. By virtue of its setback and scale the new development respects the street and would not appear over dominant.

4.29 The new elements would be of consistent detailing and materials with the frontage building that would face Clifford Street. Neighbours had suggested a mansard roof form but a traditional pitched roof is proposed. The proposed form is characteristic of the skyline in the conservation area and (with regards to neighbours' amenity) to use a mansard would not have a material effect on the apparent scale of the building or levels of light within the street and over the houses opposite.

## Riverside

4.30 The 'lodge' building was constructed around 1860 as a private house. The building is not listed but it is regarded to be of architectural interest due to its form and brick detailing. It is in a prominent location; it is evident in views from the opposite side of the river and Skeldergate Bridge, although not visually dominant in such views, and it makes a positive contribution to the character and appearance of the conservation area.

4.31 The Officers' initial position was that any re-development of the site should retain the building. However demolition would accord with planning policy if either the replacement development lead to no harm overall to the conservation area, or if there were harm, there would be adequate public benefit to justify the identified harm.

4.32 The applicants have investigated retention of the lodge (as explained in their Heritage Assessment dated Feb 2016) however this has been discounted and not only on viability grounds.

- The ground floor area would needed to be tanked, however it could only be made flood resilient and not resistant. It could only be used as storage. Only the first floor and the limited space within the roof could be used as living accommodation.
- The building was originally constructed as a house and this would be its most appropriate use. However the applicants have a reasonable concern that it would not be possible to secure insurance for a new house at such a high level of flood risk.

4.33 To the side of the lodge is a single storey flat roof building of no merit. A row of 4 houses are proposed to face the river in replacement of the buildings proposed for demolition.

4.34 Historic England raised concerns about the commercial nature of this aspect of the scheme in earlier iterations, because of the domestic setting. As proposed the building would be of traditional materials, form and materials. In views from the river it would be of matching scale and height to the buildings to each side - the houses along South Esplanade.

4.35 The demolition of the lodge in isolation is regarded to be less than substantial harm to the appearance of the conservation area. However overall the scheme has a number of public benefits and there are material considerations that outweigh the impact of its loss even when giving considerable importance and weight to the less than substantial harm to the conservation area -

- The site has been vacant for 2 years. It is a prominent and well-known site in the city centre. The re-development proposed would enhance the vitality and condition of both Clifford Street and Peckitt Street. In this respect the scheme accords with core principles in the NPPF - to re-use previously developed land and directing growth to sustainable locations and contribute to local distinctiveness, in accordance with national design guidelines.
- Other buildings of merit - the facades of the former chapel and school buildings are retained and put to a viable use consistent with their conservation, as recommended in the NPPF.
- Buildings which have either a neutral or negative impact are replaced with buildings of appropriate design for their setting.
- There is acknowledged difficulty in finding a viable use for the lodge. This is a material planning consideration which can justify less than substantial harm, as explained in paragraph 133 of the NPPF.

## Archaeology

4.36 York is one of five cities that have been designated as an 'Area of Archaeological Importance' (AAI) under Part 2 of the 1979 Ancient Monuments and Archaeological Areas Act. The application site is within the designated area. The archaeology is regarded as a heritage asset. As such the following text in the NPPF is applicable -

- Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.
- 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

4.37 In line with the NPPF policy Draft Local Plan 2005 policy HE10: Archaeology explains the local approach to mitigation where archaeology would be affected. HE10 states that planning applications for development that involves disturbance of existing ground levels on sites within York City Centre Area of Archaeological Importance will be granted provided the extent and importance of any

archaeological remains are evaluated and that the applicant can demonstrate that less than 5% of any archaeological deposits will be disturbed or destroyed.

4.38 The applicant has provided full details of the below ground works. The archaeology that would be affected as a consequence of the basement car park dates from the C19 and C20 and is of low significance. Under 2% of the potential waterlogged organic deposits would be affected as a consequence of the foundation design.

4.39 The impact on archaeology would therefore usually be controlled via planning conditions, which would ensure compliance with local plan policy HE10: Archaeology. However Historic England maintain their objection to the scheme, until the impact on the waterlogged deposits is fully understood.

4.40 The applicant's proposals are to fit the piles within sleeves and they expect their design will prevent a 'halo' effect on the deposits; however further testing is required to understand whether their approach will be successful in this respect.

4.41 Because it would be possible to ensure adequate mitigation regardless of the impact, officers consider that this matter could be dealt with by the use of appropriate planning conditions.

