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Meeting	Planning Committee
Date	18 April 2019
Present	Councillors Reid (Chair), Boyce (Vice-Chair), Ayre [from 3b onwards], Carr, Cullwick, Cuthbertson, D'Agorne, Doughty, Funnell, Galvin, Looker, K Taylor, Wartors, Dew (Substitute for Cllr Brooks) and Mercer (Substitute for Cllr Shepherd)
Apologies	Councillors Brooks and Shepherd

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### Site Visits

Application	Reason	In attendance
Land to the south of Northminster Business Park Harwood Road Upper Poppleton	To allow Members to familiarise themselves with the site	Councillors Reid, Cullwick, Cuthbertson, D'Agorne, Dew Galvin
Land to the west of Redwood House Northminster Business Park Hackness Road Upper Poppleton	To allow Members to familiarise themselves with the site	Councillors Reid, Cullwick, Cuthbertson, D'Agorne, Dew Galvin
R S Cockerill York Ltd Stamford Bridge Road Dunnington	To allow Members to familiarise themselves with the site	Councillors Reid, Cullwick, Cuthbertson, D'Agorne, Dew Galvin
York St John University Playing Fields Windmill Lane	To allow Members to familiarise themselves with the site	Councillors Reid, Cullwick, Cuthbertson, D'Agorne, Dew Galvin

Block D Hungate Development Site Hungate	To allow Members to familiarise themselves with the site	Councillors Reid, Cullwick, Cuthbertson, D'Agorne, Dew Galvin
York St John University Lord Mayors Walk	To allow Members to familiarise themselves with the site	Councillors Reid, Cullwick, Cuthbertson, D'Agorne, Dew Galvin

#### **74. Declarations of Interest**

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda. Cllr Doughty declared a non prejudicial interest in agenda item 3g (Forest Hill Farm, Pottery Lane, Strensall, York [16/01061/FUL] as he was employed by a railway company. Cllr D'Agorne declared a personal non prejudicial interest in agenda item 3a (York St John University Playing Fields, Windmill Lane, York [18/02824/REMM] as he was a supporter of York Cycle Campaign (who were speaking on the application). Cllrs Cullwick and Cuthbertson both declared an interest in agenda item 3b (York St John University, Lord Mayors Walk, York [18/02819/FULM] as there were former employees of York St John University [check recording]. Cllr Dew declared an interest in agenda item 3g (Forest Hill Farm, Pottery Lane, Strensall, York [16/01061/FUL], as he had known the applicant for a number of years.

#### **75. Public Participation**

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

#### **76. Plans List**

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

**77. York St John University Playing Fields, Windmill Lane, York [18/02824/REMM]**

Members considered a major reserved matters application from Yorkshire Housing for the appearance, landscaping, layout and scale for a residential development of 69 dwellings with associated access roads and public open space.

Members were provided with an update to the report. It was reported that there had been amendments to condition 2 due to revised plans indicating minor amendments to the layout of the equipped play area, adopted highway limits, boundary treatment along the main access to David Lloyd and minor parking adjustments. There had also been one additional objection regarding the provision of hedgehog and wildlife boxes. In response to a Member question it was clarified that a requirement for hedgehog tunnels could be requested from the applicant. Members were informed that the additional information had been assessed and the planning balance and recommendation remained unchanged from the published report.

Chris Wedgewood (Save Windmill Lane Playing Fields) spoke in objection to the application on the grounds of a material difference from the site plans, the destruction of trees, the site being in the Green Belt, a lack of cycling provision, the layout and type of housing and a disproportionate housing mix.

Fiona Fayre (Save Windmill Lane Playing Fields) spoke in objection to the application. She was a local parent opposed to building on playing fields, and she accepted that whilst concessions needed to be made, there needed to be work on maintaining the balance at that side of the city. She added that there needed to be the protection of trees.

Peter Sheaf (York Cycle Campaign) spoke in objection to the application. He asked for improvements in cycling provision on

the site, specifically a cycle route to the west of the site which would adhere to planning and policy requirements. He suggested that traffic forecasts had been underestimated and he noted the benefits of encouraging residents to cycle. Mr Sheaf was asked and confirmed that York Cycle Campaign did not submit an objection to the application.

