



space and a new convenience store by the access, created off Haxby Road. The application was later varied by 19/01509/FULM, which altered the accommodation mix, with 279 dwellings overall.

1.5 The west side of the site (the subject of this application) was previously subject to outline application 18/01011/OUTM approved in 2020, for 425 dwellings (118 houses / 307 apartments) and retail space, crèche, offices and community uses.

1.6 This application is made by Latimer Development, part of Clarion Housing Group, who have now acquired the entire Nestle South site and are implementing the consented conversion of the factory buildings.

### Application site

1.7 The site previously contained the core of the original factory buildings, developed between 1890 and 1940. These buildings have now been demolished. The former site entrance from Wigginton Road, which crosses over Bootham Stray, remains. The Stray land is within the application site; it runs alongside Wigginton Road and accommodates hard-standing previously used for parking by Nestle and an access into the operational factory. On the west side of Wigginton Road opposite the site there are a row of 2 storey houses, allotments and a car park.

1.8 To the south of the site is the Sustrans pedestrian and cycle route which follows the route of a former railway line. There are trees to each side of the route. Further south 2 storey houses on Hambleton Terrace face the application site.

### Proposals

1.9 The application is for 302 dwellings, 118 apartments and 184 houses. There will also be a crèche (124 sq m) within one of the two apartment blocks. The accommodation mix would be as follows -

1-bed	53
2-bed	103
3-bed	101
4-bed	45

Car parking spaces for residential 284 (94%)

1.10 All dwellings meet the optional national space standards. Through Section 106 legal agreement the scheme will deliver 20% affordable housing in accordance with local policy (H10). Clarion Housing Association Ltd is a registered affordable housing provider and the applicant's intention is to deliver 36% affordable housing on-site overall, with a mix of social rent and shared ownership tenure.

1.11 The Council has determined that the scheme is not EIA development. A screening opinion was undertaken under application 21/00952/EIASN.

## 2.0 POLICY CONTEXT

### The NPPF

2.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies and how these should be applied. Key sections of the NPPF are as follows -

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

### The Publication Draft Local Plan

2.2 The Publication Draft City of York Local Plan 2018 ('2018 DLP') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. Its policies can be afforded weight in accordance with paragraph 48 of the NPPF. Key relevant Publication Draft Local Plan 2018 Policies are as follows -

DP2	Sustainable Development
DP3	Sustainable Communities
DP4	Approach to Development Management
SS15	Nestle South
H1	Housing Allocations
H2	Density of Residential Development
H3	Balancing the Housing Market
H4	Promoting Self and Custom House Building
H5	Gypsies and Travellers
H10	Affordable Housing
HW2	New Community Facilities
HW4	Childcare Provision
HW7	Healthy Places
D1	Placemaking
D2	Landscape and Setting
D4	Conservation Areas

GI6	New Open Space Provision
CC2	Sustainable Design and Construction of New Development
ENV1	Air Quality
ENV2	Managing Environmental Quality
ENV3	Land Contamination
ENV4	Flood Risk
ENV5	Sustainable Drainage
T1	Sustainable Access
DM1	Infrastructure and Developer Contributions

### 3.0 CONSULTATIONS

#### INTERNAL

#### Design Conservation and Sustainable Development - Architect

3.1 Officer comment on the masterplan was as follows -

- There is a lack of soft landscape between this site and the car parking to the east.
- There is a high amount on on-street or adjacent street car parking. The presence of parked cars will have an adverse effect on visual amenity.
- Alleyways would preferably be 2m wide with boundary walls each side (they are 1.5m wide with boundary fencing).
- Apartments - both apartment buildings are six storey, taller than ideal proportions for buildings around the Neighbourhood Square and this will impact negatively on the quality of this important open space.
- Details – planning condition recommended to ensure adequate architectural detailing and scheme quality.

#### Design Conservation and Sustainable Development - Landscape

3.2 A significant number of existing trees would be removed to create the link to the Sustrans route, including two category 'B2' groups of mixed deciduous trees and a category 'A1' mature Birch. The link to the Sustrans route is supported, however the loss of trees should be adequately mitigated.

3.3 The inclusion of small pocket parks were recommended at the end of certain streets to complete the distribution of open space over the site, facilitate mature trees and so areas feel part of the site rather than dead ends before the car park at the site to the east. As recommended these have been included on the east side of the site.

#### Design Conservation and Sustainable Development - Ecology

3.4 Bats - bat roost potential within trees to be felled - from the information provided no trees with bat roost potential will be significantly impacted during the required felling works. No further survey works is therefore required.

3.5 Recommend a condition to secure ecological enhancements, with ongoing management and to evidence biodiversity net gain.

Education

3.6 Officers have requested a combined partial contribution towards primary and secondary places and a full contribution towards early years education provision as set out in the table below.

	No. of places	Contribution	Facilities
Primary	21	£398,496	Yearsley Grove, Haxby Road and/or Burton Green
Secondary	21	£548,646	Joseph Rowntree
Early years	31	£588,256	Within 1.5km of site

Highway Network Management

3.7 Officers have commented as follows –

- **Transport Assessment** - The impact on the wider network is not expected to exceed the levels previously accepted under application 18/01011/OUTM.
- **Access off Wigginton Road** – The access design is required to cater adequately for pedestrians and cyclists crossing the access road and entering the site. The detail design can be conditioned to reflect LTN1/20 guidance. The ‘entry strip’ (where there would be a raised table in the road) looks inadequate to slow traffic. It is asked the detail is agreed through condition.
- **Alignment of bus route through the site** – the design is for a one-way bus route east to west. Highway Network Management preference is for a bus route, in future to possibly travel both ways through the site.
- **Travel Plan** - A revised travel plan will need to be conditioned for approval once occupation starts. Surveys should be every year for 5 years. A budget commitment to implement the travel plan and deliver incentives is required, either embedded in the Travel Plan or agreed as S106 contribution for the local authority to deliver the travel plan measures and activities on behalf of the developer. A budget or commitment is also required to implement extra measures if targets are not met.