## RESIDENTIAL AMENITY

4.42 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Draft Local Plan policy GP1: Design requires that development proposals ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

### Impact on buildings along Peckitt Street

4.43 The additional development proposed behind the retained facades of the former chapel and school house add an extra floor and accommodation is proposed also within the roof. The additional building height would be setback 2.5m. Behind the chapel facade the extra volume would be to the sides, extending around 2.7m and the ridge would be 3m higher than the existing parapet. The scale of buildings would step down towards the river.

4.44 Because the extra massing beyond the chapel would be setback 2.5m, and as the extension to the front would be where the street widens and the buildings opposite curb round onto Tower Street, the extra development would not be over-bearing or over-dominant.

4.45 The addition above the former school building would replace the current gable roof. To eaves level the facade would be 1m higher than the existing building, and setback 2.5m. The new build house to the side would be lower and 3-storey, comparable with the terrace opposite. These buildings would be an appropriate scale for the street, this is demonstrated on elevation 04 which shows the proposed comparable building heights and separation between buildings along Peckitt Street.

4.46 The application site is on the north-western side of the street. Because of the orientation of the sun, the new development would not lead to an undue loss of light to the existing buildings on the south-east side of the street.

4.47 The building proposed to front the river would be of comparable scale to the existing buildings it would be seen alongside. The side elevation onto Peckitt Street would be similar in scale to the existing 'lodge' building it is proposed to demolish. This block would not have an adverse effect on neighbours amenity.

#### Future resident's amenity

##### Noise

4.48 A noise assessment has been provided which explains how noise levels within the proposed dwellings would achieve the recommendations established in British Standards (BS8233:2014) and by the World Health Organisation. The assessment recommends a glazing specification which can be required through a planning condition.

4.49 Clifford Street is within the Air Quality Management Area however the proposed dwellings would be setback at least 9m from the road and at upper levels. Local air quality monitoring undertaken by the council records that concentrations of nitrogen dioxide have been below health based standards at this particular location on Clifford St for the last 4 years. As such air quality for future residents would not be unreasonable.

##### Standard of the proposed dwellings

4.50 The apartments would have internal bin and cycle storage at ground level. The cycle storage would be covered and secure in accordance with local requirements and there would be 8 spaces for the 7 apartments, again this is compliant with local standards. The houses each have adequate dedicated space for storage, which would be secure and would not compromise visual amenity.

4.51 It is intended the extract for the restaurant exits the building at roof level, on the rear roofslope. Such a high level discharge is recommended in DEFRA guidance to avoid cooking smells/odours affecting amenity.

## HIGHWAY NETWORK MANAGEMENT

4.52 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

4.53 The law courts have a right of access through the application site and this dictates the position and width of the proposed access from Peckitt Street. The access retains its current position but has been narrowed. Swept paths have been provided which illustrate the law court vehicles could continue to access the site without intruding on the parking bays on the south side of the street. Each dwelling would have a car parking space which would use the same access.

4.54 That there is regarded by residents to be issues with vehicle speeds along Tower Street, as vehicles approach Peckitt Street, and residents desire for the law courts access to continue to serve as a turning point are not material to consideration of this application. However it would still be possible to use the access for vehicle turning.

4.55 For the restaurant there would be covered and secure cycle parking (x10) within the building. The customer access would be from Clifford Street (to reduce noise from comings and goings along Peckitt Street where there are residents and noise levels will be lower away from the Clifford Street).

4.56 A 3m wide public footpath would be instated along Clifford Street, which would be free from obstruction. A 3m wide footpath would be appropriate for the setting, considering guidance within Manual for Streets.

4.57 The site is within a sustainable location from where amenities can be accessed without the need for use of the private car. Travel plans for both uses can be secured through a planning condition, as can the provision of electric vehicle charging points to car parking spaces.

## SUSTAINABLE DESIGN AND CONSTRUCTION

4.58 Due to the scale of the development; as more than 10 dwellings are proposed based on the council's supplementary planning document on sustainable design and construction a BREEAM rating of very good is required. This can be secured through a planning condition.

## PLANNING GAIN

4.59 Any planning gain sought must meet numerous statutory tests. In particular it must be directly related to the development proposed, necessary in order to make the development acceptable and reasonable in scale and kind. The regulations also impose a limit on the number of pooled contributions that may be funded by 106 obligations.

### Open space

4.60 The National Planning Policy Framework states access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Local requirements for open space are established in Local Plan policy L1c and the SPG note -Open Space Advice Note: Commuted Sum Payments in New Developments. The latter establishes the amount of open space which is required in new developments.

