

# COMMITTEE REPORT

**Date:** 7 March 2024

**Ward:** Clifton

**Team:** West Area

**Parish:** Clifton Planning Panel

**Reference:** 22/02288/FULM

**Application at:** St Peters School Clifton York YO30 6AB

**For:** Erection of floodlit hockey pitch and tennis/netball courts, cricket nets, resurfacing and floodlighting to existing hockey pitch and associated access, car parking, coach drop-off, storage and landscaping

**By:** St Peter's School

**Application Type:** Major Full Application

**Target Date:** 22 February 2024

**Recommendation:** Refuse

## 1.0 PROPOSAL

1.1 St Peter's School comprises a substantial independent school occupying a campus site within the Clifton Conservation Area to the north of the city centre. Planning permission is sought for the construction of a floodlit hockey pitch, tennis and netball courts, cricket nets, car and coach parking and waiting area, vehicular access and grounds maintenance hut. The planning application has been amended since submission to address objections on highway, ecology, landscape and flood risk and drainage grounds. The site presently lies within the "general extent" of the York Green Belt although modifications are proposed to realign the Green Belt boundary to the neighbouring flood embankment as part of the Draft Local Plan. .

1.2 The development envisages the construction of a 126 seat viewing stand with spectator standing area, 78 parking spaces(15 asphalt surfaced with 4 disabled spaces), a two lane access road leading on to Westminster Road from a current grounds maintenance access, coach turning and waiting area, 8 floodlit hockey pitches with 18 floodlights 15 metres high , fencing 6 metres high and ball netting 4.5 metres high; 6 floodlit tennis/netball courts with 9 floodlights 10 metres high and fencing 6 metres high; a floodlit cricket and netball practise area floodlights 8 metres high, a grounds maintenance office and a tractor store. A substantial horse chestnut tree of townscape importance lies at the site access. A public right of way used by dog walkers towards Queen Anne's Road lies directly to the east of the site with a substantial historic cracked willow tree which is also of townscape importance directly adjacent. Some community letting/use of the proposed sports facilities is

suggested within the submitted documentation with a community use agreement parallel to that pre-existing for the swimming pool on the site. Full detail of that has not however been supplied. Agreement is also indicated for use of the site by York Hockey Club although no detail of that has been forthcoming. The proposed pitches would be in use up to 10pm Monday to Saturday and 9pm on Sundays.

### **1.3 Relevant Planning History**

**05/00602/FUL** Construction of Two All Weather Pitches accessed from Westminster Road- Withdrawn

**05/00607/FUL** Construction of an Access to St Olave's School from Westminster Road -Withdrawn

**08/00863/FUL** Construction of a Multi-Use Games Area, Tennis and Netball Courts- Approved 25/09/2008.

**08/01675/FUL** Construction of a Synthetic Grass Surfaced Play Area with associated fencing. Approved 20/02/2009.

## **2.0 POLICY CONTEXT**

### **NATIONAL PLANNING POLICY FRAMEWORK**

2.1 The National Planning Policy Framework "the NPPF") sets out the government's planning policies for England and how these are expected to be applied. Its planning policies are material to the determination of planning applications. The Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives, which are interdependent and need to be pursued in mutually supportive ways (paragraph 8).

2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004).

2.3 The Statutory Development Plan for the City of York comprises the saved policies and key diagram of the otherwise revoked Yorkshire and Humber Plan Regional Spatial Strategy (2008) and any made Neighbourhood Plan.

## PUBLICATION DRAFT LOCAL PLAN (DLP 2018)

2.4 The Publication Draft Local Plan 2018 was submitted for examination on 25<sup>th</sup> May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in early 2024. The draft policies can be afforded weight in accordance with paragraph 48 of the NPPF.

2.5 Key relevant DLP 2018 policies are:

HW7 – Healthy Places

ED6- Pre School, Primary, and Secondary Education

ED8- Community Access to Sports and Cultural Facilities on Educational Sites

D1 – Place Making

D2- Landscape and Setting

D4- Conservation Areas

D5- Listed Buildings

D6 – Archaeology

GI2- Biodiversity and Access to Nature

GI4- Trees and Hedgerows

GI5- Protection of Open Space and Playing Fields

ENV2 – Managing Environmental Quality

ENV4- Flood Risk

ENV5 – Sustainable Drainage

T1 – Sustainable Access

2.6 Evidence Base:

- TP1 Approach to Defining Green Belt (2022)

## 3.0 CONSULTATIONS

3.1 The application has been publicised via Site Notice on 30<sup>th</sup> November 2022, local press notice and neighbour notification letter at the same time.

INTERNAL

### Public Protection

3.2 Raise no objection to the proposed floodlighting which would follow accepted standards subject to any permission being conditioned accordingly Objection is

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raised to the noise report on the grounds that no account has been taken of the change in overall traffic levels outside of peak hours and change in noise associated with that. A figure of 71 movements has been assumed which is likely to be a significant increase on the existing when movements are virtually negligible. No account has been taken of a reasonable worst case scenario involving a large number of pitch users arriving at the same time or in quick succession. No account has also been taken of the sound of engines idling in Westminster Road in the vicinity of the junction. In terms of spectator noise whilst it is acknowledged that the applicant is willing to accept a restriction on usage of the spectator stand no account has been taken of the impact of spectator noise at all particularly bearing in mind the elevated nature of the site and the elevated nature of the stand.