- **Sustainable travel** - S106 contributions towards sustainable travel will be required
  - £400 per dwelling for bus/cycle incentives and between £100 and £200 per dwelling for Car club. There should also be car club parking space on site.
- **Adoption** – officers have confirmed that any parking within the highway cannot be private (i.e. spaces can't be individually allocated). A TRO (Traffic Regulation Order) contribution for the site of £30k is requested. This would cover the works in Wigginton Road and res-park / parking control within the site.
- **Cycle stores** – should be LTN 1/20 compliant i.e. 1 cycle space per bedroom.

## Public Protection

### 3.8 Officers commented as follows –

- Land contamination - The site investigation recommends a 600mm thick clean capping layer in gardens / landscaped areas and gas protection measures installed in the buildings. Conditions recommended for a remediation strategy and validation of such.
- Noise – previous noise assessments were undertaken in 2016. A new assessment is recommended in case different plant / equipment has since been installed at the factory to the north. A condition is recommended to ensure adequate noise levels within the proposed dwellings. A condition is also recommended to require that any plant/machinery at the crèche does not cause disturbance to nearby dwellings.
- Construction management – condition recommended to deal with noise/dust/vibration and to control times of construction.
- Air quality - impacts associated with the scheme considered as 'negligible' when assessed in line with relevant guidance. Emission damage costs associated with the development adequately addressed by measures proposed for the scheme. In respect of electric vehicle charging points there should be sufficient capacity within the electricity distribution board for EV charging at each dwelling with in-curtilage parking. For other spaces there should be 5% active and 5% passive provision. The facilities are required to allow mode 3 / 32A charging.

## EXTERNAL

### Conservation Areas Advisory Panel

### 3.9 No objection.

## Guildhall Planning Panel

3.10 Consider this scheme an improvement over previous applications. Still concerned about the distribution of the parking spaces (lack of spaces for apartments) and level of traffic this development will generate.

## Police Architectural Liaison Officer

3.11 No objection. The principles of crime prevention through environmental design have been taken into consideration.

## York Civic Trust

3.12 The trust have commented on the amount of car parking, bus services and the amount and type of development proposed.

3.13 Object to this application in its current form and recommend that planning permission be refused unless the number of car parking spaces is reduced to an absolute maximum of 150 spaces, and a reserved route is protected through the site for buses to operate in both directions. The number of spaces is excessive and incompatible with the Council's target of carbon neutral by 2030. More use of car club should be facilitated.

3.14 The trust understand the Council has aspirations to improve bus access to the hospital and route either the #1 or #5 services through the site. Disappointed the scheme only accommodates a westbound bus route. A one way bus link would be counterproductive, and lead to a loss of patronage. Concerned that the applicants do not appear to appreciate that a bus service within the site will be of benefit to residents.

3.15 The housing mix offers good credentials for the creation of a diverse and dynamic community. The scale and density of the proposal is suited to York and in particular this site. Pleasing too is the location of the road ("Main Street") into the site from Wigginton Road that offers views of the 1930s Cream Block of the former Rowntree's factory. The emphasis on green space is welcomed. However recommend a closer focus on the tangible or intangible historic associations of the site, as well as the architectural prominence evident in the neighbouring Nestle Rowntree Conservation Area, so as to raise Coca West's overall design and identity-making ambitions. Larger public spaces also recommended.

## Theatres Trust

3.16 Do not envisage any significant disruption due to construction. No objection to the principle of redevelopment. The theatre is a Grade II listed heritage asset run as a charitable trust by the community and provides a facility from which local people including future residents of the new development would benefit. As a venue with

clear proximity and historic link to the development site, consider there would be great merit in seeking Section 106 receipts to help fund the theatre's plans and current works.

## Yorkshire Water

3.17 The submitted 'Flood Risk Statement & Drainage Strategy' prepared by Civic Engineers, dated June 2021 is acceptable. In summary, the report states that surface water is proposed to discharge to the 375 mm diameter public surface water sewer located to the north east of the site at a maximum rate of 16 (sixteen) litres per second. Foul water is to discharge to the public sewer network within Haxby Road.

## 4.0 REPRESENTATIONS

4.1 There have been three objectors to the scheme. Issues raised are as follows -

- The number of proposed houses/apartments
- The height of the apartments and some of the houses
- The lack of car parking space
- Increase in volume of traffic on already congested roads
- Tree removal to enable an entrance to the cycle path. This is seriously going to affect the environment of the area and will spoil the outlook from Hambleton Terrace. (In tree survey these are within group 801. The trees are up to 16m high and are given a B2 amenity value).

## 5.0 APPRAISAL

5.1 The key issues are as follows –

- Principle of the proposed use
- Design
- Impact on the Nestle Rowntree Conservation Area
- Highway network management and safety
- Ecology / Green Infrastructure
- Public Protection
- Residential amenity
- Sustainable design and construction
- Drainage / Flood Risk
- Education
- Open Space

Assessment



## PRINCIPLE OF THE PROPOSED DEVELOPMENT

5.2 The site is previously developed; on the brownfield land register and allocated for housing in the Publication Draft Local Plan 2018 (2018 eLP). Residential led development of the site is consistent with NPPF policy, in particular sections 5 which relate to housing supply and section 11 which relates to making effective use of land. The latter section advises that in decision-making, give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.

5.3 Section 3 of the 2018 eLP details the spatial strategy for York and the key areas of change. Allocated housing sites over 5 ha in area each have their own policy. The Nestle South site is allocated for housing in policy SS15. The key principles for redevelopment of the site in SS15 are listed below and are discussed throughout this section of the report.

- i. Achieve high quality urban design which recognises the distinctive character of this part of the city and respects the character and fabric of the factory buildings of distinction including those on the Haxby Road Frontage including the library.
- ii. Conserve and enhance the special character and/or appearance of the Nestle/Rowntree Factory Conservation Area.
- iii. Provide a mix of housing in line with the Council's most up to date Strategic Housing Market Assessment.
- iv. Maximise accessibility and connectivity to the city centre and local area by pedestrian and cycle routes, including direct access from the site to the Foss Island Cycle Path located alongside the site boundary.
- v. Retain the mature trees along Haxby Road frontage and protect the setting of the site.
- vi. Maximise connectivity and linkages to surrounding green infrastructure including Bootham Stray.
- vii. Appropriate access from both Haxby Road and Wigginton Road along with associated junction improvements as necessary through Transport Assessment and Travel Plan. Access between Haxby Road and Wigginton Road will be limited to public transport and walking/cycling links only.

