



## Notice of a public meeting of Planning Committee

**To:** Councillors Reid (Chair), Ayre, Boyce, Burton, Crisp, D'Agorne, Doughty, Firth, Galvin (Vice-Chair), Horton, King, Looker, McIlveen, Simpson-Laing, Watt, Warters and Williams

**Date:** Thursday, 20 November 2014

**Time:** 4.30 pm

**Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

### AGENDA

Would Members please note that the mini-bus for the Site Visits for this meeting will depart Memorial Gardens at 12:30 on Tuesday 18<sup>th</sup> September 2014.

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

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

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

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

#### 2. **Minutes** (Pages 3 - 8)

To approve and sign the minutes of the meeting of the Planning Committee held on 23<sup>rd</sup> October 2014.

### **3. Public Participation**

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5pm on Wednesday 19<sup>th</sup> November 2014**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

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

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

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

The Council’s protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at [http://www.york.gov.uk/downloads/download/3130/protocol\\_for\\_webcasting\\_filming\\_and\\_recording\\_of\\_council\\_meetings](http://www.york.gov.uk/downloads/download/3130/protocol_for_webcasting_filming_and_recording_of_council_meetings)

### **4. Plans List**

This item invites Members to determine the following planning applications:

**a) Ivy House Farm, Hull Road, Kexby, York, YO41 5LQ (14/02008/FULM). (Pages 9 - 22)**

A major full application for the erection of a wind turbine (maximum height to blade tip 78 metres) with associated access tracks, crane pad, sub-station building, underground cabling and temporary construction compound. [Derwent Ward] *[Site Visit]*.

**b) Land to the South of Yorwaste, Harewood Whin, Tinker Lane, Rufforth, York. (13/00041/FULM). (Pages 23 - 40)**

A major full application for the construction of a material recovery facility and waste transfer station including associated weighbridge and office facilities, concrete hardstandings, car parking, visual and acoustic screens, access roads and lighting. [Rural West York] [Site Visit].

**5. Appeals Performance (Pages 41 - 52)**

This report (presented to both Planning Committee and the Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1 July to 30 September 2014, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

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

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-mail – laura.bootland@york.gov.uk

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جا سکتی ہیں۔ (Urdu)

 **(01904) 551550**

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**PLANNING COMMITTEE****SITE VISITS****Tuesday 18<sup>th</sup> November 2014.**

<b>TIME</b>	<b>SITE</b>	<b>ITEM</b>
<b>12:30</b>	<b>Coach leaves Memorial Gardens</b>	
<b>12:50</b>	<b>Yorwaste Harewood Whin</b>	<b>4b</b>
<b>13:40</b>	<b>Ivy House Farm, Kexby</b>	<b>4a</b>

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City of York Council

Committee Minutes

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Meeting	Planning Committee
Date	23 October 2014
Present	Councillors Horton (Chair), Galvin (Vice-Chair), Ayre, Burton, Crisp, D'Agorne, Firth, King, Looker, McIlveen, Reid, Simpson-Laing, Watt, Williams, Watson, Fitzpatrick (Substitute) and Richardson (Substitute)
Apologies	Councillors Boyce and Doughty

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**16. Declarations of Interest**

At this point in the meeting, Members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda. None were declared.

**17. Minutes**

Resolved: That the minutes of the meeting held on 21<sup>st</sup> August 2014 be approved and signed by the Chair as a correct record.

**18. Public Participation**

It was reported there had been no registrations to speak under the Council's Public Participation Scheme.

**19. Plans List**

Members then considered 2 reports of the Assistant Director (Development Services, Planning and Regeneration) relating to the following planning application, which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers.

**20. Cockey Hill Farm, Wheldrake Lane, Cockey Hill, York, YO19 4SN (14/01845/FULM)**

Consideration was given to an application (re-submission) by Gary Cooper for the erection of 6 holiday lodges and a wildlife pond, together with landscaping works following a change of use of agricultural grass land and change of use of former quarry to public amenity area.