The Applicant, Steve Hughes (Yorkshire Housing) spoke in support of the application. He noted that the application would provide new high quality affordable homes that would provide people the opportunity to access housing at all levels. He added that Yorkshire Housing had worked hard with consultants to consult with residents.

Mr Hughes was asked and confirmed that:

- Save for a number of trees, the mature and protected woodland and public access remained on the site.
- The woodland management plan had been submitted as part of the planning application.
- Yorkshire Housing would be responsible for the long term management of the woodland and would be willing to engage with residents on this.
- The roof tiles were a standard roof tile and the use of solar roof tiles was part of the outline planning requirements.
- The hedgehog boxes could be included in the boundary treatment.
- The pumping station had not moved and a small number of self seeded trees near it would be removed and there had been significant planting proposed for the removed trees.

Cllr Pavlovic spoke as Ward Member on the application. Having consulted with residents he acknowledged that the development was the best option for local residents. In respect of the reserved matters application he asked that the newly planted trees remained in perpetuity, that building machinery access the site along Hull Road, and that construction staff did not park along Windmill Lane. He would have liked some of the homes to be allocated to Key Workers.

In response to Member questions concerning the use of solar roof tiles, the CEMP and landscape, officers clarified the conditions that had been included and could be imposed. It was clarified that officers were satisfied that the trees being removed were being replaced by a suitable stock of trees.

Resolved: That Delegated Authority for the Assistant Director of Planning and Public Protection to Approve subject to a variation of the Section 106 Agreement in respect of affordable housing to be provided in the development and subject to the conditions listed in the report and an informative regarding the use of solar roof tiles.

Reason:

- i. The principle of the use of the site for residential was approved at outline stage under permission 16/02358/OUT. The application is in line with the requirement of the outline permission in terms of the number of dwellings, access to the site, public open space provision and the management of the protected tree belts. The reserved matters create a development comprising 100% affordable housing of a design and layout which is compatible with the surrounding area.
- ii. Wider development impacts are controlled via conditions imposed on the outline consent including land contamination, acoustic issues, construction environmental management plan, archaeology, drainage and landscaping.
- iii. In conclusion, it is considered that the proposed scheme would not have adverse impact that would significantly and demonstrably outweigh its benefits when assessed against the policies in the NPPF taken as a whole, taking into account the details of the scheme and any material planning considerations. The proposal is thus sustainable development for which the NPPF carries a presumption in favour. As such, the proposal is considered to accord with national guidance in the NPPF and the Draft Development Control Local Plan Policies subject to other relevant conditions.

**78. York St John University, Lord Mayors Walk, York  
[18/02819/FULM]**

Members considered a major full application from Richard Hirst for the demolition of three student accommodation blocks and

erection of a new three storey teaching block, auditorium and covered atrium with associated landscaping.

An officer update was given. It was reported that at the Committee site visit, Members queried the loss of the memorial Birch tree located within the green open space to the front of the existing accommodation buildings. Following this the Applicant confirmed that as part of the proposals this tree would be removed and the reasons for this were detailed. Officers had considered and assessed the position of the tree officer's considered that there was possibility of retaining the tree without affecting the overall quality of the development and suggested that if Members felt the tree to be worthy of retention an additional condition could be imposed. Members were informed that the additional information had been assessed and the planning balance and recommendation remained unchanged from the published report.

Rob Hickey (York St John University) was in attendance to answer questions. He was asked and confirmed that they did not want to use Garden Street for access. He was asked and detailed the number of trees to be removed and replanted and he confirmed that the memorial Birch tree could be retained.

Cllr D Craghill (Ward Councillor) spoke on the application. She welcomed the planning application which included community use of the buildings and sustainable features. She raised concern about the building line on Garden Street and requested that it be put back and that the street not be used for access. She noted residents concern regarding noise and asked for a condition regarding the soundproofing the music practice rooms. She also requested that the memorial Birch tree be retained.