5.4 Policy SS15 of the 2018 eLP relates to the Nestle South site. The application site is phase 2 of this allocation. The allocation is for up to 600 dwellings. The policy states that in addition to complying with the policies within the Local Plan, the site must be master planned and delivered in accordance with identified (above) key principles.

5.5 The mix of housing proposed is acceptable as is the number of dwellings proposed, which is less than the 2018 eLP site allocation. The accommodation amount and type derives from the need to reasonably respect the scale of houses to the south and west (whilst considering the former industrial scale of development on

site) and enables a scheme that is some 60% housing and 40% apartments. The accommodation type is generally compliant with local housing need and provides a broad range of house types. Some 67% of the dwellings are 2 bed and 3 bed.

Overall housing mix is as follows -

	Total	Percent
1-bed	53	18%
2-bed	103	33%
3-bed	101	34%
4-bed	45	15%

5.6 Also proposed is a crèche. This would be some 124 sq m in floorspace. The facility would be of a scale to primarily provide for the proposed housing and will make a positive contribution to the overall mix of uses at Nestle South. The provision would not detract from the vitality and viability of the city centre, due to its scale, and would contribute towards providing community needs and promoting social interaction, in accordance with paragraphs 92 and 93 of the NPPF, in respect of enhancing the sustainability of communities and residential environments.

### Design

5.7 NPPF paragraph 130 establishes national design standards, regarding attractive, locally distinctive places that function well and address residential amenity and crime and disorder. These topics are expanded upon in the National Design Guide.

5.8 Of the 2018 eLP principles relevant to redevelopment of this site are set out in paragraph 5.3 (above). Policy D1: Place-making expands upon the NPPG design principles and applies these to the York context.

5.9 Policy D1 establishes the following requirements for proposals -

- Respect York's skyline by ensuring that development does not challenge the visual dominance of the Minster or the city centre roofscape.
- Respect and enhance views of landmark buildings and important vistas.
- Ensure proposals are not a pale imitation of past architectural styles.
- Demonstrate the use of best practice in contemporary urban design and place making.
- Integrate car parking and servicing within the design of development so as not to dominate the street scene.
- Create active frontages to public streets, spaces and waterways.
- Create buildings and spaces that are fit for purpose but are also adaptable to respond to change.
- Create places that feel true to their intended purpose.

## Assessment

### Scale and massing

5.10 The 2018 eLP aspirations for the site encouraged re-development of a high-quality design which recognises the distinctive character of the factory buildings. In this respect the previous outline consent permitted buildings ranging in height between 5 and 6 storey behind / to the west of, the retained buildings and along the north side of the site. This scheme has fewer tall buildings. Two apartment blocks are proposed, one to the west of the factory buildings, and one to the north of the site. These buildings will have strong presence and create a sense of arrival into the site, from the new access road (which has permission and is part implemented) off Haxby Road. The buildings will also bring a sense of enclosure and in this respect calm traffic and, in combination with the public realm design, give the impression of a residential neighbourhood.

5.11 The apartment buildings will be 6-storey, just lower than, and smaller in volume, compared to the main factory building. The building height behind the factory is the same storey height to the scheme previously approved. The buildings would complement, and not detract from the status of the main buildings, and their dominant presence in the Nestle / Rowntree factory conservation area and in local views.

5.12 Elsewhere the buildings are domestic in scale and will range from 3.5 storey down to 2-storey. This is an acceptable scale in that it facilitates 2 and 3 bed-sized homes, which are well-suited to meeting local housing need.

### Layout

5.13 Access points for the site use the existing junction position with Wigginton Road. The layout will accommodate a right-turn into the site and priority for cyclists using the cycle path. The geometry of the junction is unchanged from previous approvals. There is a legal/contractual requirement for continued vehicle access into the south-west of the Nestle site. On the east side the access connects into the previously approved new access from Haxby Road.

5.14 In accordance with aspirations for the site, as set out in the 2018 eLP, the scheme will accommodate more direct routes for pedestrians and cyclists. There are new connections proposed into the Sustrans route to the south and south-west. Also priority for cyclists will be introduced at the Wigginton Road junction. On the east side of the site connections are made into the factory conversion site, so future residents of that building will have a direct link through the site towards Wigginton Road and the Sustrans route.

5.15 The layout accords with best practice in the national design guide on the following grounds –

- The scheme is integrated into and enhances its context by restoring the stray land to the west of the site to amenity space, with public access and play features introduced.
- Good connectivity by adding to the Sustrans route (as explained above).
- Two of the east – west routes through the site will retain vistas of the retained factory building, thus acknowledging local character and giving identity to the site.
- Buildings orientated to overlook open space and landscaping where possible.
- Active frontages overlooking public open space. Rear gardens back onto each other and private / semi-private areas
- Secure by Design incorporated (the Police Architectural Liaison Officer has provided input on the layout and proposed boundary treatments).

5.16 The apartment buildings, which are 6-storey, are grouped around public open space. The space will not be overshadowed as the apartments are to the north and east sides of the space; there is openness to the south. The south block, immediately adjacent the open space accommodates the crèche. The active frontage of the commercial premises would be complimentary and conjunctive with the open space.

#### Public realm and open space

5.17 The site has two central open spaces. There is a predominantly hard surfaced space by the apartments, which will complement the crèche facility and a second space, surrounded by housing. The latter will be a greener soft-landscaped area. Both spaces have trees where feasible, being restricted by requirements for underground drainage storage requirements. In addition to these spaces the scheme includes restoration of the stray land on the west side of the site. This is an overgrown former car park area which will be soft landscaped. It will include pedestrian cycle links and children's play areas. On the east side of the site two pocket parks have been introduced into the scheme (as recommended by the Council's Landscape Architect). These will provide visual relief and amenity and have been provided at points where there would otherwise be views of the neighbouring car park.