Officers circulated an update to the committee report, full details of which are attached to the online agenda for this meeting. The main points were as follows:

- A change to the application description to remove reference to the change of use of a former quarry.
- A further supporting statement had been received from the applicant's agent, full details attached to the online agenda for information.
- In reference to the issue of 'outdoor sport and recreation' exception, it is considered that the lodges remain inappropriate as they fail to preserve the openness to the Green Belt.
- The Committee Report addressed all other issues raised in the applicant's additional statement.
- Green Belt Appraisal – A recent Court of Appeal decision, Redhill Aerodrome Limited v The Secretary of State, the judgement does not affect the application and harms identified in the Officer's report are harms to the Green Belt.

The Council's Legal Officer spoke to advise Members on the approach to Green Belt policies, in particular that the usual presumption in favour of sustainable development is reversed and there is a strong presumption against new development unless 'very special circumstances' for the particular proposal can be demonstrated. The Officer also pointed out that the test relating to the impact on openness does not simply relate to visible impact of a development in the Green Belt, but to the act of enclosing open land by a structure or building. Full details of the Legal Officer's briefing are attached to the online agenda for this meeting.

The applicant's wife spoke in support of the application. She advised that the land in question was redundant and it was intended to bring it back into use for local residents as well as for the proposed Holiday Lodges.



Members asked a number of questions of the agent and officer's as follows:

- Further information regarding how the lodges would be fixed to the ground. The applicant's agent confirmed that there is a variety of systems available including screw-in methods which can be reversed or low impact pad systems. Further research would still need to be carried out if the application was to be approved.
- Whether the lodges fell within the Caravan Act. Officers confirmed that they do not.

Members then entered debate and made the following points:

- While the Local Plan is still draft, Members should follow the legal advice given by the Council's Legal Officer on the Green Belt and refuse.
- Concern was raised at the number of such applications being made on Green Belt land.
- Recent similar applications had been for smaller pods and some Members considered the size of the lodges to be too large.

Following further discussion it was:

Resolved: That the application be refused.

Reason: Policies YH9 and Y1 of the Yorkshire and Humber Plan Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre. Crockey Hill Farm is located in Green Belt identified in the City of York Development Control Local Plan (April 2005). It is considered that the proposed development consisting of six holiday lodges, as well as the associated infrastructure constitutes inappropriate development in the Green Belt as set out in Section 9 of the National Planning Policy Framework. As such the proposal results in substantial harm to the Green Belt by definition, and by reason of any other harm, including the impact on the openness of the Green Belt and conflict with the purposes of including land within it. No 'very special circumstances' have been put

forward by the applicant that would outweigh this substantial harm. The proposal is, therefore considered contrary to advice within the National Planning Policy Framework, in particular Section 9 'Protecting Green Belt Land' and City of York Draft Local Plan Policies GB1 and V5.

**21. Site adjacent to Frog Hall Public House, Layerthorpe, York, (14/00112/FULM)**

Consideration was given to a major full application by Tiger Developments for the erection of a five storey hotel with a public house/restaurant/retail use to the ground floor, single storey drive through restaurant with associated parking, landscaping and access including an extension to the James Street/Heworth Green Link Road.

Officer's circulated an update to the committee report, full details of which are attached to the online agenda for this meeting for information. The main points were as follows:

- Consultee response - The Environment Agency had provided a revised comment. The Environment Agency do not object to the proposals and have recommended a condition requiring implementation of the proposals within the Flood Risk Assessment.
- Additional conditions for drainage, flood risk and land contamination.

The applicant's agent was in attendance and gave a brief statement in support of the application. He advised that the previous scheme had been unable to go ahead due to the proximity of the gasholders to the site and the Health and Safety requirement for them to be de-commissioned. The new application would move the buildings further away to remove the need for the gas holders to be decommissioned. The applicant was happy with all conditions being placed on the scheme.

Members noted the comments made by the agent and following a brief discussion it was:

Resolved: That the application be delegated to Officers for approval subject to a legal agreement requiring:

- Delivery of the final section of the James Street/Heworth Green Link Road.
- Delivery and maintenance of the Riverside Walk/Cycleway.
- Contamination bond of £250k to cover the need for remediation works in the event that groundwater contamination occurs.

Reason: The site is derelict and the proposed scheme will deliver both a river walkway along the Foss and the James Street Link Road, two aspirations within the existing Local Plan. The building would be constructed to meet sustainable construction requirements and there would be no undue harm to amenity, highway safety and flood risk. Proposals constitute the type of sustainable economic growth recommended within the NPPF and there is no evidence that there would be a significant impact on the vitality of the City Centre, as required by the NPPF.