4.61 Based upon local policy contributions towards amenity space, play space and sports are potentially required due to the scale of development proposed. However these can only be requested if they meet the tests within the national regulations.

4.62 As such a contribution towards sports facilities in the locality has been requested only. This would go towards a project at Rowntree Park to improve facilities at the tennis pavilion. The contribution would be compliant with the regulations because there is identified need, backed by the council's evidence base, the contribution is reasonable in scale and the project has not had more than 5 contributions towards it.

### Education

4.63 According to the NPPF the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive approach to meeting this requirement, and they should give great weight to the need to create, expand or alter schools.

4.64 Due to the amount and size of dwellings proposed an education contribution is applicable based upon York's Supplementary Planning Document on education if the schools in the catchment area are at capacity. As such a contribution is sought towards improvement works (dining facilities) at Fulford secondary school.

### Highway network management

4.65 The apartments would have their own car parking spaces. The site is within an area where residents apply for parking permits and there are limited spaces. The

applicants will be asked that future occupants of the proposed houses are not eligible to apply for parking permits. This can be secured as part of the legal agreement.

#### Sustainable travel

4.66 A planning condition requiring a travel plan can be used to promote sustainable travel, such as use of buses and car club, in this case. Due to the location, scale and type of housing proposed to require a financial contrition would not be necessary to make the development acceptable in planning terms.

#### DESIGNING OUT CRIME

4.67 Advice from the police will be accommodated within the design. The entrance to the apartments (at the side of the law courts) will be gated and lit and there will be restricted access into the car parking area at lower level.

### 5.0 CONCLUSION

5.1 The scheme is recommended for approval as it would deliver acceptable re-development of a significant previously developed site in the city centre. There would be a low level of harm (certainly less than substantial harm) to designated heritage assets (i.e. to the conservation area due to the loss of the lodge, and to the area of archaeological importance). The scheme would be safe from flood risk. Even when attaching great weight to this harm, the public benefits of the scheme as described above are considered in the planning balance to justify the identified harm, and to allow residential development in flood zone 3. Conditions are necessary to agree the detailed design and ensure the proposed mitigation against flood risk.

5.2 Subject to the adherence to the planning conditions proposed there would be no adverse impact on residential amenity and highway safety.

5.3 Approval is recommended subject to completion of a planning obligation to secure the following –

- Education  
£15946.12 to go toward improved dining facilities at Fulford Secondary School
- Open space  
£7,242 to go towards improvements to Rowntree Park "tennis" pavilion
- Highways  
£5,000 towards traffic orders including removal of the site from R11 Residents parking zone



5.4 Should Historic England not withdraw their objection, the application would need to be referred to the Government Office if members were to vote to approve.

## **COMMITTEE TO VISIT**

6.0 RECOMMENDATION: Approve subject to completion of a section 106 agreement and referral to the Secretary of State (unless Historic England withdraws its objection)

S106 legal agreement to secure :

- Education  
£15946.12 to go toward improved dining facilities at Fulford Secondary School
- Open space  
£7,242 to go towards improvements to Rowntree Park "tennis" pavilion
- Highways  
£5,000 towards traffic orders including removal of the site from R11 Residents parking zone

Recommended conditions:

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

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

DC architects drawings 1429-160428

Proposed floor plans

109 P04, 110 P09, 111 P08, 112 P07, 113 P07, 114 P06, 120 P05

Proposed elevations

130 P10, 131 P09, 132 P06, 141, 150 P08, 151 P06, 170 P04, 171 P03

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

### 3 Archaeology

No development shall take place until the applicant has

- (a) submitted a confirmation letter of appointment/contract to the Local Planning Authority evidencing the implementation of the WSI : YAT reference 2016/34
- (b) submitted a report to City of York Council (and Historic England) on the results of the scheme described in (a) above
- (c) submitted details of mitigation measures that will be implemented if the report required by (b) above indicates nationally significant waterlogged deposits are in a very poor condition and that development will lead to an accelerated rate of decay of the deposits

Any mitigation under part c of the condition shall be approved in writing by the Local Planning Authority and carried out in accordance with the approved details.

REASON: In accordance with section 12 of the National Planning Policy Framework as the site contains undesignated heritage assets of national significance and these deposits may be destroyed by the approved development.

### 4 ARCH 1 Programme of archaeological work

No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded prior to destruction.

### 5 ARCH 2 Watching Brief required

No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

## 6 Foundation Design

The foundation design shall be carried out as shown in the WSI undertaken by the York Archaeological Trust, reference YAT 2016/34.