#### Car parking

5.18 A number of revisions have been made to better assimilate cars into the scheme and reduce their visual impact/dominance. The scheme is now acceptable to officers in this respect. The public realm would not visually be dominated by parked cars, and nor would the presence of vehicles deter, or pose a risk to highway safety or to facilitating and encouraging sustainable travel.

5.19 The car parking allocation for the site is around 90% which is accommodated in a mix of spaces; car parking courts and driveways and on-street. The on-street car parking is generally on the south side of the site. To avoid car parking being over-dominant, the approach has been to screen the larger car parking courts, with

landscaping by the entrances and have intervening trees and small areas of soft landscaping between driveways. The prominence of smaller groups of parking towards the east and west edges of the site would be mitigated by adjacent trees and soft landscaping. On the south side of the site the parking spaces are spread out reasonably and surfacing is such that the streets are all surfaced in block paving and level/at grade. This will make for an attractive public realm when the cars are vacant.

## Vernacular

5.20 The development comprises of the two apartment blocks, which would be located closest to the former factory to the east and the existing Nestle facilities to the north and two and three storey housing. The housing would be visually contained within the site. The apartment buildings would be 6-storey, just lower than the retained factory building which is within the conservation area and in the process of conversion. In material and details the proposed buildings relate to the, repetitive and brick vernacular of the former factory building.

5.21 The apartment buildings are setback from Haxby Road and will only form a backdrop to the main former factory building. The buildings respect their setting and there would be no harm to the character and appearance of the conservation area.

5.22 The house types are a mix of 2 and 3 storey; with pitched roofs. They will be in a mix of red and buff toned brick. There is a coherence to the house types, and they will give the scheme, which is reasonably contained by surrounding large scale development to the east and north, and landscape to the west and south, a distinctive character, in accordance with national design guidance.

5.23 The 'southern mews' houses are tightly grouped together. The design & access statement addendum explains how these house types have been designed to avoid overlooking of neighbours and to maximise outlook over their own private amenity space.

## Character and appearance of the conservation area

5.24 The Council has a statutory duty (under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) to consider the desirability of preserving or enhancing the character and appearance of designated conservation areas. The site is outside of the Nestle / Rowntree Factory Conservation Area, which is located to the east. On the west side of Haxby Road the conservation area boundary stops at the west edge of the Cream Block and the Almond Block Extension (being converted into residential). The conservation area explains these are large, the most prominent and very distinctive buildings confirming the industrial nature of the area.

5.25 The dominance of the retained former factory buildings on site, their Haxby Road setting, and how they are perceived in local views would not be challenged or harmed

by the proposed buildings, as explained in the design section. There would be no harm to the character and appearance of the conservation area. Also the setting of no listed buildings would be affected.

### Highway Network Management

5.26 The NPPF states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

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

5.27 It also states “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Within this context, applications for development should:

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

### Sustainable travel

5.28 Measures to encourage sustainable travel are embedded in the design. The layout provides efficient connectivity for pedestrians and cyclists, in particular the new legible connections into the Sustrans route and priority for cyclists at the Wigginton Road entrance. There will be a Travel Plan to encourage non-car modes of travel. The travel plan will establish targets over a 5-year period following full occupation. There will be ongoing review and appropriate measures imposed if targets are not met. The travel plan will be secured through condition, with measures to encourage

cycling and use of buses secured through legal agreement. The target within the travel plan will be to reduce single occupancy car trips by 12%. The layout enables a bus route through. The principles for redevelopment of the site in policy SS15 only requires that “access between Haxby Road and Wigginton Road will be limited to public transport and walking/cycling links only”. It does not explicitly require provision of a two-way bus route.

5.29 The travel plan issued is silent on the use of car club. This should be promoted as an alternative to private car ownership. Incentives to encourage use / membership will be secured through S106 agreement. A condition will require inclusion of car club parking space within the Nestle South site (subject to operator agreement). There is an existing space at Yearsley Swimming Pool but a space on site would be reasonable and should be viable given the amount of development proposed.

5.30 Each of the houses will have covered and secure storage for two cycles at the outset, as required under the 2005 DLP (which requires 2 spaces for 3-bed or larger dwellings). The houses all have private gardens with access so future provision could be accommodated. The apartments have just over 1 space per dwelling. The north apartment block contains 58 dwellings and has 62 spaces (6 outside) and the south apartments 48 dwellings and 50 spaces.

#### Impact on wider network

5.31 The highway network can accommodate the proposed development without further mitigation. Apart from the car parking to the southern apartment block (which has some 15 spaces) cars will access the site via Wigginton Road. Modelling which has been undertaken takes into account a future base rate (2026) and applies other anticipated development schemes. The increase on the traffic network, and local junctions is shown as less than 5%, which is deemed acceptable, without mitigation in traffic engineering terms. The previously approved and now proposed scheme have also been compared. The current scheme, in terms of trip generation, is significantly less at peak times.

#### Car parking

5.32 The Civic Trust recommended the amount of car parking be reduced, from 94% to 50% provision. The amount of car parking the developer proposes is not unacceptable taking into account the NPPF. NPPF advice in paragraph 108 is that “maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport”.

#### Ecology / Green Infrastructure

5.33 The connection into the Sustrans route at the south side of the site is considered essential in terms of place-making and promoting sustainable travel. It is a requirement of the 2018 eLP allocation. The connection proposed results in the loss of two category A trees and a group of category B trees where the ramp into the site proposed. The location has been chosen as this is the point where the variation in ground levels between the Sustrans route and the site is at its least. Trees line the extent of the embankment which bounds the site, so an alternative location would also require tree removal.

5.34 The scheme will open up a section of the embankment, for some 20 m in length. The embankment would receive a native wildflower mix and tree planting. However it is preferable this new connection is legible in the landscape and benefits from natural surveillance. There is also a vista created into the central green space within the site. The desire to create this connection, and as the applications have illustrated a net gain in biodiversity, including soft landscaping and tree planting, justifies the tree removal.