### Design, Conservation and Sustainable Development (Ecology)

3.3 Object to the proposal on the grounds that the submitted information fails to take account of the value of the site as a “stepping stone” of undeveloped land used by species accessing nationally important biodiversity sites further north at Clifton and Rawcliffe Ings SSSI’s. Overall, it is considered that any further development of the land would have detrimental and irreversible impacts to the river corridor, its associated faunal and faunal assemblage, and correspondingly the nationally significant wildlife site - Clifton Ings and Rawcliffe Meadows SSSI. It is also considered that the proposed development does not adhere to National Planning Policy Framework (2023), with particular reference to:

Paragraph 180: Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

Paragraph 181: Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure.

Paragraph 185: To protect and enhance biodiversity and geodiversity, plans should:  
a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and

locally designated sites of importance for biodiversity; wildlife corridors and steppingstones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation.

#### Design, Conservation and Sustainable Development(Archaeology)

3.4 Indicate that the site lies within the Central Area of Archaeological Importance and within the boundaries of a known Roman road and cemetery. Any permission should be conditioned to ensure a detailed programme of post determination evaluation.

#### Design, Conservation and Sustainable Development(Trees and Landscape)

3.5 Object to the proposal on the grounds that the proposed development would cause significant adverse harm to the relatively natural, simple, open landscape character of the site and its interconnectedness with adjacent open spaces. It would furthermore cause significant adverse harm to views from the surrounding footpath network from the south west and northwest of the site, in particular from the open access along the top of the flood bank from where there are clear views across the site and to wider views of the city including York Minster. Whilst it is theoretically possible to construct a vehicular access into the site from Westminster Road without harming the horse chestnut or willow trees currently present vehicular height restrictions must be robustly managed and the associated footpath must be properly designed to ensure no additional hard surfacing over the root protection area.

#### Highway Network Management

3.6 Object to the proposal on the grounds that a clear evidenced, realistic assessment of parking demand, accumulation, intensification of the use of the existing access and impact on local junctions have not been presented. It is not therefore possible to make an informed judgment in respect of what is a substantial proposal on the wider network or highway safety due to insufficient information. The nature and intensity of the development will be such that it will significantly impact traffic generation over long periods to the detriment of existing users of the network and the residential amenity of neighbouring properties.

#### Front Line Flood Risk Management

3.7 Object to the proposal on the grounds that the proposed buildings, impermeable and semi-impermeable areas in Flood Zone 3 would involve alteration to flood storage areas and a potential increase in flood risk to neighbouring properties. At

the same time, it is proposed to drain the new buildings and associated hardstanding by means of soakaways when it has been demonstrated by testing that the site is not suitable for the use of soakaways as a means of surface water drainage due to the very high ground water levels.

### Forward Planning

3.8 Indicate that the Green Belt boundary in the area is subject to a proposed modification to remove the site from the Green Belt however the associated Policy is still subject to unresolved objections and the revised boundary should be afforded limited weight in the planning balance. The Policy itself moderate weight.

### Public Rights of Way (PROW)

3.9 Raise no objection to the proposal subject to the public right of way bounding the site being re-aligned during the construction phase.

### EXTERNAL

### Clifton Planning Panel

3.10 Object to the proposal on the grounds of harm to the residential amenity of neighbouring properties by virtue of noise, comings and goings and light pollution during the construction process and subsequently during operation. The health of the horse chestnut tree at the proposed access point would also be substantially compromised by the proposed works.

### Sport England

3.11 Object to the proposal on the grounds that the proposal would have an adverse impact upon pitch space available for playing cricket.

### The Woodland Trust

3.12 Object to the proposal on the grounds of harm to the root protection zone of two veteran trees on the National Inventory through the proposed access construction works, the horse chestnut at the site boundary and a crack willow directly to the east of the car park area which is unassessed in the submitted tree report. Paragraph 186c) of the NPPF indicates that the loss of irreplaceable should be refused unless wholly exceptional reasons have been put forward and a suitable compensation strategy exists, neither of which have been forthcoming.

## North Yorkshire Fire and Rescue Authority

3.13 Wish to make no observations in respect of the proposal.

## Environment Agency

3.14 Raise no objection to the proposal subject to any permission being conditioned to secure the integrity of the flood defences.

## York Civic Trust

3.15 Object to the proposal on the grounds that it specifically encourages journeys by car born transport and is therefore unsustainable, the very large areas of new hard surfacing would increase the risk of flooding in the locality and the proposed floodlighting would adversely impact the setting of both the Central Historic Core and Clifton Conservation Areas together with the setting of the Listed central core of the St Peter's School campus.