Concerning the points made by Cllr Craghill, Officers clarified that the control of noise was covered by the Control of Pollution Act 1974 which was why there was an informative on amplified music, which was deemed to be reasonable by Members. Should Members be minded, they could impose a condition on the details of soundproofing.

In response to questions raised concerning the building line, it was clarified that the alterations to the rear elevation (including the building line) were covered under delegated authority.

Resolved: That Delegated Authority be given to the Assistant Director responsible for Planning and Public Protection to:

1. agree and accept such amended plans for the Garden Street elevation and frontage as the Assistant Director responsible for Planning and Public Protection considers reasonably necessary and thereafter to approve the application as amended and grant conditional planning permission;
2. finalise the additional conditions and informative below, and recommended conditions as set out in the report including such refinements, amendments, additions and/or deletions as the Assistant Director responsible for Planning and Public Protection considers reasonably necessary.

Additional conditions

1. CEMP informative including hours of work to become a condition
2. Restriction to preclude use of Garden Street
3. Memorial Birch tree to be retained
4. Details of soundproofing
5. Condition 4 for the lifetime of the development

Reason:

- i. This application relates to the demolition of three existing student accommodation blocks with a creative centre which would provide teaching and breakout space, along with a multi-function auditorium. The applicant has demonstrated that they have secured dedicated student accommodation, within the vicinity of the campus, to off-set the loss of student accommodation.
- ii. There are concerns that the proposed development, predominately the Garden Street elevation does not appropriately address the visual amenity of the street and take the opportunities to improve the overall visual quality of the area. Officers consider that further discussions relating to this elevational

treatment and relationship to the Garden Street and overall landscaping impacts can address these concerns and the applicant has agreed to address this issue.

- iii. Notwithstanding the above, the overall quality of the proposal, including impacts upon neighbouring residential amenity, ecology, heritage, sustainability and highways are satisfied and the proposal represent an acceptable form of development in this regards.

**79. Block D Hungate Development Site, Hungate, York  
[18/02946/FULM]**

Members considered a major full application from Hungate (York) Regeneration Limited for the erection of a residential apartment block, landscaping and associated works (Block D).

An officer update was given in which Members were advised that revised plans had been received which detailed changes to cycle parking provision. This change was reflected in updated plans condition (Condition 2). Concerning the education contribution, there been ongoing discussion with Education as to whether the revised contribution towards Education met all of the CIL tests. Therefore the recommendation that the Assistant Director Planning and Public Protection be granted delegated powers to determine the education contribution to be secured in the Section 106 Agreement. The additional information had been assessed and the planning balance and the recommendation are unchanged from the published report.

Following the update, officers confirmed that:

- Section 6(i)b of the report should state paragraph 5.8 above.
- CYC did not have a log of complaints referred to in the complaints procedure referenced in the CEMP. It was suggested that a copy of this log could be requested from the applicant.
- Officers would look into the funding for play equipment from the previous S106 Agreement.

Suzanne Yates (Agent for the Applicant) spoke in support of the application. She noted that the application included a sixth floor extension and removal of the car park in the basement (car

parking spaces had been included in earlier phases) . The visual impact of this was limited and there was no overall increase in the building height. She added that the building adhered to a high level of sustainability.

Suzanne Yates was asked and explained that the complaints had been adhered to and there was a full time Community Liaison Officer in place. She was asked and explained the actions taken when there had been breaches in working conditions.

Cllr D Craghill (Ward Councillor) spoke on the application. She noted that it was a sustainable building in a high density location. She expressed concern that the blocks were too high and close together and that the main problem was a lack of affordable housing.

Resolved: That;

(i) Permission be granted subject to:

- a) Prior completion of a Section 106 agreement to secure the following obligations:
  - an education contribution;
  - affordable housing – provision of 17% affordable housing for the 186 units as approved with 20% affordable housing for the additional 10 apartments;
  - off-site sports provision – financial contribution of £63,900 towards improvements to Hull Road Park buildings, changing and ancillary facility improvements and additional sports facilities at Burnholme Community Health Hub; and multi-use games area within Heworth Without.
  - off-site amenity and play space provision – financial contribution of £100,004 towards projects at St. Nicholas Fields, Museum Gardens and Foss Islands Path.
  - sustainable travel - payment to the occupier upon first occupation of each residential unit either a travel pass or a

non-transferable voucher to be used to purchase a bicycle.