5.35 Developments should provide net gains for biodiversity. This is established in NPPF paragraph 174. Biodiversity net gain has been illustrated using the Defra Biodiversity Metric 3.0, comparing the pre and post development onsite habitat units. An estimated 2.1% total net increase in biodiversity units has been identified. This has been calculated taking into account tree removal and the biodiversity of the existing site and the habitat creation proposed including urban trees, introduced scrub, sustainable drainage features, other neutral grassland and native species rich hedgerows.

### Public Protection

5.36 Noise – previous schemes for the site have been approved subject to condition in respect of noise. An updated noise survey and approval of suitable mitigation can be secured through condition. The submitted assessment advises double glazed windows would achieve the required noise levels within dwellings. However the recommendations are based on survey results from 2017 and plant / machinery at the Nestle site may have varied since.

5.37 Contamination – site investigation has been undertaken. A planning condition can require an informed remediation strategy and confirmation of implementation.

5.38 Air Quality / EV charging – the NPPF paragraph 186 states planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. As considered by public protection officers (summarised



in section 3) the impact on air quality as a consequence of the scheme would be negligible. In accordance with the local low emission strategy electric vehicle charging facilities on site would be required through condition. It has been illustrated also that, in terms of green infrastructure, there will be a gain in biodiversity overall.

### Residential amenity

5.39 It is a core principle within the National Planning Policy Framework that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. The NPPF states decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

5.40 The proposed development would not have an adverse effect in terms of being overbearing or over dominant or causing any loss of light. The proposed houses are a considerable distance from neighbouring housing; the houses to the south of the site are over 40m from Hambleton Terrace, those on the west side of the site over 30m from the site boundary. The apartment blocks are on the north east of the site, further away from neighbouring houses compared to the factory block to the east.

5.41 The proposed dwellings all comply with the optional national space standards. The dwellings have reasonable outlook and will not overlook each other. The apartment layout maximises opportunities for dual aspect apartments where practical.

### Sustainable design and construction

5.42 The scheme will have all electric systems, in accordance with emerging national policy on energy generation. It will use heat pumps and photovoltaic panels also. The scheme will achieve the current local requirement (2018 eLP policy CC1), to achieve a 28% betterment over 2013 Building Regulations.

### Drainage / Flood Risk

5.43 2018 eLP policy ENV5 on sustainable drainage states that surface water flows from Brownfield sites should, where practicable, be restricted to 70% of the existing runoff rate. A surface water rate for the site has been agreed previously. An agreed rate did take into consideration that although the site is now cleared, it historically contained buildings covering most of the site. The run-off rate agreed previously is maintained in this scheme, which, along with the overall drainage strategy is agreed to by Yorkshire Water. The site is outside Flood Zones 2 and 3 and in this respect appropriate for housing.

### Education

5.44 NPPF paragraph 94 states that it is important 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, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications. Local draft supplementary planning guidance explains how the need for extra education spaces are determined and the relevant planning obligations.

5.45 Officers have informed of the need for education places anticipated as a consequence of this scheme (paragraph 3.6). The provision would be secured through Section 106 agreement.

### Open Space

5.46 Section 8 of the NPPF establishes that planning decisions should aim to achieve healthy, inclusive and safe places and the importance for access to a network of high quality open spaces and opportunities for sport and physical activity. Local policies should identify the need for open space, sport and recreation and opportunities for new provision.

5.47 The local policies for provision of amenity and sports space are established in section 6 of the 2018 eLP – Health and Well-being.

5.48 Policy HW 3 states developments that place additional demands on existing built sport facilities will be required to provide proportionate new or expanded facilities, to meet the needs of future occupiers. Developer contributions will be sought to provide these additional facilities. Policy GI 6 New Open Space Provision advises that all residential development should contribute to the provision of open space for recreation and amenity. Provision should be informed by existing provision in the area and local open space standards.

5.49 With the inclusion of the stray land the site would accommodate adequate open space / amenity space to meet the needs of future occupants, based on the proposed housing mix and local supplementary planning guidance (SPG) on open space. The space includes play facilities for children, semi-natural amenity space and space for recreation. The associated legal agreement will secure future maintenance of the on-site open space.

5.50 A contribution is proposed towards off site sports and this has also been calculated at £158,046 using local supplementary guidance. The contribution would be secured through a Section 106 obligation and would go towards facilities in the local area. Officers have identified previously a number of clubs/facilities within 1.2 miles of the site where contributions could be used and these are based at New

Earswick, Heworth, York City Knights and York Community and Gymnastics Foundation.

## 6.0 CONCLUSION

6.1 In applying the NPPF substantial weight is applied in favour of housing delivery at this site. The land is previously developed, on the Brownfield Land Register, in a sustainable urban location and has been allocated for housing in the eLP. The dwellings proposed would be in accordance with local need. The scheme includes 60% housing 40% apartments, predominantly family sized (2 and 3 bed) with provision of 1 bed dwellings, that in particular meet local affordable need. The affordable housing proposed would be policy compliant (in amount, size and type). Additionally the developer's intention is to exceed policy requirements, in co-operation with Homes England, providing a further 44 shared-ownership homes (a type of affordable housing as defined in the NPPF). The scheme will provide public open space, improving the existing stray land and provide new connections within the Sustrans route. No harm to the conservation area has been identified and the scheme will comply with sustainable design policy in respect on building efficiency and performance.

6.21 The Council cannot currently demonstrate an NPPF compliant five year supply of deliverable housing sites and therefore the Council's policies for the supply of housing are out of date, in accordance with paragraph 11 of the NPPF. There are also no policies in the NPPF that protect assets of particular importance which provide a clear reason for refusing the development in this instance. Therefore paragraph 11(d) of the NPPF tilts the planning balance in favour of granting planning permission, unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies set out in the NPPF as a whole.

6.22 The benefits of the scheme outweigh some of the issues raised through consultation; the NPPF test is that refusal is only justified if the adverse impacts on the scheme, when assessed against the NPPF, would significantly and demonstrably outweigh the benefits. This is evidentially not the case.