## **4.0 REPRESENTATIONS**

4.1 A total of no 239 objections including objection from the Ward Councillor, Councillor Danny Myers and no 117 letters of support have been received at the time of writing,

4.2 Summary of the objections received:

- Objection to the car dependent non-sustainable nature of the development
- Objection to the loss of residential amenity to neighbouring properties by virtue of increased noise, comings and goings and light pollution
- Objection to the increased flood risk by virtue of the increased areas of hard surfacing and unsuitable means of surface water drainage
- Objection to adverse impact upon veteran trees of townscape importance
- Objection to harm to local biodiversity in an important riverside green corridor
- Objection to adverse impact upon the amenity of users of public rights of way in the locality.
- Objection to increased pressure in terms of traffic generation on the local road network.
- Objection to the construction of inappropriate development in the Green Belt.
- Objection to impact upon the setting of the Clifton and Central Historic Core Conservation Areas

- Objection to potential increase in pollution from micro-plastics from the proposed playing surface

4.3 The objectors have submitted a detailed Transport Study to rebut the submitted Transport Assessment.

## **5.0 APPRAISAL**

### **Key Issues**

**5.1** The key issues are as follows:

- Green Belt
- Highways and Access
- Residential Amenity
- Drainage & Flood Risk
- Ecology
- Impact upon Veteran Trees
- Impact upon Landscape
- Archaeology
- Sport Provision/Sport England
- Planning Balance/Case for Very Special Circumstances

### **GREEN BELT**

#### **Policy**

5.2 The NPPF states that the fundamental aim of 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.

5.3 Paragraph 143 of the NPPF states that 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.



5.4 In line with the decision of the Court in *Wedgewood v City of York Council* [2020], and in advance of the adoption of a Local Plan, decisions on whether to treat land as falling within the Green Belt for development management purposes may take into account the RSS general extent of the Green Belt, the 2005 DCLP, the 2018 Draft Plan, insofar as can be considered against paragraph 48 of the NPPF and should have regard to site specific features in deciding whether land should be regarded as Green Belt.

5.5 The site is located within the general extent of the York Green Belt as described in the RSS. In addition to the saved policies YH9(C) and Y1 (C1 and C2) of the Regional Spatial Strategy which relate to York's Green Belt, the site is identified as falling within Green Belt in the proposal's maps of the Development Control Local Plan (2005) and Draft Local Plan (2018). Following the initial series of hearings into the Local Plan in December 2019 document TP1 Approach to Defining Green Belt (2022) was prepared to address issues surrounding the definition of the inner Green Belt boundary. This sought to place educational institutions within the urban area rather than within the Green Belt with the boundary in respect of the current site relocated to the flood embankment taking the application site out of the Green Belt. The removal of the site from the Green Belt is however subject to an unresolved objection and so can be afforded little weight. In contrast the status of the associated Policy GB1 is more firmly resolved and can be afforded moderate weight.

5.6 As a consequence the site needs to be treated as Green Belt and subject to Green Belt policy up to the point when the objection is resolved, and the Plan adopted. The restrictive Green Belt policies in the NPPF therefore also apply.

### Assessment

5.7 The relevant local policy is GB1. The relevant paragraphs of the NPPF are 152 and 155. A Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt unless it meets one of the exceptions set out in paragraph 154 of the NPPF. The proposal does not meet any exceptions set out in paragraph 154 of the NPPF.

5.8 Certain other forms of development are not inappropriate in the Green Belt including engineering operations provided they preserve its openness and do not conflict with the purposes of including land within it as set out in paragraph 155 of the NPPF. The proposal does not meet any exception set out in paragraph 155.

5.9 The development is classed as inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Whether very special circumstances exist is assessed below.

5.10 Turning to the impact on the Green Belt and openness, Planning Policy Guidance refers to a number of matters that the courts have identified can be taken into account in assessing openness, which include: spatial and visual aspects, duration of development and remediability and the degree of activity generate.

5.11 The proposal envisages the laying of a substantial hard surfaced and part hard surfaced parking area along the eastern edge of the site together with the conversion of the existing grounds maintenance access to a two-lane permanent access to allow for two large coaches to pass. At the northern edge of the site a grounds maintenance depot with office, shed and associated parking area would be created. Over the remainder of the site 8 floodlit hockey pitches with 6-metre-high fencing and 15-metre-high flood lighting columns would be provided together with a spectator stand with 126 seating capacity and a further spectator standing area. 6 floodlit tennis and netball courts together with a flood lit cricket and a netball training area would also be provided.

5.12 In terms of impact upon openness the site at present has a low level of development with a low intensity playing field use with clear views through the River Ouse green corridor laterally across the River Ouse from the west bank and longitudinally along the line of the River from the City Centre heading north towards Clifton and Rawcliffe Ings SSSI. The proposal envisages the infilling of the entire space with an intensive form of development with fencing and ball netting, columns up to 15 metres high, a part asphalt covered parking and circulation area, a substantial spectator viewing area and a grounds maintenance depot. Over and beyond that the resulting pattern of use would be substantially more intense with nighttime lighting only serving to draw attention to the greater level of comings and goings and overall activity. Notwithstanding the unresolved status of the Green Belt boundary, harm to openness would be substantial in both its visual and spatial senses with an existing green wedge effectively being erased. The site would change from being a school playing field with a low intensity of use to an (albeit) small sports stadium.