- car club payment of £37,200;

- b) Prior completion of any necessary Section 106 Deed of Variation (referred to in paragraph 5.7 above); and
  - c) The conditions outlined in the officer's report and update.
- (ii) The Assistant Director for Planning and Public Protection be granted delegated powers to determine the education contribution to be secured in the Section 106 Agreement;
  - (iii) The Assistant Director for Planning and Public Protection be granted delegated powers to finalise the terms and details of the Section 106 Agreement and any necessary Deed of Variation to the existing section 106 agreement as set out in this report; and
  - (iv) The Assistant Director for Planning and Public Protection be granted delegated powers to determine the final detail of the planning conditions.

Reason:

- i. This application seeks permission for revised proposals for Block D, a part six / part seven storey building comprising 196 residential apartments. Whilst there is an extant full permission, the scheme under consideration is a stand alone application and has been assessed on its own merits.
- ii. One of the key revisions to the extant scheme is an increase to the footprint of the top floor accommodation. The visual impact of this revision relates to streets that are part of the Hungate masterplan development area, and as such Officers consider it to be an acceptable increase.

- iii. In terms of elevational treatment, Officers had raised concerns throughout the application process over the level five (six storey) elevation design. The latest revisions are considered to address these concerns by including a good degree of modelling to this level to make the overall building appear as a genuine series of modulated bays. In general terms and in the context of this being a large and visually imposing building, Officers consider the elevations to be well composed with the design components handled with a generally pleasing rhythm and used consistently and logically.
- iv. The scheme involves the removal of the basement car park, representing a net reduction of 44 spaces site-wide. Whilst concerns have been expressed that the implications of this reduction are that Hungate residents will park elsewhere (outside of the site) to the detriment of the Guildhall ward local residents, Highways Officers have confirmed this to be unlikely given that the area around the site is covered either by resident parking areas or TROs such that there is very limited on street parking that can be legally used. With respects to cycle parking, amended details, which improve the quality of the provision, is awaited.
- v. With reference to the impact on undesignated heritage assets (archaeological features and deposits), the harm to result is considered to be less than substantial and is outweighed by the economic and social benefits of the development in terms of the provision of new housing and the opportunity it presents for regeneration in the area, and has been mitigated by the measures detailed in the WSI. In the context of Paragraph 199 of the NPPF, the ability to record evidence has been considered as part of the planning balance in deciding whether the harm should be permitted, but has not been a decisive factor.

- vi. It is not considered that the changes to the proposed scheme for Block D will impact on either the sustainable aims of the development proposals, nor is it considered that the changes will have an adverse impact on the existing amenities of neighbouring occupiers or the amenities of occupants of this development.
- vii. In accordance with EIA regulations and procedure, an ES Update (December 2018) has been prepared to consider the environmental implications of this revised scheme for Block D in the context of its position within the wider Hungate development site, and to assess the potential for the latest design proposals to result in new or amended environmental effects. The ES Update (December 2018) identifies that the proposed development will result in no change to the overall conclusions reached in the original ES (July 2015), as updated by the ES Addendum (August 2017), which concluded that the development proposals would not have significant adverse impacts on the environment or other amenity considerations. The development would fulfil the roles of sustainable development outlined in the NPPF and would otherwise accord with national and local planning policy.
- viii. Any approval is subject to the signing of a Section 106 Agreement to cover the following matters, to include any necessary consequential variations being made to the original Section 106 obligation.
  - a) Affordable housing – provision of 17% affordable housing for the 186 units as approved with 20% affordable housing for the additional 10 apartments.
  - b) Education – a contribution of £82,806 towards intervention pods at Fishergate Primary school and £83,316 towards pre-school provision.