REASON: In accordance with section 12 of the National Planning Policy Framework as the site contains undesignated heritage assets of national significance and these deposits may be destroyed by the approved development.

## 7 Land contamination

a) Prior to commencement of 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'.

b) 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) shall be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the

Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

## 8 Drainage

Wording of condition to be provided at meeting

## 9 Materials

The materials to be used shall be as annotated on the approved plans. Samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction of the new buildings. A sample panel of the brickwork to be used on the buildings hereby approved 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 construction of the building envelopes. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: In the interests of the setting or heritage assets.

## 10 Large scale details

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

- Typical section drawings at a scale of 1:10 or 1:20 through the elevations of each of the new buildings. To include notes on materials
- Windows and their surrounds
- Alterations to openings within the former school building
- Details of the interface between the retained facades (former chapel and school) and the new building work
- Side access to apartments (by law courts) to include location and design of the access gate, details of canopy and external lighting.
- Gated access to basement parking (shown in context)

Reason: In the interests of the setting or heritage assets and visual amenity.

## 11 Land contamination (Verification of Remedial Works)

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 shall be produced and is subject to the approval in writing of the Local Planning Authority.

## 12 Reporting of Previously Unidentified Contamination

In the event that previously unidentified 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.

## 13 Flood Risk Management

The development hereby permitted shall only be carried out in accordance with the approved flood risk assessment (by Dudley, dated 10 February 2016, ref 15282 revision A), the approved drawings/plans and the following mitigation measures detailed within the flood risk assessment:

- Compensatory flood storage shall be provided as detailed within the FRA. This compensatory storage shall be a minimum of 206m<sup>3</sup>, and shall be carried out in accordance with drawing no.15282-sk02 rev P2. A detailed management and maintenance plan for the compensatory storage area to ensure that the full volume remains available and it does not become blocked by silt shall be submitted to and approved by the local planning authority prior to first occupation and adhered to at all times.
- Finished floor levels shall be set no lower than 11.2m above Ordnance Datum (AOD). Any areas below this level are to be used only as sacrificial storage space as detailed in City of York council's letter dated 29 March 2016 and the revised drawings submitted.
- The development is to be protected by floodgates which will be closed when a

flood warning is issued.

These measures shall be fully implemented prior to occupation, and according to the scheme's phasing arrangements (or with any other period, as agreed in writing, by the local planning authority).

Reasons: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the impact of flooding to the proposed development and future occupants.

#### 14 Electric vehicle charging facilities

Prior to occupation of the dwellings hereby approved each of the car parking spaces shown on the approved plans shall be fitted with an electrical charging point.

REASON: To promote and facilitate the uptake of electric vehicles in accordance with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (paragraph 39).

INFORMATIVE: The points shall comprise of a three pin 13 amp electrical socket which is in a suitable location to enable the charging of an electric vehicle using a 3m length cable. Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations and be suitable for charging electric vehicles.

#### 15 BREEAM

The development hereby approved shall be constructed to a BREEAM standard of 'very good'. A formal Post Construction assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate shall be submitted to the Local Planning Authority within 12 months of first occupation (unless otherwise agreed). Should the development fail to achieve a 'very good' BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'very good' rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.'

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and the Interim Planning Statement 'Sustainable Design and Construction'

#### 16 Landscaping

The hard and soft landscaping scheme, as shown on the approved site plan, shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless

alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site, in the interests of visual amenity and the setting of heritage assets.

#### 17 Travel plan and future cycle parking provision

Within 6 months of occupation/first use of the relevant part of the development a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall be developed and implemented in line with Department of Transport guidelines and be updated annually. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

The Travel Plan shall provide details of how cycle parking will be monitored and improved if required, and how sustainable travel, including the use of car club, will be promoted

Reason: To promote sustainable travel in accordance with section 3 of the NPPF and Local Plan policy T4.

18 The area shown as cycle and bin storage on the approved ground floor plan shall be provided prior to first use of the relevant part of the development hereby permitted and retained for such use at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure adequate space for storage and to encourage cycle use in accordance with Local Plan policies GP1 and T4 and section 3 of the National Planning Policy Framework.

#### 19 Residential amenity: noise

The glazing to bedrooms and living rooms within the dwellings hereby approved shall at least achieve the sound reduction recommended in section 5 of the Dragonfly Noise Assessment DC1936-R1 dated February 2016.

Reason: To protect the amenity of future occupants from externally generated noise and in accordance with the National Planning Policy Framework.