5.13 Paragraph 143 of the Framework identifies five Green Belt purposes which include safeguarding the setting and special character of historic towns and cities, to prevent the unrestricted sprawl of large built up areas and to safeguard open countryside from encroachment. Notwithstanding the purpose of the development, it would represent a clear encroachment of intense engineered built development into what is presently a green wedge contributing to the setting and special character of the Historic City including a view of the Minster. The development is therefore felt to be particularly contrary to the purposes of Green Belt through its impact upon that setting and special character which will be explored further below.

## HIGHWAYS AND ACCESS

5.14 The proposal envisages the use of an existing grounds maintenance access from Westminster Road close to its confluence with The Avenue. The level of traffic presently using the road is very low comprising residential traffic with occasional vehicles using the Environment Agency maintenance access running parallel with the site boundary. Furthermore, the access passes very close to the trunk and crown spread and over the root protection area of a protected Horse Chestnut tree that forms a key element of the street scene of Westminster Road. The proposals would formalise the access with substantial increases in usage with 78 formal parking spaces including those for the ground's maintenance depot and capacity for large coaches which presently do not use the site. Such a substantial degree of intensification has clear implications for the usage of main junctions within the adopted highway network such as between Water Lane and Clifton and The Avenue and Clifton. The application has been subject to a protracted period of negotiation to try to resolve issues surrounding the intensification of use of the access and implications for the wider network.

5.15 The application has been accompanied by a Transport Statement and outline Travel Plan. The Transport Statement indicates staff parking provision in line with that previously accepted at Fulford School which is acknowledged. From the submitted Travel Plan it is clear that the school has a requirement for 261 staff parking spaces with only 148 presently accommodated within the site. Making allowance for not all staff necessarily being on site simultaneously that leaves the need to make provision for a further 113 spaces. There is no provision to prevent the use of the additional spaces to provide staff or more general visitor parking over and above the anticipated sports or parent drop off use which would further intensify the use of the Westminster Road access. The applicant in response to the concern has indicated that there would be no need for it to be used for staff or general

visitors but a deficiency of space has been identified and there would be no way of enforcing sport or parent drop off use. Reference is also made by the applicant to the need to use the new access for emergency vehicles due to problems with Queen Anne's Road and surrounding side streets to the southeast. This has however not been properly substantiated and North Yorkshire Fire and Rescue Service have indicated that it is not a requirement of theirs.

5.16 At the same time the Travel Plan identifies a total of 653 daily pupil car journeys to the site with significant drop offs at Clifton and Queen Anne's Road. No data has been supplied for Westminster Road or The Avenue leaving 252 car journeys unaccounted for. It has been indicated that a majority of pupil drop-offs would take place in the new parking area on safety grounds. It has however not been evidenced that parents would choose to use the new parking/waiting area rather than adjoining roads. At the same time assumptions have been made that parents will choose to arrive and depart over a period of an hour during the morning and evening when in reality levels based upon experience of other schools would be much more narrowly focussed. No account has also been taken of pick up and drop off during the Saturday morning period which coincides with the peak on the wider network.

5.17 In terms of the specific sports use an assumption of 10 spectators has been used for hockey which is unrealistic bearing in mind the substantial spectator stand with associated standing area. In response to concerns in respect of spectator numbers and spectator noise the applicant has agreed to accept a condition preventing use of the proposed stand outside of school hours. However, that would not address the basic issue as it would not prevent spectators attending they would merely stand around the outside of the pitch. No assessment has been made in respect of other sports or school holiday sports. In view of the absence of other similar facilities in the wider area it can reasonably be assumed that use would be substantial particularly in view of the reference to commercial use by York Hockey Club and community bookings. Submitted correspondence seeks to draw a parallel with the situation in respect of sports facilities at Pocklington School. Pocklington School is not however in the inner urban area, it is significantly smaller in size and backs on to open countryside. Paragraph 115 of the NPPF is clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact upon highway safety or the residual cumulative impacts upon the surrounding network would be severe. The lack of data and unreasonable assumptions in the submitted data indicate a strong likelihood of

severe residual cumulative impact and the requirements of the Framework are not therefore complied with.

## RESIDENTIAL AMENITY

5.18 Westminster Road and The Avenue comprise residential side streets with a medium pattern of density. The existing access is only used on a very occasional basis with sport use of the existing playing fields largely taking place during the school day during term time. The proposal envisages the formalisation of the access as a principal point of access to the school campus with substantial increases in traffic volumes throughout the week and throughout the day. The nature of the traffic would also change with the access designed to accommodate large coaches. Westminster Road has a significant incline towards the location of the access and so noise from vehicles decelerating into and accelerating away from the site would be particularly acute.

5.19 The sport use of the site would also become substantially more intensive with use more regular and continuing under floodlights late into the evening. The submitted details indicate that the site would be used by York Hockey Club and also by the York Sports Club on an “overflow” basis as well as some community letting in the manner that other facilities at the school may be let out. York Hockey Club has some 18 teams covering male, female and junior leagues. They undertake training on four nights per week with fixtures played on two nights. St Peter’s School itself has 72 hockey teams and 45 net ball teams. Fixtures are played four times per week with training on one night. The access to the site via Westminster Road is only used at present in the evening in the event of an emergency and only very occasionally at weekends. The nature of the proposal is such that home matches for St Peter’s would clearly make use of it and depending upon the final arrangements that York Hockey Club would use is a majority of the time. Given the intensity of match play it is likely that both St Peter’s and the Hockey Club will be making use of sections of the site at the same time.