- c) Off-site sports provision – Financial contribution of £63,900 towards improvements to Hull Road Park buildings, changing and ancillary facility improvements and additional sports facilities at Burnholme Community Health Hub; and multi-use games area within Heworth Without.
  - d) Off-site amenity and play space provision – Financial contribution of £100,004 towards projects at St. Nicholas Fields, Museum Gardens and Foss Islands Path.
  - e) Sustainable Travel - Payment to the occupier upon first occupation of each residential unit either a travel pass or a non-transferable voucher to be used to purchase a bicycle.
  - f) Car Club payment of £37,200.
- ix. With the exception of the contribution towards Education (reference paragraph 4.44, update to be provided at the Meeting), these contributions are considered to be:
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development,
- and therefore comply with Regulation 122 of the 2010 CIL Regulations. These contributions would also comply with Regulation 123.
- x. In light of the above, the proposal, subject to conditions and planning obligations, is considered to be acceptable in planning terms and complies with national and local planning policy.

**80. R S Cockerill York Ltd, Stamford Bridge Road, Dunnington, York [18/02937/FUL]**

Members considered a full application from Providence Holdings Ltd for the erection of three extensions to a packing building.

The Applicant, Mr M Cockerill was in attendance to answer questions. He was asked and confirmed that the flood lights could be on when needed and the LED lights could shine downward.

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

Reason: The proposed extensions are considered to be inappropriate development within the Green Belt and would, therefore, by definition be harmful to the Green Belt. Substantial weight is to be given to any harm to the Green Belt. In accordance with the NPPF, inappropriate development 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. There is limited harm on the openness of the Green Belt and limited harm to the green belt purposes. The very special circumstances are considered cumulatively to be afforded significant weight in the decision making process. The proposal is also considered to be acceptable on the other relevant matters including design, drainage and highway safety. Moderate weight is considered to be applied to these matters. Weighing up the planning balance, it is considered that with regard to this proposal, the very special circumstances set out do outweigh the identified harm to the Green Belt.

**81. Land to the West of Redwood House, Northminster Business Park, Hackness Road, Upper Poppleton, York [18/02919/FULM]**

Members considered a major full application from Alastair Gill for the erection of a two storey building (mixed use class B1, B8) and detached workshop with access and associated parking.

Officers provided an update reporting that there was an error in paragraph 2.3 of the report as the application site is within the

Rufforth with Knapton Neighbourhood Plan boundary. They advised that as stated in 4.10 the Neighbourhood Plan raised objection to the scale of the proposed expansion of the business park. However it advised that an extension to the park, as presented in 2016, would be acceptable subject to certain criteria with regards access, screening and the proposed uses. Officers advised that the application site was within the land that was proposed to form an extension to the business park in the 2016 consultation of the Draft Local Plan. The proposals met the criteria in the Neighbourhood Plan regarding access, (landscape) screening and the proposed uses and as such the scheme in this respect would not conflict with the Neighbourhood Plan.

Officers further advised that further to the site visits where prematurity was discussed, prematurity is a concept in planning policy as to whether approval of a planning application would prejudice emerging policy. Refusal on prematurity grounds was unlikely to be justified unless granting planning permission would undermine the plan process and the emerging plan was at an advanced stage. Where planning permission is refused on grounds of prematurity, the Local Planning Authority need to indicate clearly how the grant of planning permission for the development concerned would prejudice the outcome of the plan-making process. Referring to paragraphs 49 and 50 of the NPPF, Members were reminded that NPPF was clear that developments may only be treated as premature in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would prejudice the outcome of the plan making process by predetermining decisions about the scale, location or phasing of new development which ought properly to be taken in the development plan context. The current proposal envisages a modest industrial development within the context of a draft allocation within the 2018 Draft Plan and identified as making a contribution employment provision. As such it is not considered to be of such a scale as to be prejudicial to the local plan process.

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

The Applicant, Alistair Gill, spoke in support of the application. He explained that FCS would like to establish York as a head

office. He noted the employment opportunities that would be created and that Northminster Business Park was one of three areas identified as employment sites in the draft Local Plan. He explained that the how the current proposals met the needs of FSC and he went on to explain the screening of the boundaries. He added that the benefits of the proposals outweighed the potential harm.