INFORMATIVE: For the avoidance of doubt the recommended measures demonstrate that noise levels within dwellings would 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 at night (23:00 to 07:00) 30 dB LAeq (8 hour) and regular maximum noise levels would not exceed 45 dB LAFMax.

Noise levels should be observed with all windows shut in the habitable room and other means of ventilation provided.

## 20 Odour/smells from commercial restaurant

There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Reason: To protect the amenity of future residents and nearby properties.

INFORMATIVE: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

## 21 Plant and machinery

The combined rating level of any fixed plant or equipment installed at the site shall not exceed 35dB(A) 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 future residents from externally generated noise and in accordance with the National Planning Policy Framework.

## 7.0 INFORMATIVES:

### 1. INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For



further information please contact the officer named:

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

## 2. 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

## 3. 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

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

In considering the application, the Local Planning Authority has implemented the  
Application Reference Number: 15/02155/FULM                      Item No: 4f

requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: pre application advice and sought revised plans (on all aspects of the scheme) and further information in order to allow a positive outcome.

5. The applicant is asked to note that the development is not considered eligible for inclusion within the Residents Parking Zone, and it will be removed from such under the Traffic Regulations 1984.

**Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323

15/02155/FULM

Fire Station, 18 Clifford Street, YO1 9RD



Scale : 1:1059

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<b>Organisation</b>	City of York Council
<b>Department</b>	CES
<b>Comments</b>	Location plan
<b>Date</b>	03 May 2016
<b>SLA Number</b>	Not Set

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**Area Planning Sub Committee**

**5 May 2016**

**Planning Committee**

**12 May 2016**

## **Appeals Performance and Decision Summaries**

### **Summary**

- 1 This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 January and 31 March 2016, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

### **Background**

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a National Performance Indicator, the Government will use appeals performance in identifying poor performing planning authorities, with a view to the introduction of special measures and direct intervention in planning matters within the worst performing authorities. This is now in place for Planning Authorities where more than 60% of appeals against refusal of permission for major applications are allowed.
- 3 The tables below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications and lawful development certificates. Table 1 shows performance on appeals decided by the Planning Inspectorate, for the last quarter 1 January to 31 March 2016, Table 2 shows performance for the 12 months 1 April 2015 to 31 March 2016.

**Table 1: CYC Planning Appeals Performance**

	<b>01/01/16 to 31/03/16 (Last Quarter)</b>	<b>01/01/15 to 31/03/15 (Corresponding Quarter)</b>
Allowed	0	3
Part Allowed	0	2
Dismissed	5	9
Total Decided	5	14
<b>% Allowed</b>	<b>0%</b>	<b>21%</b>
% Part Allowed	-	14%

**Table 2: CYC Planning Appeals Performance**

	<b>01/04/15 to 31/03/16 (Last 12 months)</b>	<b>01/04/14 to 31/03/15 (Corresponding 12 month period)</b>
Allowed	4	13
Part Allowed	0	4
Dismissed	29	24
Total Decided	33	41
<b>% Allowed</b>	<b>12%</b>	<b>32%</b>
% Part Allowed	-	10%

**Analysis**

- 4 Table 1 shows that between 1 January and 31 March 2016, a total of 5 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 0 was allowed. At 0% the rate of appeals allowed is below the national annual average of appeals allowed which is around 35%. By comparison, for the same period last year, out of 14 appeals 3 were allowed (21%), 2 were part allowed (14%). None of the appeals allowed between 1 January and 31 March 2016 related to a “major” application.
- 5 For the 12 months between 1 April 2015 and 31 March 2016, 12% of appeals decided were allowed, again well below the national average, and below the previous corresponding 12 month period of 32% allowed.
- 6 The summaries of appeals determined between 1 January and 31 March 2016 are included at Annex A. Details as to whether the application was dealt with under delegated powers or by committee are included with each summary. In the period covered one appeal was determined following refusal at sub-committee. Four of the five appeals related to proposals that were considered to be inappropriate development in the Green Belt.

**Table 3: Appeals Decided 01/01/2016 to 31/03/2016 following Refusal by Committee**

Ref No	Site	Proposal	Outcome	Officer Recom.
14/02008/FUL	Ivy House Farm, Hull Road, Kexby	Erection of wind turbine	Dismissed	Refuse

7 The list of current appeals is attached at Annex B. There are 13 planning appeals lodged with the Planning Inspectorate (excluding tree related appeals but including appeals against enforcement notices).