5.20 The submitted noise report assumes a figure of 71 vehicle movements off peak through the access which is going to be a very steep increase over and above the current level of negligible use. It does not clearly identify from where that figure is derived and it is unclear as whether that is a reasonable “worse case” scenario. Modelling and mitigating the likely severe impact arising from the intensification of use is therefore very difficult. The applicant has offered to restrict the number of nights the pitches and the access is used and to accept a condition preventing the

use of the 126 seat spectator stand outside of the school day. This may however have the effect of causing the intensity at which the pitches are used during the operational evenings to increase even more. In addition to the lack of modelling of vehicle noise and also noise from idling engines. No allowance has been made for spectator noise particularly bearing in mind the elevated nature of the provided facilities and the site itself. Whilst a restriction on the use of the stand is welcomed it would not completely address the issue of spectator noise as it would still be present during the school day and out of hours the presence of spectators would not be ruled out as they would simply stand around the edge of the pitches.

5.21 The proposal envisages use of the pitches up to 10pm on Monday to Saturday and 9pm on Sundays. Disturbance from activities at the site would not cease at the point when the floodlighting was switched off. It would likely continue for 30 minutes or longer as those using the pitches disperse. That impact has also not been addressed in the submitted noise report.

5.22 Operation is envisaged to be seven days a week late into the evening. Whilst it is acknowledged that the application site is in an existing sporting use which has some impact upon the amenity of neighbouring properties, that impact is largely transitory and for the most part low level. Improvements to the sports facilities in principle may be acceptable and that may include some element of flood lighting. The proposal however, involves a substantial formalisation and intensification of use of the site with a cumulative impact which if left unmitigated would amount to substantial harm to the residential amenity of neighbouring properties contrary to paragraph 135 (f) of the NPPF and Policy ENV2 of the Draft Local Plan. Despite repeated attempts at clarification and to gather additional information the submitted noise report simply fails to address those serious concerns and it is not possible to identify appropriate means of mitigation or even if the issues are capable of mitigation.

## DRAINAGE AND FLOOD RISK

5.22 The proposal is largely within Flood Zone 3 which puts it at high risk of flooding from riparian sources. The River Ouse lies directly to the west and the Environment Agency maintained flood defence forms the western boundary of the site. The proposal envisages the layout of significant new areas of hardstanding together with buildings which clearly impact upon the area of available flood storage. The proposal does provide some degree of compensation through cut and fill which satisfies the requirements of the Environment Agency who do not now object.

5.23 Notwithstanding the lack of objection in respect of alteration to flood storage arrangements the issue of surface water drainage is material. The present low intensity playing field use is drained by means of soakaway and cover an area predominantly permeable and grass covered. The proposal envisages a significant increase in hard surfacing with the construction of the pitch surfaces, car parking area, spectator facilities and grounds maintenance depot. The application details propose the use of soakaways as the means of surface water drainage although testing of soakaways at the site using the appropriate methodology has taken place and been found not to work. As a consequence, there is not a viable means of surface water drainage or an outfall for the surface water to be drained. The nature of the pitches and other hard surfaces is such that a system of attenuation could be incorporated but that has not been considered by the applicant.

5.24 Any surface water arising on the site will therefore stay on the site and in the event of a storm event pose a flood risk to neighbouring properties contrary to paragraph 173 of the NPPF which clearly indicates that when determining planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere. In response to concerns in respect of potential flood risk the applicant has contended that this may be managed through the flood evacuation plan for the site. However, in view of the highly vulnerable and sensitive location of the site any impacts from major rainfall and flooding events cannot be localised or contained in that way.

## ECOLOGY

5.25 The application site together with the adjacent riverbank area forms a “green wedge” stretching from open countryside to the north into the City Centre with the river side Rawcliffe Meadows and Clifton Ings SSSI a short distance to the north with the site situated within their formal impact risk zone. The River Ouse as it travels through the City of York acts as a transit route for a number of faunal species notably bats heading south east/ north west towards the SSSI. It forms part of a wider green corridor and forms a steppingstone for wildlife together with other less developed areas within the built-up boundary of the City. Paragraph 185 of the NPPF indicates that such areas should be safeguarded.

5.26 An Ecological Impact Assessment has been submitted with the proposal with an addendum subsequently. This rules out harm both during construction and subsequent operational phases although the relative impacts of the two are not

clearly differentiated. At the same time, it is not clearly stated how the results are achieved. Specifically in respect of bats it is indicated that bat foraging routes and commuting would not be affected when the associated survey data would not appear to support such a conclusion. Bats are identified as being a light averse species and the proposal seeks to substantially increase the level of lighting across the site overspilling into adjoining areas. In response to earlier objections to potential impacts upon the impact risk zone of the SSSI and the use of the river side corridor by insects and other invertebrates it is simply stated that there would be no impact and that there is no evidence of significant invertebrate activity within the wider area. No indication has however been forthcoming as to how these conclusions were reached. Notwithstanding the conclusion of the addendum, beyond the flood embankment at the western boundary of the site the nature of the riverbank vegetation is such as to encourage movement of insect species which would be severely inhibited by the increases in light levels and levels of general activity.