Mr Gill was asked and explained that it was a 17,800 square foot site on 1.25 hectares. He added that York had lost employment land due to residential development and FSC had been searching for space since 2016 and had not found an alternative location.

Edie Jones (Upper Poppleton Parish Councillor) spoke on this application and application [Land to the South of Northminster Business Park, Harwood Road, Upper Poppleton, York [18/02158/FULM] on behalf of the two Parish Councils of Upper and Nether Poppleton as well as the Poppleton Neighbourhood Plan. She noted that both proposals were both on high grade agricultural land and the proposals would create the second largest business park development on the York Local Plan and they were also in the Green Belt. She explained the problems that increased traffic to the sites would bring and highlighted concerns about access. She added that more suitable sites were available at Clifton Moor.

Officers were asked and explained that in regard to alternative sites, there was a letter of support from Make it York (MiY) which explained they had been working with the applicant over the last three years to find an alternative site.

Resolved: That delegated authority be given to the Assistant Director of Planning and Public Protection to:

- i. refer the application to the Secretary of State for Communities and Local Government under the requirements of section 77 of the Town and Country Planning Act 1990, and should the application not be called in by the Secretary of State, then APPROVE the application subject to
- ii. the conditions set out in this report and amended condition that the planting be for the lifetime of the development, with the Assistant Director

granted delegated powers to determine the final detail of the planning conditions

Reason:

- i. The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 143 of the NPPF which states inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.
- ii. In addition to the harm to the Green Belt by reason of inappropriateness, it is considered that the proposal would have a harmful effect on the openness of the Green Belt when one of the most important attributes of Green Belts are their openness. The proposal would undermine two of the five Green Belt purposes by increasing a developed area and encroaching into the countryside. Substantial weight is attached to the harm that the proposal would cause to the Green Belt.
- iii. That the proposal would accommodate and retain a growing local business, the lack of suitable alternative sites (hence the business park being identified for expansion in the 2018 Draft Local Plan) and the extant permission at the site are considered to cumulatively clearly outweigh the harm to the Green Belt, including its openness when substantial weight is given to the harm. No other harm has been identified when considered against the NPPF. The very special circumstances necessary to justify the development therefore exist.

- iv. Other matters, associated with sustainable development, can be secured through planning permission. The scheme does not conflict with the NPPF in that there would be no severe impacts on the highway network and no significant impacts on residential amenity.
- v. If members are minded to approve the application it will be referred to the Secretary of State under the requirements of section 77 of the Town and Country Planning Act 1990.

**82. Land to the South of Northminster Business Park, Harwood Road, Upper Poppleton, York [18/02158/FULM]**

Members considered a major full application from Helen Lowther and George Burgess for the erection of a new industrial facility (use class B2/B8 with ancillary office B1a) with access road, parking and landscaping.

Officers provided Members with an update on the application. The further comments and conditions received from Public Protection were outlined.

Members were advised that further to the site visits where prematurity was discussed, prematurity is a concept in planning policy as to whether approval of a planning application would prejudice emerging policy. Refusal on prematurity grounds was unlikely to be justified unless granting planning permission would undermine the plan process and the emerging plan was at an advanced stage. Where planning permission is refused on grounds of prematurity, the Local Planning Authority need to indicate clearly how the grant of planning permission for the development concerned would prejudice the outcome of the plan-making process. Referring to paragraphs 49 and 50 of the NPPF, Members were reminded that NPPF was clear that developments may only be treated as premature in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would prejudice the outcome of the plan making process by predetermining decisions about the scale, location or phasing of new development which ought properly to be taken in the development plan context. The current proposal envisages a modest industrial development within the context of

a draft allocation within the 2018 Draft Plan and identified as making a contribution employment provision. As such it is not considered to be of such a scale as to be prejudicial to the local plan process.

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

The agent for the applicant, Katharine Morgan, spoke in support of the application. She advised that the application related to the relocation of Unipart from Leeman Road to Northminster Business Park. She explained that the applicant had been approached by York Central and then went on to outline the case for very special circumstances.