6.23 The recommendation is to approve the application, subject to the recommended conditions and a Section 106 Agreement to secure the following planning obligations

-

- Affordable housing (policy compliance - 20% and tenure mix)
- Off-site sports - £158,046 to be used at either of the following facilities - Heworth Cricket club, Heworth Rugby club, New Earswick sports club, New Earswick & District Indoor Bowls club, York community and gymnastics foundation, York City

Knights).

- On-site open space (including stray land) – on-going maintenance regime and provision of free public access
- Education  
Primary & Secondary - £947,142  
Early Years - £588,256
- Sustainable travel - first occupants offered £200 towards both bus pass and cycle/cycle equipment.
- Car Club - first occupants offered £200 towards car club membership.
- Traffic Regulation Order up to £30k (to cover Wigginton Road access, internal layout and potential res-parking arrangements on-site).
- Section 106 monitoring fee - £31,740.20

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

1 TIME2 Development start within three years

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

DN0092-JTP-ZZ-ZZ-DR-A-0000	Masterplan revision P4
DN0092-JTP-ZZ-ZZ-DR-A-0001	Site Location Plan P1
DN0092-JTP-ZZ-ZZ-DR-A-0002	Existing Site Plan P1
DN0092-JTP-ZZ-ZZ-DR-A-0003	Site Sections P1
DN0092-JTP-ZZ-ZZ-DR-A-0004	Site Sections P1
DN0092-JTP-ZZ-ZZ-DR-A-0100	Bin Store Plans Sections Elevations P02
DN0092-JTP-ZZ-ZZ-DR-A-0200	Housetype 2A Plans Sections Elevations P01
DN0092-JTP-ZZ-ZZ-DR-A-0210	Housetype 2B Plans Sections Elevations P01
DN0092-JTP-ZZ-ZZ-DR-A-0220	Housetype 3A Plans Sections Elevations P01
DN0092-JTP-ZZ-ZZ-DR-A-0230	Housetype 3B Plans Sections Elevations P01
DN0092-JTP-ZZ-ZZ-DR-A-0240	Housetype 3C Plans Sections Elevations P02
DN0092-JTP-ZZ-ZZ-DR-A-0250	Housetype 3D Plans Sections Elevations P01
DN0092-JTP-ZZ-ZZ-DR-A-0260	Housetype 4A Plans Sections Elevations P02
DN0092-JTP-ZZ-ZZ-DR-A-0270	Housetype 4B Plans Sections Elevations P02
DN0092-JTP-ZZ-ZZ-DR-A-0280	Cottage Flats 1C Plans Sections Elevations P01

DN0092-JTP-NB-ZZ-DR-A-0600	North Block Apartment - Plans	P01
DN0092-JTP-NB-ZZ-DR-A-0601	North Block Apartment - Plans	P03
DN0092-JTP-NB-ZZ-DR-A-0602	North Block Apartment - Plans	P03
DN0092-JTP-SB-ZZ-DR-A-0600	South Block Apartment - Plans	P01
DN0092-JTP-SB-ZZ-DR-A-0601	South Block Apartment - Plans	P02
DN0092-JTP-SB-ZZ-DR-A-0602	South Block Apartment - Plans	P02
DN0092-JTP-NB-ZZ-DR-A-0700	North Block Apartment - Elevations	P01
DN0092-JTP-NB-ZZ-DR-A-0701	North Block Apartment - Elevations	P03
DN0092-JTP-NB-ZZ-DR-A-0702	North Block Apartment - Elevations	P03
DN0092-JTP-SB-ZZ-DR-A-0700	South Block Apartment - Elevations	P01
DN0092-JTP-SB-ZZ-DR-A-0701	South Block Apartment - Elevations	P02
DN0092-JTP-SB-ZZ-DR-A-0702	South Block Apartment - Elevations	P02

### Landscape Drawings

201572_L097	General Arrangement revision 3
201572_L098	Boundaries revision 3
201572_L100	Landscape Masterplan revision A
201572_L101	Tree Removal Plan -5
201572_L102	Boundaries Plan 1 of 4 - 5
201572_L103	Boundaries Plan 2 of 4 - 5
201572_L104	Boundaries Plan 3 of 4 - 4
201572_L105	Boundaries Plan 4 of 4 - 4
201572_L200	General Arrangement Plan 1 of 4 - 5
201572_L201	General Arrangement Plan 2 of 4 - 5
201572_L202	General Arrangement Plan 3 of 4 - 4
201572_L203	General Arrangement Plan 4 of 4 - 4
201572_L204	Legend Sheet - 4

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

### 3 Construction Management

Prior to commencement of development, or phase of development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the relevant construction period.

The plan shall include: -

- Details of measures to keep the highway clean - to include wheel washing facilities for the cleaning of wheels of vehicles leaving the site, including location and type.
- Dust - A site-specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and including a package of mitigation measures commensurate with the risk identified in the assessment.

- Air Quality - The air quality impacts associated with construction vehicles and non-road mobile machinery (NRMM) and the proposed mitigation measures, commensurate with the identified risk.
- Noise - Details on types of machinery to be used, noise mitigation, any monitoring and compliance with relevant standards.
- Vibration - Details on any activities that may result in excessive vibration, e.g. piling, and details of monitoring and mitigation to be implemented.
- Lighting - Details on artificial lighting and measures to minimise impact, such as restrictions in hours of operation, and the location and angling of lighting.
- Complaints procedure - The procedure should detail how a contact number will be advertised to the public, investigation procedure when a complaint is received, any monitoring to be carried out, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken shall 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)
- Dilapidation survey - Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority.

Reason: To ensure before development commences that construction methods will safeguard the amenities of neighbouring properties in accordance with Policy ENV2 of the City of York Publication Draft Local Plan.

#### 4 Restricted hours of construction

The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays. Any working outside of the permitted hours is subject to prior approval in writing by the Local Planning Authority.

Reason: To protect the amenities of adjacent residents.