5.27 The submitted information in both the original Ecological Impact Assessment and in the subsequent addendum does not adequately assess impacts upon ecological receptors locally or in the wider area. Without such information and analysis, it is not possible to derive an appropriate package of avoidance, compensation, mitigation or enhancement measures as required by paragraph 186 (a) of the NPPF. As such it is concluded that the proposed development would result in detrimental and irreversible impacts upon the riverside corridor and associated floral and faunal assemblage with consequent knock-on impacts to the SSSI contrary to the requirements of the NPPF.

## IMPACT UPON VETERAN TREES

5.28 The application site at its boundaries incorporates two identified veteran trees included on the Woodland Trust inventory. These are a cracked willow which sits within the area of the Public Right of Way to the east and a horse chestnut which lies at the access to the site. Paragraph 186(c) of the NPPF indicates that development resulting in the loss or deterioration of irreplaceable habitats such as veteran trees should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Footnote 67 of the NPPF provides that a wholly exceptional reason could exist where the public benefits clearly outweigh the loss or deterioration on habitat. It is considered that in view of the wider significance of the trees in terms of their role in the street scene that such public benefits have not been demonstrated for this proposal.



5.29 In terms of the cracked willow the tree is of significant townscape importance with the access road and a section of the proposed car park sitting within its root protection area. A tree survey and tree report have been submitted in respect of the proposal however neither document considers the impact of the proposal upon the health of the cracked willow despite the works clearly impinging into its root protection area. The requirements of paragraph 186(c) of the NPPF have not therefore been complied with.

5.30 In terms of the horse chestnut tree it partially lies within the alignment of the proposed access. The application details propose crown lifting to enable "luxury" standard coaches to pass beneath. The tree does however have a substantial degree of importance within the Westminster Road Street scene. It acts as a visual punctuation mark or point of definition at the street end. The access for all traffic to the new parking would travel directly over its root protection zone. The proposal with the shear intensity of vehicle movement to and from and with the parallel risk of impact damage to the tree itself would compromise its function within the form and character of the wider street scene quite apart from the visual damage caused by the proposed crown lifting works. No wholly exceptional reasons for the work have been put forward to justify the harm and the requirements of paragraph 186(c) of the Framework have not therefore been complied with.

5.32 In terms of a suitable compensation strategy it should be demonstrated that harm to the two trees has been minimised or failing that that an alternative habitat of equivalent value can be provided. Harm to the cracked willow tree has not been properly considered in terms of the tree survey/method statement at all. In terms of the horse chestnut tree it may be possible to design an access that would avoid significant harm to its root protection area but it would be of such a layout that it would be extremely difficult to use by the volumes of traffic anticipated and may not accommodate the design and numbers of coaches anticipated. The creation of an alternative habitat of an equivalent value to the two trees has not been considered.

## LANDSCAPE

5.31 The application site is highly visible in middle and longer distance views across the river corridor from the west and southwest and characterised by a sense of openness uninterrupted by the paraphernalia associated with the present low intensity sports use. The playing fields are clearly read as the setting for the school campus which defines the northern approach to the City Centre and which in its green setting shares important similarities with an Oxford or Cambridge College.

This is enhanced by the presence of sections of semi-mature hedges in native species and individual mature and semi-mature trees including the two identified veteran trees. Views across the site from the local public rights of way network along the riverbank and to the north add to the character of the site.

5.32 The proposed works would result in the infilling of virtually the whole of the existing green un-developed area with structures and apparatus of some description. In the context of views from the area of the riverbank harm would be particularly severe in view of the location of the flood embankment and the nature of the local topography with the site elevated relative to the riverbank and in views from the west. In terms of views from elsewhere notably the public right of way to the northwest, the existing overwhelming sense of openness would be lost. That sense of openness along the riverbank is highly important in defining the setting of the Historic City from both north and southern approaches and the development would close it off in that area. There is an important view from that direction southeast towards the west end of York Minster which is important in defining the setting of the Clifton Conservation Area and the wider Historic City. That too would be largely obscured giving rise to significant harm to the setting of the Historic City from the north.

5.33 Policy D2 of the Draft Local Plan indicates that development proposals will be supported and encouraged where they conserve and enhance landscape quality and character and the public's experience of it and make a positive contribution to York's special qualities together with recognising the significance of landscape features such as mature trees and hedges retaining them in a respectful manner where they can be managed and sustained. The current proposal envisages the introduction of a built development of a significant scale into an existing green space. Some degree of landscape mitigation may be achieved by a robust tree planting plan including some large species which would be effective over the long term. The cumulative impact of fencing, buildings, columns, hard surfaces, signage and parked cars would lead to a significant adverse impact upon the local landscape character. That impact would only be enhanced by the intense concentration of artificial light accompanying the development. The requirements of Policy D2 would not therefore be complied with.