8 We continue to employ the following measures to ensure performance levels are maintained at around the national average or better:

i) Officers have continued to impose high standards of design and visual treatment in the assessment of applications provided it is consistent with Paragraph 56 of the NPPF and draft Development Control Local Plan Policy.

ii) Where significant planning issues are identified early with applications, revisions are sought to ensure that they can be recommended for approval, even where some applications then take more than the 8 weeks target timescale to determine. This approach is reflected in the reduction in the number appeals overall. This approach has improved customer satisfaction and speeded up the development process and, CYC planning application performance still remains above the national performance indicators for Major, Minor and Other application categories.

iii) Additional scrutiny is being afforded to appeal evidence to ensure arguments are well documented, researched and argued.

### **Consultation**

9 This is an information report for Members and therefore no consultation has taken place regarding its content.

### **Council Plan**

10 The report is most relevant to the “Building Stronger Communities” and “Protecting the Environment” strands of the Council Plan.

**Implications**

- 11 Financial – There are no financial implications directly arising from the report.
- 12 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information.
- 13 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 14 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

**Risk Management**

- 15 In compliance with the Council’s risk management strategy, there are no known risks associated with the recommendations of this report.

**Recommendation**

- 16 That Members note the content of this report.

Reason: To inform Members of the current position in relation to planning appeals against the Council’s decisions as determined by the Planning Inspectorate.

**Contact Details**

**Author:**

Gareth Arnold  
Development Manager,  
Directorate of City and  
Environmental Services

**Chief Officer Responsible for the report:**

Mike Slater  
Assistant Director Planning &  
Sustainability, Directorate of City and  
Environmental Services

**Report  
Approved**



**Date** 22 April  
2016

**Specialist Implications Officer(s)** None.

**Wards Affected:**

All  Y

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



**Annexes**

Annex A – Summaries of Appeals Determined between 1 January and 31 March 2016

Annex B – Outstanding Appeals at 22 April 2016

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**Appeal Summaries for Cases Determined 01/01/2016 to 31/03/2016**

**Application No:** 14/02008/FULM  
**Appeal by:** EDP  
**Proposal:** Erection of wind turbine (maximum height to blade tip 78 metres) with associated access tracks, crane pad, sub-station building, underground cabling and temporary construction compound  
**Address:** Ivy House Farm Hull Road Kexby York YO41 5LQ

**Decision Level:** COMP  
**Outcome:** DISMIS

The appeal relates to a proposal for erection of a single wind turbine with a 50 metre high pylon and an overall height to the blade tip of 78 metres at Ivy House Farm Kexby within the Green Belt to the south east of Dunnington. Planning permission was sought for erection of the turbine for the purposes of securing farm income and to export up to 880kWh of electricity to the National Grid. It is acknowledged in paragraphs 89 and 90 of the NPPF that large scale renewable energy schemes are inappropriate development within the Green Belt although the need for production of low and zero carbon energy could comprise a case for "very special circumstances" to overcome the usual presumption against inappropriate development within the Green Belt. Despite a strong contrary argument by the applicant it was felt that not only was the scheme inappropriate development within the Green Belt its sheer scale(it would have been much the tallest structure within the City area) would cause very substantial harm to the open character of the Green Belt and on that basis it was refused planning permission. The applicant duly appealed but in the meantime Secretary of State for Communities and Local Government issues a written Ministerial Statement indicating that the Government would not be minded to support large scale renewable energy projects where there was not demonstrable local community support. The appeal inspector supported the view of the Local Planning Authority that the proposal would give rise to significant harm to the open character of the Green Belt contrary to paragraph 79 of the NPPF and furthermore identified a significant degree of harm to local landscape character. She furthermore noted the significant degree of local opposition to the scheme and in that light gave significant material weight to the Ministerial Statement of the Secretary of State. The appeal was therefore dismissed.

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**Application No:** 14/02792/OUT  
**Appeal by:** Mr D Blissett  
**Proposal:** Outline application for erection of 4no. dwellings with associated access and parking  
**Address:** Land To Rear Hilbra Avenue Haxby York

**Decision Level:** DEL

**Outcome:** DISMIS

The application was an outline application for four dwellings with access road and parking to the rear of Hilbra Avenue, Haxby. The application was refused. The Inspector considered whether the site had Green Belt status and through reference to the Draft DCLP and emerging Local Plan concluded that neither of these documents had statutory development plan status. However, referring to the RSS and retained policies relating to Yorks Green Belt, he concluded that the site was in the general extent of the Green Belt and the development therefore comprised inappropriate development and by definition was therefore harmful. The Inspector agreed that the site was primarily open and that the four dwellings would cause substantial loss of openness, an essential characteristic of the Green Belt. However the development would not materially harm the historic setting of York and any erosion of the gap between York and Haxby would be minimal. It would not safeguard the countryside from encroachment nor check the unrestricted sprawl of large built up areas. The proposal therefore conflicted with two purposes of Green Belt. The Inspector did not find any other substantive harm caused by the proposals, including any harm to the landscape. He attributed substantial weight to the harm to the Green Belt by reason of inappropriateness, loss of openness and conflict with the purposes of the Green Belt. Very limited weight was given to the contribution to meeting housing needs, housing land supply and sustainability. Therefore there were no other considerations that clearly outweighed harm nor any very special circumstances.