#### 5 Tree Protection

At all times during construction Trees shall be protected in accordance with BS:5837 and the measures as shown on the Barnes Associates drawings BA10564TPP B (north and south). Any protection measures to be removed in advance of the completion of construction shall first be approved in writing by the Local Planning Authority.

Reason: In order to protect trees of high amenity value, in accordance with sections 8, 12, 15 of the NPPF.

#### 6 Archaeology

No archaeological evaluation or groundworks in the relevant area shall take place until a written scheme of investigation (WSI) for the stray land on the south-west side of the site has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition will be secured.

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

Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

Reason: In accordance with Section 12 of NPPF. The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

## 7 Invasive / non-invasive species

No works shall commence on-site (apart from demolition) until an invasive non-native species protocol has been submitted to and approved in writing by the local planning authority, detailing the containment, control and removal of Cotoneaster on site. The measures shall be carried out strictly in accordance with the approved protocol.

Reason: To ensure that an adequate means of eradicating or containing the spread of an invasive non-native species is considered and thereafter implemented to prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features.

## 8 Landscape and Ecological (or Biodiversity) Management Plan

No works shall commence on-site (apart from demolition) until a Landscape and

Ecological (or Biodiversity) Management Plan (LEMP) has been submitted to, approved in writing by, the local planning authority.

The content of the LEMP shall evidence a net gain in biodiversity and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 174 d) of the NPPF (2019) to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

## 9 Vegetation removal

Works which include tree works and vegetation clearance shall commence in accordance with the precautionary working methods set-out in section 8.0 of the Preliminary Ecological Appraisal provided by Wold Ecology Ltd (February 2021).

Reason: To limit harm, injury and disturbance to protected and notable species that may occur site. And to ensure that breeding birds are protected from harm during construction. All British birds, their nests and eggs are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended.

## 10 LC2 Land contamination - remediation scheme

Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be submitted to and approved in writing of the Local Planning Authority. The scheme



shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall 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.

#### 11 LC3 Land contamination - remedial works

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

#### 12 Drainage

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

Reason: In the interest of satisfactory and sustainable drainage.

#### 13 Drainage strategy

The development shall be carried out in accordance with the details indicated within the submitted report, Flood Risk Statement & Drainage Strategy by Civic Engineers, job title 1747-01 - Cocoa West, York dated June 2021 (on page 1).

Reason: In the interest of satisfactory and sustainable drainage, in accordance with NPPF section 15.

#### 14 Drainage infrastructure

Prior to construction works in the relevant area(s) of the site, or phase of development, measures to protect the public water supply infrastructure (within the site, or phase boundary) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

The details shall include, but not be exclusive to, the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. If the required stand-off or protection measures are to be achieved via diversion or closure of the water main, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that, prior to construction in the affected area, the approved works have been undertaken.

Reason: In the interest of public health and maintaining the public water supply in accordance with NPPF section 15 (Yorkshire Water requirement).

#### 15 Phasing and delivery of POS and Sustrans connections

Prior to first occupation of the development hereby permitted a scheme detailing the phasing for the full completion of areas of public open space, including Bootham Stray and informal play areas, fitness equipment, all the Sustrans connections, the public realm and areas to be adopted highway (the details of such are required under conditions 16 and 17) shall be submitted to and approved in writing by the Local Planning Authority.

The phasing scheme shall demonstrate how the public open space / Sustrans connections / public realm shall be fully provided in relation to completion of any phases of dwellings on site. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure that the required infrastructure is provided at a time which meets the needs of future users and occupiers of the site, in accordance with section 2 of the NPPF.

#### 16 Public realm design

Prior to the relevant works the detailed design of the public realm, including areas to be adopted highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the phasing details approved under condition 15.

The details shall include typical details for each character area and areas where raised tables are proposed within the street. Details shall confirm finishing materials, typical sections, ground levels and details of the interface between varying surfaces and materials.

Reason: In the interests of good design, highway safety and to encourage sustainable travel. In accordance with NPPF paragraph 130 and section 9.

## 17 Landscaping

Prior to the relevant works a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the phasing details approved under condition 15.

The details shall adhere to the principles of the approved landscape masterplan and landscape drawings by open and shall detail-

- a) The number, species, stock size / height and position of trees and shrubs
- b) The trim trail, natural play areas and the 'play street'.
- c) The Sustrans connections which shall confirm an adequate gradient to deal with any variation in ground levels.
- d) Details of informal children's play areas.

The landscaping shall be reasonably maintained at all times. Any trees or plants which 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 the character and appearance of the area and to ensure adequate play facilities for future residents, in accordance with NPPF sections 8 and 12.

## 18 Road Safety Audit

A road safety audit (carried out in accordance with guidance set out in the DMRB HD19/03 and guidance issued by the council) for the Wigginton Road junction works shall be carried out prior to first use of the access road.

Reason: To minimise the road safety risks associated with the changes imposed by the development.

## 19 Site access

The development hereby permitted shall not come into use/be occupied until the following highway works (including works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with the approved plans, or arrangements entered into which ensure the same.

Highway Works: Implementation of the highway works on Wigginton Road and the site access (which includes relocated footpaths, cyclist priority crossing at the junction

(to LTN 1/20 standards) bus stops (to include BLISS real time display) and pedestrian crossing islands).

Reason: In the interests of the safe and free passage of highway users and to promote sustainable modes of transport.

## 20 Highway constructed before occupation

Prior to the occupation of any dwelling, all carriageways and footways fronting that dwelling and along which access is required to that dwelling, shall be kerbed, lit and surfaced to at least base course level.

Reason: To provide a safe means of access.

## 21 Materials

Manufacturer's details 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 the construction of the relevant phase of development. They shall be made available for review on-site, at the discretion of the Local Planning Authority. The development shall be carried out using the approved materials.

Sample panels of the brickwork to be used on each phase of the development shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork/stonework and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works within that phase. These panels 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: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

## 22 Large scale details

Large scale details showing typical details of the apartment buildings, and their rooftop (with plant) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

Reason: In the interests of good design and the setting of the conservation area, in accordance with NPPF sections 9 and 16.