### **Vote of Thanks.**

Members expressed thanks to the outgoing Chair Councillor Horton for his services to Planning Committee over the past few municipal years.

Cllr D Horton, Chair  
[The meeting started at 4.30 pm and finished at 5.30 pm].

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**COMMITTEE REPORT**

**Date:** 20 November 2014      **Ward:** Derwent  
**Team:** Major and                      **Parish:** Kexby Parish Council  
                    Commercial Team

**Reference:** 14/02008/FULM  
**Application at:** Ivy House Farm Hull Road Kexby York YO41 5LQ  
**For:** Erection of wind turbine (maximum height to blade tip 78 metres)  
                    with associated access tracks, crane pad, sub-station building,  
                    underground cabling and temporary construction compound  
**By:** EDP  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 1 December 2014  
**Recommendation:** Refuse

**1.0 PROPOSAL**

1.1 Ivy House Farm comprises a medium sized arable farm holding lying in the Green Belt equidistant between Elvington and Dunnington to the east of the City Centre. Planning permission is sought for the erection of a single 800 kw wind turbine with a maximum height of 78 metres to hub together with ancillary infrastructure. The site lies in a prominent location within the York Green Belt clearly visible from the A1079 to the north and an unclassified road, Dalby Lane to the east running between Dunnington and Elvington. The surrounding landscape is gently rolling with small areas of woodland interspersed with arable fields. A number of residential properties lie to the east along Dalby Lane Elvington.

1.2 The proposal has previously been the subject of a Screening Opinion by the Local Planning Authority and a Screening Direction by the Secretary of State for Communities and Local Government under Schedules 2 and 3 of the 2011 Town and Country Planning (Environmental Impact Assessment) Regulations both of which held that a formal Environmental Impact Assessment would not be required.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

## 2.2 Policies:

CYGP1 -Design

CYGP5 - Renewable energy

CYNE1 - Trees, woodlands, hedgerows

CYGB1 - Development within the Green Belt

CYNE8 - Green corridors

## 3.0 CONSULTATIONS

### INTERNAL:-

3.1 Environmental Protection Unit raise no objection to the proposal subject to any permission be conditioned to include provision for noise from the turbine to be ameliorated.

3.2 Design, Conservation and Sustainable Development raise no objection in principle to the proposal but express some concern with regard to the impact of the proposal upon the visual character of the surrounding landscape. It is felt that the impact of the proposal upon the habitat of local wildlife would be acceptable.

### EXTERNAL:-

3.3 Murton Parish Council object to the proposal on the grounds of the serious adverse impact it would cause to the open character of the Green Belt together with creating a precedent for the erection of other similar structures in the area.

3.4 The Civil Aviation Authority raise no objection to the proposal.

3.5 The Ministry of Defence object to the proposal on the grounds of its impact upon ground based communication's infrastructure and aircraft mounted radar apparatus giving rise to false signals of approaching aircraft.

3.6 Kexby Parish Council object to the proposal on the grounds of serious adverse impact upon the open character of the Green Belt and the impact upon the habitat of local breeding bird species.

3.7 The National Air Traffic Service(NATS) initially objected to the proposal on the grounds of impact upon ground based communication infrastructure giving rise to false signals of approaching aircraft. They have subsequently withdrawn their objection having undertaken further analysis of its impact upon their ground based infrastructure in the locality.

3.8 Dunnington Parish Council object to the proposal on the grounds of adverse impact upon the residential amenity of properties in Dunnington through noise and ground based vibration, adverse impact upon the habitat of protected species and adverse impact upon the open character and purposes of designation of the York Green Belt.

3.9 Councillor Jenny Brooks objects to the proposal on the grounds that it would cause serious harm to the open character and purposes of designation of the York Green Belt, it would harm the habitat of protected wildlife species, it would harm the residential amenity of neighbouring properties and it would harm the landscape character of a “green corridor” as defined in Policy NE8 of the York Development Control Local Plan(4<sup>th</sup> Set Changes 2005).

3.10 English Heritage object to the proposal on the grounds that insufficient information has been submitted to allow impact upon the setting of Scheduled Ancient Monuments in the locality, notably the moated site at St Lois Farm to be properly assessed concern is also expressed in relation to the comparison of visual impact between the proposed turbine and the existing electricity pylons in the locality.