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**Application No:** 14/02832/FUL  
**Appeal by:** Mr Thomas Coomber  
**Proposal:** Change of use from a dwelling (use class C3) to a house of multiple occupation (use class C4)  
**Address:** 28 Third Avenue York YO31 0TX

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal site is located within predominantly residential street, lying within a predominantly residential area. The CYC Policy data base identified a 13.73% density of HMO's at street level and a 10.00% density at neighbourhood level. The Inspector noted a variance between the Council's figures, and those of local residents. The Inspector was satisfied that policy levels had been breached at street level. The Inspector was satisfied that the application property would meet all the requirements of future occupants and there was adequate off-road parking. However he considered that the proposal, culmulatively with other HMO's within Third Avenue, would adversely affect the residential character and living conditions of Third Avenue with particular regard to the balance and mix of households and found conflict with the provisions of CYC Local Plan Policy H8 and the SPD. The inspector concluded that the proposal would materially harm the character of, and living conditions within the area surrounding the appeal site.

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**Application No:** 15/00555/FUL  
**Appeal by:** Mr S Duggan  
**Proposal:** Erection of dog boarding kennels and siting of temporary dwelling for a period of 3 years  
**Address:** Spring Wood Stables New Road Deighton York YO19 6EZ

**Decision Level:** DEL

**Outcome:** DISMIS

The application was for the erection of dog boarding kennels and siting of temporary dwelling for a period of 3 years. The site is within the general extent of the greenbelt. In 2013 planning permission was granted for stables and equine exercise arena, and an agricultural shed together with the change of use of the field for equine use, this development has been constructed. The appellant argued that because of the previous development that the site was considered to be 'previously developed land' and that the proposed development was considered infill as such very special circumstances were not required to be submitted. During the appeal they argued that this area had a shortage of small kennels and travel up to 15 miles was unreasonable. The appellant argued that the proposal was required to be sited in a rural location, and should be considered as a rural workers dwelling. The LPA argued the site was green belt and did not fall within the definition of previously developed land and concluded that the considerations put forward were not sufficient or compelling and did not clearly outweigh the substantial weight given to harm to the Green Belt. The Inspector did not consider that the development fell within the exceptions of the para 89 of the NPPF. He concluded that the kennels, enclosure and caravan would reduce the openness of the greenbelt and would be contrary to the purposes of the greenbelt and inappropriate development in the greenbelt. The Inspector had reservations about the lack of evidence provided with regard to the viability of the proposed business. The Inspector did not consider it to be a sustainable location.

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**Application No:** 15/01156/FUL  
**Appeal by:** Mr And Mrs R Karn  
**Proposal:** Removal of condition 3 of permitted application  
 07/00102/FUL to allow existing log cabin to be occupied as  
 a main residence  
**Address:** Log Cabin (Orchard Lodge) Adjacent To Mount Pleasant  
 House Elm Avenue Acaster Malbis York YO23 2UP  
**Decision Level:** DEL  
**Outcome:** DISMIS

This was an appeal against the refusal of a section 73 application for the removal of an occupancy condition ( restricting use to holiday let only). The site had previously been granted a CLU to retain a caravan for holiday purposes. Subsequently the caravan was removed and replaced with the log cabin under a grant of planning permission which restricted occupation to holiday let only. The site is in the Green Belt. The section 73 application was refused on the basis that the consequence of the conditions removal would be the formation of a separate dwelling in the open countryside which would be inappropriate development in the Green Belt (paragraph 89). In accordance with paragraph 87 there was considered to be definitional harm to the Green Belt. Furthermore there would be other harm to openness through the need to accommodate the requirements of a permanent household and to the purposes of Green Belt through encroachment into open countryside and other harm associated with the loss of a tourist facility. The Inspector came to a similar conclusion finding that there was definitional harm, harm to the character and appearance of the area and other (limited) harm associated with the loss of tourism.