Officers were asked and confirmed that:

- The timing of lighting during night time hours.
- Regarding the investigation of alternative sites, eight sites had been considered, two of which were in the York boundary.
- As there were no time limits on conditions relating to planting and landscaping, these were for the lifetime of the development.
- The building could be green until the planting had grown.

Resolved: That delegated authority be given to the Assistant Director for Planning and Public Protection to:

i. refer the application to the Secretary of State for Communities and Local Government under the requirements of section 77 of the Town and Country Planning Act 1990, and should the application not be called in by the Secretary of State, then APPROVE the application subject to

ii. the conditions set out in this report and additional and revised conditions below with the Assistant Director granted delegated powers to determine the final detail of the planning conditions

### **Additional conditions**

- (i) Construction Environmental Management Plan Condition

Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

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

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any). With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of

evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

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

Reason: To protect the amenity of the area and the occupants of the nearby buildings. The information is sought prior to commencement to ensure that the CEMP is initiated at an appropriate point in the development procedure.

(ii) Reporting of Unexpected Contamination

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

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

(iii) Details of all machinery, plant and equipment

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

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

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

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

(iv) Hours of Jet Wash

The jet wash shall not be used between the hours of 17.00 hours and 08.00 hours (the next day).

Reason: To protect residential amenity. Concerns that the proposed jet wash used outside of typical working hours would exceed the background noise levels and potentially cause a noise disturbance.

(v) Hours of delivery

Upon completion of the development, delivery vehicles to the unit shall be confined to the following hours:

Monday – Sunday 07.00 hours to 17.00 hours.

With the exception of 1 HGV (Heavy Goods Vehicle) which shall be limited to one visit between 17.00 hours and 07.00 hours (the next day).

Reason: To protect residential amenity. Insufficient information was submitted with the application to demonstrate that more than 1 HGV visit to the site (during night time hours) would not cause disturbance to the occupants of the nearby dwellings.

(vi) Lighting Scheme

The implemented lighting scheme shall be in accordance with Drawing Number D35216/JB/B received 01 April 2019.

Reason: To protect residential amenity and the character of the area. To prevent light pollution. The lighting scheme meets the CIE/ILP (International Institute on Illumination/Institute of Lighting Professionals) guidance levels for day time period

(vii) Hours of lighting

The external lighting shall be restricted to the following hours:

Monday to Sunday 07:00 hours to 23:00 hours

Reason: To protect the amenity of the nearby residential properties and to prevent light pollution. These lighting levels appear to be suitable levels for day time use up to 23.00 hours, however after the 23.00 curfew the average lighting levels would be too high for the character of the area and would potential result in visual harm and disturbance. The lighting during the night time hours would not meet the CIE/ILP (International Institute on Illumination/Institute of Lighting Professionals) guidance. The proposed planting would not provide sufficient screening during night time hour. No mitigation has been proposed for the lighting at night therefore the requirement for the restriction.

## **Revisions to Conditions**

### Condition 3 (Materials)

Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the

construction of the building. The development shall be carried out using the approved materials.

#### Condition 5 (Landscaping)

Prior to construction of the building a detailed planting plan and management plan shall be submitted and approved in writing by the Local Planning Authority in accordance with the approved Landscape Masterplan (Drawing Number 2959/1 Revision A received 12 September 2018) which shall include the species, stock size, density (spacing), and position of trees, shrubs, and other plants. It will also include details of tree pits and support and ground preparation and fencing. It will also include how the proposed planting will be maintained and managed to to create healthy woodland along the west and south boundaries. The development shall be carried out and maintained in accordance with these approved details. 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 the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the character and appearance of the area. In order to preserve the visual appearance of York's Green Belt and to minimise the visual impact of the building within the Green Belt.

#### Condition 6 (Hedge and tree protection)

Before the commencement of and during building operations, adequate measures shall be taken to protect the trees and hedges shown as being retained on Drawing Number 1214-03 Revision S (received 12 March 2019) and Drawing Number 2959/1 Revision A (received 12 September 2018).

Land levels should not be altered (raised or excavated) within the root protection areas. A tree and hedge protection plan shall be agreed in writing with the Local Planning Authority and shall be implemented prior to the stacking of materials, the erection of site huts or the commencement of building works.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area. In order to preserve the visual appearance of York's Green Belt and to minimise the visual impact of the warehouse within the Green Belt.