## ARCHAEOLOGY

5.34 The site lies in close proximity to the principal northern approach to the Roman City with the associated roadway running parallel with the modern road along with a

major peripheral cemetery. As such the site sits within the Central Area of Archaeological Importance. Providing a detailed programme of post-determination archaeological evaluation is undertaken which can be secured by planning condition then the proposal is felt to be acceptable in archaeological terms.

## SPORTS PROVISION/SPORT ENGLAND.

5.35 The proposal envisages the layout of eight floodlit hockey pitches, six floodlit tennis courts/netball practise courts and an area of cricket nets. These would primarily be provided for school use and would represent a significant enhancement of the existing level of provision. Use has also been offered to the wider community use by means of a community use agreement and on a commercial basis to the York Hockey Club and as an “overflow” facility for the York Sports Club. Detail of the community use agreement is however vague.

5.34 Objection has been raised by Sport England in respect of the proposal on the available pitch space within the site for playing cricket. That is an issue in respect of how the play space is managed and the applicant has indicated that they would be able to address the concern by means of alternative provision elsewhere within the site which might then be conditioned as part of any planning permission.

## OTHER ISSUES

5.35 Concern has been raised by objectors in respect of the potential for pollution arising in the wider local environment. The issue relates to the nature of the artificial playing surface which for certain sports sometimes including tennis requires a rubber crumb infill material which if not properly regulated can cause pollution within the surrounding environment. In the current case the proposed pitch would simply receive a dressing of sand and any potential residue from breakdown of the playing surface would be captured by means of silt trap within the pitch drainage system.

5.36 Objection has been raised by York Civic Trust to the impact of the proposal upon the setting of designated Heritage Assets notably the Clifton and Central Historic Core Conservation Areas and the Listed inner core of the school campus.

5.37 The site of the proposal is physically separated from the Victorian core of the school campus which is separately Listed by a number of substantial two storey teaching buildings dating from the 1970s as such it would not be possible to argue a

convincing case of harm to the setting of those Listed buildings as they are not part of any common views.

5.38 In terms of the Central Historic Core Conservation Area, the application site is separated from the boundary by the remainder of the school complex and the Scarborough Railway, and it would be difficult to argue a case for material harm over such a distance, although that is not to detract from the landscape harm or harm to the setting of the wider historic City outlined above.

5.39 In terms of impact upon the Clifton Conservation Area, the site lies outside of its boundary which lies to the east and its character is largely determined by the uniform treatment of the frontage and its surroundings including the school campus which the proposal would only have a relatively modest impact upon notwithstanding the harm to the wider landscape and setting of the Historic City identified elsewhere.

#### PLANNING BALANCE/CASE FOR VERY SPECIAL CIRCUMSTANCES

5.40 TP1 “Approach to Defining Green Belt” indicates that the site should be taken out of the Green Belt. Its deletion is however subject to an unresolved objection and should in advance of adoption of the Local Plan only be afforded limited weight whereas the restrictive Green Belt policies within the Plan should be afforded moderate weight and for the time being the site should still be treated as being within the Green Belt and subject to the wider restrictive policies in the Plan and in the NPPF.

5.41 The proposed development is inappropriate in the Green Belt by virtue of harm to its openness both in the visual and spatial senses. Paragraphs 152 and 153 of the Framework indicate that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances. Very special circumstances will only apply where the potential harm by reason of inappropriateness and any other harm would be outweighed by other considerations.

5.42 The Framework indicates that substantial weight should be afforded to harm to the openness of the Green Belt in the planning balance. In terms of other harms, the proposal has failed to demonstrate that the substantial additional volumes of traffic that would be generated can safely be accommodated on the adjoining road network contrary to paragraph 115 of the NPPF and Policy T1 of the Draft Local Plan. In terms of impact upon residential amenity the proposal would result in a

substantial increase in noise, disturbance and general comings and goings late into the evening from an existing very low base and leading along an existing residential side street. Impact upon the amenity of the occupants of that side street is likely to be severe and contrary to both Policy ENV2 of the Draft Local Plan and paragraph 135(f) of the NPPF.

5.43 In terms of drainage and flood risk it is acknowledged that the loss of existing flood storage can be compensated for however the continuing use of a soakaway system that has been demonstrated not to work with a substantial increase in the intensity of development risks leading to exacerbation of flooding in the surrounding area and insufficient information has been forthcoming to establish that surface water drainage from the development can work safely.

5.44 In terms of ecological impact by introducing a high intensity sports use with increases in disturbance and levels of lighting an important steppingstone for a range of species including insects and bats transiting along the river corridor would be heavily eroded in terms of its value. It is acknowledged that the applicant has sought to address the concern since the application was submitted but that the additional information/analysis is simply not sufficient to adequately address the issue. The site has two identified veteran trees at its boundary whose significance would be negatively impacted by the proposal. That to the northeast, a cracked willow whose root protection area would be impacted by the car park works is simply not acknowledged. The horse chestnut at the entrance would have the access works and significant volumes of traffic crossing its root protection area. Its townscape significance would be fundamentally harmed. The wider landscape significance of the site would also be fundamentally harmed by the nature and intensity of the development and the degree of artificial lighting.