3.11 Julian Sturdy MP (York Outer) objects to the proposal on the grounds that it would adversely impact upon the setting of local Scheduled Ancient Monuments, it would adversely impact upon the residential amenity of neighbouring residential properties by virtue of noise and shadow flicker, it would adversely impact upon the safe operation of military aviation radar apparatus and the open character and purposes of designation of the York Green Belt.

3.12 51 Letters of representation have been submitted in respect of the proposal. 49 are in objection and two are in support. The following is a summary of the contents of the letters of objection:-

- \* Serious impact upon the residential amenity of neighbouring properties;
- \* Concern in respect of impact upon neighbouring properties caused by noise generated by blade rotation;
- \* Concern in respect of the impact upon sunlight and daylight caused by shadow flicker;
- \* Concern in respect of the impact of the proposal upon local television reception;
- \* Concern in respect of the impact upon local wildlife habitat;
- \* Concern in respect of impact upon the open character and purposes of designation of the York Green Belt;
- \* Concern in respect of the impact of the proposal upon air traffic control infrastructure in the locality;
- \* Concern in respect of the impact of the proposal upon the setting of Kexby Parish Church, a Grade II Listed Building;
- \* Concern in respect of highway safety for vehicles using the A1079 Hull Road.;
- \* Concern in respect of impact upon the setting of York Minster;

\* Concern that the proposal would set a precedent for other similar undesirable proposals.

3.13 The following is a summary of the letters of support:-

\* Support for the provision of renewable energy to lower carbon emissions.

## **4.0 APPRAISAL**

### **KEY CONSIDERATIONS:-**

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

- \* Impact upon the open character and purposes of designation of the York Green Belt;
- \* The need to generate renewable energy as a means of reducing the impacts of climate change;
- \* Impact upon the habitat of protected species;
- \* Impact upon the setting of York Minster and Kexby Parish Church;
- \* Impact upon the operation of military and civilian air traffic control radar infrastructure;
- \* Impact upon local television reception;
- \* Impact upon the residential amenity of neighbouring properties;
- \* Impact upon the setting of the Scheduled Ancient Monument at St Lois Farm Kexby.

### **STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN:-**

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

### **POLICY CONTEXT:-**

4.3 GREEN BELT:- The general extent of the York Green Belt is defined within saved Yorkshire and Humber RSS Policies YH9C and Y1C as such Central Government Policy in respect of Green Belts as outlined in the National Planning Policy Framework applies. Central Government Planning Policy as outlined in paragraph 87 of the National Planning Policy Framework indicates that inappropriate development within the Green Belt is by definition harmful to the Green Belt and should not therefore be approved other than in very special circumstances. Paragraph 91 specifically addresses renewable energy projects in the Green Belt which are felt to be inappropriate development, the need to supply a case for very special circumstances is emphasised although it is acknowledged that such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Paragraph 88 establishes



the weight to be given to a submitted case to establish "very special circumstances". This clearly argues that when considering a planning application Local Planning Authorities should ensure that substantial weight should be given to any harm to the Green Belt. "Very special circumstances" will not be held to exist unless the potential harm by reason of inappropriateness and any other harm are outweighed by other considerations.

**4.4 GENERATION OF RENEWABLE ENERGY:-** Central Government Planning Policy as outlined in paragraph 93 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to supporting the delivery of renewable and low carbon energy and associated infrastructure as a key tenet of the presumption in favour of sustainable economic development.

**4.5 SAFEGUARDING OF PROTECTED SPECIES AND HABITATS:-** Central Government Planning Policy in respect of biodiversity as outlined in paragraphs 118 and 119 of the National Planning Policy Framework urges Local Planning Authorities to refuse planning permission for new development which would give rise to significant harm to a rare species and or its habitat which can not be mitigated, avoided or as a last resort compensated for and at the same time it is clearly indicated that the presumption in favour of sustainable economic development does not apply in such cases.

**4.6 IMPACT UPON RESIDENTIAL AMENITY:-** Central Government Planning Policy in respect of amenity as outlined in paragraph 17 of the National Planning Policy Framework "Key Planning Principles" urges Local Planning Authorities to give significant weight to the need to secure a good standard of amenity for all new and existing occupants of land and buildings.