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Decision Level:	Outcome:
DEL = Delegated Decision	ALLOW = Appeal Allowed
COMM = Sub-Committee Decision	DISMIS = Appeal Dismissed
COMP = Main Committee Decision	PAD = Appeal part dismissed/part allowed

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## Outstanding appeals

<b>Officer: Diane Cragg</b>						<b>Total number of appeals:</b>	<b>3</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
11/02/2016	16/00002/REF	APP/C2741/W/16/3142732	W	11 Murton Way York YO19 5UW	Erection of 1no. dwelling to rear		
23/12/2015	15/00040/REF	APP/C2741/W/15/3140414	W	Former Garage Site 172 Fulford Road York YO10	Erection of petrol service station with retail unit		
24/09/2015	15/00035/CON	APP/C2741/W/15/3135274	W	B And Q Osbaldwick Link Road Osbaldwick York	Use of premises as retail food store with external alterations including reconfiguration of shop front, canopy, installation of new customer cafe and associated toilets, installation of ATM`s, removal of existing garden centre and builders yard and reconfiguration of site access and customer car park		
<b>Officer: Erik Matthews</b>						<b>Total number of appeals:</b>	<b>2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
26/01/2016	16/00001/REF	APP/C2741/W/15/3140253	W	35C Drome Road Copmanthorpe York YO23	Erection of part two storey part single storey dwelling		
11/02/2016	16/00003/REF	APP/C2741/W/16/3143484	W	Country Park Pottery Lane Strensall York YO32 5TJ	Variation of conditions 7 and 8 of permitted application 12/03270/FUL to allow caravan site to open and caravans to be occupied from 14th March in any one year to 14th January in the succeeding year		
<b>Officer: Esther Priestley</b>						<b>Total number of appeals:</b>	<b>3</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
12/05/2014	14/00017/TPO	APP/TPO/C2741/3909	W	14 Sails Drive York YO10 3LR	Fell Silver Brch (T3,T11), Mountain Ash (T5), Oak (T8), Trees protected by Tree Preservation Order CYC15		
27/11/2015	15/00041/REF	APP/TPO/C2741/4900	H	1 Beaufort Close York YO10 3LS	Various tree works including the felling of 4 no. trees protected by Tree Preservation Order No. CYC15		
09/05/2014	14/00015/TPO	APP/TPO/C2741/3907	W	7 Quant Mews York YO10 3LT	Crown Reduce Silver Birch (T1,T2), Trees protected by Tree Preservation Order CYC 15		

<b>Officer: Elizabeth Potter</b>						<b>Total number of appeals:</b>	<b>2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
07/03/2016	16/00004/REF	APP/C2741/D/16/3145311	H	11 Top Lane Copmanthorpe York YO23 3UH	Two storey extension to front and side and single storey rear extension and dormer (amended scheme)		
29/02/2016	16/00006/REFL	APP/C2741/Y/16/3145522	W	26 Holgate Road York YO24 4AB	Internal alterations including removal of partition wall and ground floor chimney breast		
<b>Officer: Jonathan Kenyon</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
14/03/2016	16/00008/REF	APP/C2741/W/16/3146486	W	Coalters Ltd 2 Low Ousegate York YO1 9QU	Extension to roof to create 1 no. apartment		
<b>Officer: Kevin O'Connell</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
26/09/2014	14/00036/EN	APP/C2741/C/14/2225236	P	Land At OS Field No 9122 Holtby Lane Holtby York	Appeal against Enforcement Notice dated 31 July 2014		
<b>Officer: Matthew Parkinson</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
17/06/2011	11/00026/EN	APP/C2741/C/11/2154734	P	North Selby Mine New Road To North Selby Mine	Appeal against Enforcement Notice		
<b>Officer: Neil Massey</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
24/02/2016	16/00007/REF	APP/C2741/W/16/3145190	W	105 Newland Park Drive York YO10 3HR	Change of use from dwelling (use class C3) to House of Multiple Occupation (use class C4)		
<b>Officer: Paul Edwards</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
30/03/2016	16/00005/REF	APP/C2741/W/16/3146542	W	46 Heslington Road York YO10 5AU	Change of use of dwellinghouse (use class C3) to a house in multiple occupation (use class C4)		

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**Officer: Sophie Prendergast****Total number of appeals: 1**

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<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>
12/11/2015	15/00036/REF	APP/C2741/W/15/3136728	W	Lidgett House 27 Lidgett Grove York YO26 5NE	Erection of two storey dwelling

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**Total number of appeals: 16**

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