5.45 On the positive side of the planning balance the proposed works would provide a significant enhancement to the range of sports facilities available for the school and for limited letting to the wider community. The school has indicated that the facility is primarily for school use and use would be on a not-for-profit basis although it is unclear how that would be secured. This is in line with Policy HW3 of the Draft Local Plan and maybe afforded moderate weight in the planning balance.

5.46 The proposed parking area would enable parents to pick up and drop off away from neighbouring side streets like St Olave's Road where existing pressure is identified although the need for an alternative emergency vehicle access as suggested in the submitted application documentation has not been substantiated

and is not acknowledged by the North Yorkshire Fire and Rescue Service. That can therefore be afforded only little weight.

5.47 Taking all factors into consideration it is felt that the additional sports benefits from the proposal do not outweigh the significant other harms and that very special circumstances do not therefore exist to justify the proposal.

## **Public Sector Equalities Duty**

5.48 Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c) Foster good relations between persons who share relevant protected characteristic and persons who do not share it.

5.49 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to the characteristic.
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.50 The PSED does not specify a particular substantive outcome but ensures that the decision made has been taken with “due regard” to its equality implications.

5.51 Officers have given due regard to the equality implications of the proposals in making this recommendation. There is no indication or evidence (including from consultation on this application) that any equality matters are raised that would outweigh the material planning considerations.

## **6.0 CONCLUSION**

6.1 The proposal relating to the construction of a series of floodlit hockey pitches with tennis and netball courts and a grounds maintenance depot would be significantly harmful in terms of its impact upon the residential amenity of neighbouring properties. It has not been demonstrated that the surrounding road network is able to cope with the associated intensification of vehicle journeys. It has not been demonstrated that the site can be safely and satisfactorily drained. The proposal would lead to significant harm to the landscape character of the site, the biodiversity value of a steppingstone on a faunal species transit route along the river corridor and two significant veteran trees of major townscape importance. Notwithstanding the undoubted sporting benefit of the proposal the site remains within the Green Belt until the objection relating to its removal from the Green Belt is resolved and the Local Plan adopted. The proposal is inappropriate in Green Belt terms and very special circumstances have not been demonstrated. The proposal is therefore unacceptable in planning terms and refusal is recommended.

## **7.0 RECOMMENDATION: Refuse**

1 The application site is within the general extent of the Green Belt. In accordance with paragraph 152 of the National Planning Policy Framework (NPPF), the proposed development constitutes inappropriate development which 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 failing to preserve the setting and special character of the city.

The Local Planning Authority has concluded that there are no other considerations that clearly outweigh the harm to the Green Belt and other harms (adverse impact on landscape character and visual amenity and insufficient drainage, highways information and ecological impacts) when substantial weight is given to the harm to the Green Belt. Very special circumstances do not exist to justify the proposal. The proposal is therefore contrary to Section 13 of the National Planning Policy Framework and policy GB1 of the Draft Local Plan (2018).

2 Insufficient information has been provided in terms of the following highways issues:

- Increase traffic flows, including coaches accessing and egressing the site
- Proposed parking and drop off area implications

Without the information it is not possible to assess the implications on the road network in the immediate vicinity and at key junctions within the wider network contrary to Policy T1 of the 2018 Draft City of York Local Plan and paragraph 115 of the NPPF

3 Insufficient information has been provided to enable the noise impacts of the substantial intensification of the use of the site and its associated access on the residential amenity of neighbouring properties to be properly assessed and appropriate mitigations if derived contrary to paragraph 135(f) of the NPPF and Policy ENV2 of the 2018 Draft City of York Local Plan.

4 Insufficient information has been provided to demonstrate that surface water from the site can be safely and satisfactorily drained taking account of the site's location and substantial increase in impermeable surfaces contrary to paragraph 173 of the NPPF.

5 The development by virtue of the substantial increase in disturbance through spectators, comings and goings and the significant intensification of sporting activities with the provision of high levels of intense flood lighting would fundamentally harm the use of a "steppingstone" for faunal species including bats and insects transiting along the River Ouse within the formal Impact Risk Zone of the Clifton Ings/Rawcliffe Meadows SSSI contrary to paragraphs 185 and 186(a) of the NPPF.

6 The proposed development would result in harm to the health of two identified veteran trees at the site boundaries which make a substantial contribution to the wider street scene of Westminster Road and surrounding area by virtue of interference with their root protection areas without wholly exceptional reasons to justify the harm or a suitable compensation strategy to outweigh the harm contrary to paragraph 186(c) of the NPPF.

7 The development by virtue of its scale, location and accumulation of visually harsh engineered elements with associated lighting would cause significant adverse harm to the landscape character of the site and the surrounding area together with wider views across the site from the public rights of way network toward York Minster to the south east contrary to Policy D2 of the 2018 Draft City of York Local Plan and Paragraph 135 of the NPPF.

## **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 an attempt to achieve a positive outcome:

- i) Sought a detailed justification for the level of harm caused by the proposal
- ii) Sought a reduction in the scale of the development

However, the applicant/agent was unwilling to amend the application in line with these suggestions, resulting in planning permission being refused for the reasons stated.

### **Contact details:**

**Case Officer:** Erik Matthews  
**Tel No:** 01904 551416