**4.7 IMPACT UPON DESIGNATED HERITAGE ASSETS:-** Central Government Planning Policy in respect of Scheduled Ancient Monuments and other Designated Heritage Assets as outlined in paragraph 132 of the National Planning Policy Framework urges Local Planning Authorities to give great weight in considering the impact of proposed development on the significance of a Designated Heritage Asset to the Asset's conservation.

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

**4.8 Policy GB1** of the York Development Control Local Plan sets out a firm policy presumption that planning permission for development within the Green Belt will only be forthcoming where the scale, location and design of such development would not detract from the open character of the Green Belt, it would not conflict with the purposes of including land within the Green Belt and it is for one of a number of purposes identified as being appropriate within the Green Belt including agriculture and forestry. Central Government Policy as outlined in paragraph 79 of

the National Planning Policy Framework establishes their fundamental characteristics as being their openness and permanence.

4.9 Paragraph 91 of the National Planning Policy Framework does explicitly identify renewable energy development of the type applied for as being inappropriate within the Green Belt and this is acknowledged by the applicant. Paragraph 91 further highlights the requirement for a case for very special circumstances which may include the wider environmental benefits associated with increased energy production from renewable sources. A brief argument based upon the environmental benefits of renewable energy has been submitted, however, the current proposal has been justified principally on the basis of the presumption in favour of sustainable development which the NPPF specifically excludes from consideration in respect of the Green Belt and the need to secure the viability of the farm, despite no viability information being submitted and the applicant refusing to submit such information. No information is submitted to justify the location of the proposal as opposed to a less prominent site within the Green Belt or a site outside. No consideration is also given of alternative less prominent means of renewable energy provision such as solar arrays, which Central Government Planning Policy outlined in "Planning Practise Guidance for Renewable and Low Carbon Energy(2013) identify as being of very low impact.

4.10 In terms of the impact of the proposal upon the openness of the Green Belt the application site comprises a gently rolling rural landscape with small copses of mature trees interspersed with arable fields surrounded by mature trees and lengths of hedgerow. The application proposes the erection of a very substantial metal frame structure that would be clearly visible in views across open countryside from the north and north east. The applicant contends that the thin tapering style of pylon would minimise its visual impact. The structure would however be substantially taller than anything else in the surrounding landscape as much as 50% higher and more solid in appearance than the electricity pylons in the local area. A landscape assessment has been submitted with the proposal although its results in terms of visual impact are inconclusive. The applicant has furthermore submitted an appeal decision in respect of the Keighley area of Bradford to support the contention that a similarly designed pylon can be held to be acceptable in the wider landscape. The circumstances of the Bradford case are however materially different in that the proposed turbine was only 32 metres height to the hub and as the determining inspector made clear the turbine was very well sheltered by the steeply sloping local topography. The case can therefore only be afforded limited weight in considering the current proposal. It is felt that in addition to the harm due to inappropriateness, the tall heavily engineered structure of the turbine would give rise to serious adverse harm to the open character of the Green Belt and as such would be unacceptable.

## THE NEED TO GENERATE RENEWABLE ENERGY AS A MEANS OF REDUCING THE IMPACT OF CLIMATE CHANGE:-

4.11 The application envisages the erection of a single 78 metre high wind turbine to generate between 500 and 800 kwh of electricity which is identified as enough power to supply up to 600 homes. Attention is also drawn to the UK's binding commitment to providing a minimum of 15% of its energy needs by renewable means by 2020. No information has however been forthcoming as to the scale of contribution the proposal would make or consideration of alternative less harmful means of generation such as solar arrays. It is however accepted that the proposal would make a small contribution to a lower carbon future in line with Central Government planning policy outlined in paragraph 93 of the National Planning Policy Framework. It is not however felt that this outweighs the serious harm the proposal would cause to the open character of the Green Belt.

## IMPACT UPON THE HABITAT OF PROTECTED SPECIES:-

4.12 Serious concern has been expressed in respect of the impact of the proposal upon the habitat of breeding birds and bats. Two nationally designated nature reserves also exist directly to the east in the Derwent valley. A very detailed ecological survey has however been submitted with the proposal which was undertaken to an accepted methodology. Despite anecdotal indicators of bat and bird of prey activity in the area, the survey clearly indicates that the location and design of the turbine would not give rise to unacceptable impacts upon local wildlife habitat. This does not however outweigh the serious harm the proposal would cause to the open character of the Green Belt.