## 23 Sustainable design and construction

The dwellings hereby permitted shall achieve a reduction in carbon emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations 2013, or compliance with any approved Part L document dated 2021 or thereafter.

Prior to first occupation of any phase details of the measures undertaken to secure compliance with this condition, for the relevant phase, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018.

## 24 Noise

The development shall not be occupied until a detailed scheme of noise insulation measures for protecting the approved dwellings from externally generated noise has been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.

The scheme shall demonstrate the building envelope of all dwellings shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) during the night (23:00-07:00 hours).

During the night LAFMax level should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A).

Noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

Reason: To protect the amenity of future residents from externally generated noise, in accordance with NPPF paragraphs 130 185 and 187.

## 25 Commercial unit - plant/machinery

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

maintained thereafter.

The combined rating level of any building service noise associated with plant or equipment at the site shall not exceed 46dB(A) LA90 1 hour during the hours of 07:00 to 23:00 or 38dB(A) 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of future residents from externally generated noise, in accordance with NPPF paragraphs 130 and 185.

## 26 Electric vehicle charging facilities

Each dwelling with car parking within its curtilage shall incorporate sufficient capacity within the electricity distribution board for one dedicated radial AC single phase connection to allow the future addition of an Electric Vehicle Recharge Point (minimum 32A). The necessary trunking/ducting shall be in place to enable cables to be installed prior to first occupation of the relevant dwelling. Details of this passive provision shall be included within a household pack for the first occupant, to include location of proposed Electric Vehicle Recharge Point, trunking/ducting and details of distribution board location and capacity.

Prior to the commencement of development, or a phase of development (apart from demolition and/or enabling works), a strategy for the provision of electric vehicle (EV) charging facilities to serve communal spaces (i.e. those not within the curtilage of a dwelling and not within the adopted highway) shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be implemented in accordance with the approved details. EV charging points shall incorporate a suitably rated 32A 'IEC 62196' electrical socket (minimum) to allow 'Mode 3' charging of an electric vehicle. The provision shall be at least 5% active and 5% passive.

The strategy shall specify the location, specification and timescales for installation of EV charging facilities and provide details of the active and passive provision. It shall include an Electric Vehicle Recharging Point Management Plan that will detail the management, maintenance, servicing and access/charging arrangements for each EV charging point for a minimum period of 10 years.

Reason: To encourage the use of electric vehicles and reduce emissions, in accordance with paragraphs 112 and 174 the NPPF and policy ENV1 of the Publication Draft Local Plan.

## 27 Travel Plan

Prior to first occupation of the development a final travel plan shall be submitted to

and approved in writing by the Local Planning Authority. The development shall be carried out thereafter in accordance with the approved details. The travel plan shall accord with the guidance detailed in the National Planning Policy Guidance and the framework travel plan dated June 2021. In addition to the measures in the framework Travel Plan the full plan shall include and subsequently adhere to -

- a) Details of the travel plan co-ordinator for the lifetime of the plan and method of funding.
- b) Implementation of additional sustainable transport measures should the targets of the travel plan not be met.

Reason: to promote sustainable travel, in accordance with NPPF section 9.

## 28 Cycle Parking

The houses within the development hereby permitted shall each be provided with at least two covered and secure cycle parking spaces. Details of the cycle parking shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the relevant phase. The cycle parking facilities shall be provided in accordance with the approved details prior to first occupation of the relevant dwelling and retained as such thereafter.

The cycle parking facilities for the apartment buildings shall be provided in accordance with the approved plans prior to first occupation of the relevant building. The facilities shall be provided and retained as approved for residents use at all times.

Reason: To facilitate and promote sustainable travel modes in accordance with NPPF section 9.

## 29 Shared pedestrian and cycle paths connecting to existing network

All proposed shared pedestrian and cycle routes on the west side of the site, that pass over Bootham Stray and connect the development hereby permitted to the existing pedestrian and cycle network (along Wigginton Road and the Sustrans route), shall be no less than 3 metres wide.

Reason: In the interests of highway safety and to encourage sustainable travel. In accordance with NPPF paragraph 112.

## 30 Car club parking facilities

Prior to first occupation of the development a scheme to accommodate dedicated car parking space(s) for the car club shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the provision of at least 1 dedicated car share space within the Nestle South site and the trigger(s) for

installation. The car club space shall be retained for parking of car club vehicles exclusively for the lifetime of the development at all times, unless otherwise agreed in writing by the Local Planning Authority (should evidence be provided to demonstrate that a commercial operator is unwilling to locate car club facilities in this location following completion of the development).

Reason: to promote sustainable travel and reduce private car travel, in accordance with NPPF section 9.

### 31 Visitor parking

Car parking spaces annotated as visitor parking (VP) on the approved masterplan drawing DN0092-JTP-ZZ-ZZ-DR-A-0000 shall be retained for the aforementioned use at all times, unless such spaces are allocated for use as car club / car share spaces.

Reason: In the interests of good design and highway safety in accordance with NPPF paragraphs 112 and 130.

### 32 No through traffic

The restrictions (bollards) to limit vehicle access through the site shall be retained in accordance with the approved plans at all times. Access between Haxby Road and Wigginton Road is limited to public transport and walking/cycling links only.

Reason: To promote sustainable transport and to avoid increases in traffic in local residential streets, in accordance with NPPF section 9 and policies D1 and SS15 of the Publication Draft Local Plan 2018.

## **8.0 INFORMATIVES: Notes to Applicant**

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH  
In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: provided pre-application advice, sought revised plans in the interests of good design, the use of planning conditions and obligations.

### 2. Ecology

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 dense



vegetation are likely to contain nesting birds between 1st March and 31st August inclusive. As such habitats 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. Yorkshire Water

If the developer wishes to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), they should contact the Developer Services Team (telephone 0345 120 84 82, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)).

Please note that utilities may also be present within and adjacent the site entrance, which may require diversion or abandonment. The developer is advised to liaise with Yorkshire Water in respect of such matters.

### 4. 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

#### **Contact details:**

**Case Officer:** Jonathan Kenyon

**Tel No:** 01904 551323