Reasons:

- i. The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 143 of the NPPF which states inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.
- ii. In addition to the harm to the Green Belt by reason of inappropriateness, it is considered that the proposal would have a harmful effect on the openness of the Green Belt when one of the most important attributes of Green Belts are their openness and that the proposal would undermine three of the five Green Belt purposes. Substantial weight is attached to the harm that the proposal would cause to the Green Belt. The harm to the Green Belt is added to by the harm to the visual character and amenity identified in this report.

- iii. It is considered that cumulatively the economic benefits and the retention of the business and jobs within the city, and the fact that Unipart is to relocate to enable the York Central site to be regenerated, are considered to clearly outweigh the harm to the Green Belt and the harm to visual character and amenity identified in this report, even when substantial weight is given to the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposed development exist.
- iv. The Town and Country Planning (Consultation) (England) Direction 2009 requires that proposals that constitute inappropriate development within the Green Belt, and are recommended for approval, are referred to the Secretary of State for consideration.

**83. Forest Hill Farm, Pottery Lane, Strensall, York  
[16/01061/FUL]**

Members considered a full application from York Pullman Bus Company Ltd for a change of use of land and building to a bus depot including an extension to the north elevation of the main building complex and a detached single storey office building, and hardstanding (retrospective) (resubmission).

The Applicant, Tom James (Managing Director, York Pullman Bus Company Ltd), spoke in support of the application. He outlined the very special circumstances for approval of the application as being job losses, the loss of home to school transport in York and emergency work for major rail providers. He was asked and explained the York Pullman bus sites in York explaining that other sites had been considered and discounted because of their unsuitability.

In relation to Pottery Lane access he was asked and confirmed that he would be agreeable to funding passing places and to changing the types of trees used to screen the site.

Andrew McGuinness (Regional Manager, Northern & Yorkshire Regions, CPT UK and Vice Chair, York Quality Bus Partnership), spoke in support of the application. He explained that CPT represented bus operators and he noted the impacts of the loss of operating facilities and development opportunities

for bus operators in York. He also noted the cost implications of moving the location of the depot.

Bill Woolley spoke in support of the application. He noted that he worked for Rufforth Estates and had no involvement in the application. He noted that local operators in York had been lost with York Pullman being the only independent bus operator remaining. He noted the operators contribution to home to school transport and that the benefits of the application outweighed the harm to the Green Belt.

John Chapman (Strensall Parish Councillor) spoke in objection to the application. He noted that Strensall Parish Council always supported local employment and home to school transport, however, the application failed to demonstrate the case for very special circumstances.

In response to a Member question, officers confirmed that the North Yorkshire County Council response regarding home to school transport was included in the committee report.

Following debate it was:

Resolved: That the application be approved subject to referral to the Secretary of State (if required) and the following conditions (the wording of which to be agreed by the Assistant Director, Chair and Vice Chair:

Condition 1 – Plans

Condition 2 - Highway work condition regarding the provision of two passing places on Pottery Lane

Condition 3 - Landscaping plan to include a mixed nature hedge instead of leylandii.

Condition 4 - Electric vehicle recharging points

Condition 5 - Submission of lighting scheme.

Reason: The proposed development would constitute appropriate development in the Green Belt that does falls within the listed exceptions in paragraphs 145 and 146 of the National Planning Policy Framework (2018). The considerations put forward by the applicant are considered to amount to the very special circumstances that are required to clearly outweigh the totality of harm to the Green Belt and other harm identified. The proposal is therefore not

considered to be contrary to paragraphs 143 - 146 of the National Planning Policy Framework.

**84. Appeals Performance and Decision Summaries**

Members received a report informing them of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 October and 31 December 2018, and provided a summary of the salient points from appeals determined in that period. A list of outstanding appeals at date of writing was also included.

Resolved: That the report be noted.

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

**85. Urgent Business**

Thanks was recorded to Committee Members and the Chair for their work during their terms of office as Councillors.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 7.45 pm].