## IMPACT UPON THE SETTING OF YORK MINSTER AND KEXBY PARISH CHURCH:-

4.13 York Minster and Kexby Parish Church are Listed on account of their significant architectural and townscape merit, indeed the form and presence of York Minster within the skyline of the City is fundamental to the definition of its intrinsic character. Central Government Planning Policy in respect of Planning and the Historic Environment as outlined in paragraph 132 of the National Planning Policy Framework urges Local Planning Authorities to give significant weight to assessing the harm caused to the setting of a Listed Building by virtue of development undertaken within its setting. The applicant has submitted a detailed landscape assessment of the proposal that clearly demonstrates that as a result of local topography to the north and west of Dunnington that the proposal would not materially harm the setting of the Minster and at the same time any harm to the setting of Kexby Parish Church would be minimal by virtue of its location.

#### IMPACT UPON THE OPERATION OF LOCAL CIVILIAN AND MILITARY RADAR INFRASTRUCTURE:-

4.14 Strong and detailed objections have been made to the proposal by the MoD on the basis that the operation of the blades of the turbine would set up false signals of aircraft overflying the area to the detriment of safe and effective operation of the equipment and wider air passenger safety. The applicant has not to date been able to come forward with an effective means of mitigating this risk and as such in view of the severe impact upon the safety of aviation in the area which includes Elvington Airfield and RAF Linton on Ouse then it is recommended that planning permission be with held.

#### IMPACT UPON LOCAL TELEVISION RECEPTION:-

4.15 Appeal decisions elsewhere have established that the erection of on-shore wind farms can impact upon television reception at residential properties within a wider area in a manner similar to the harm demonstrated in respect of air traffic control radar. Concern has been expressed in relation to the current proposal in this respect and the applicant has not come forward with information to refute or mitigate this as an issue. The nearest residential properties are however in excess of 500 metres away and it is not felt that risk would be significant enough to warrant refusal for this reason alone.

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

4.16 Policy GP1 of the York Development Control Local Plan sets out a firm policy presumption in favour of new development proposals which respect or enhance the local environment, are of a scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area and ensure that residents living nearby are not unduly affected by noise, disturbance or dominated by overbearing structures. The proposed apparatus would be some 78 metres to its highest point and would be clearly visible in open countryside separated from the belt of trees to the east and south east. The nearest residential properties would lie along Hull Road and Dalby Lane to the east and north east at between 5 and 600 metres distance. Significant concern has been expressed in relation to the impact of both noise and shadow flicker on the residential amenity of neighbouring properties quite apart from the significant overbearing visual impact. Detailed noise and shadow flicker assessment have however been submitted with the application, which indicate that the development would be acceptable if conditioned as part of any permission. This does not however detract from the significant impact the proposal would have upon the open character of the Green Belt or the impact upon aviation radar infrastructure of national importance.

## IMPACT UPON THE SETTING OF THE SCHEDULED MONUMENT AT ST LOIS FARM:-

4.17 The submitted Heritage Statement indicates that the significance of a number of Designated Heritage Assets in the locality, primarily Scheduled Ancient Monuments such as the moated site at St Lois Farm is substantially determined by the nature of their setting. The Heritage Statement then indicates that the proposed 78metre high turbine would have a negligible impact upon its setting without substantiating how this conclusion is achieved. The setting of the moated site at St Lois Farm is based upon the relationship of the monument to the gently rolling agricultural landscape surrounding it. The proposed turbine would add a new and entirely alien vertical emphasis that would significantly erode the character of its setting. Without the submission of a detailed justification as required under paragraph 132 of the National Planning Policy Framework for the likely impact then the proposal is felt to be unacceptable.

### **5.0 CONCLUSION**

5.1 The proposal for a single 78 metre high , up to 800 kwh wind turbine on land to the south west of the Ivy House Farm represents inappropriate development within the Green Belt and it is felt that the submitted case for "very special circumstances" fails to pass the test of overcoming Green Belt harm and any other harm as identified by paragraph 88 of the National Planning Policy Framework. It is felt that the structure by virtue of its extreme height and engineered appearance would give rise to significant and unacceptable harm to the open character of the Green Belt.

5.2 In addition to Green Belt concerns, the applicant has failed to demonstrate that the proposal would not harm the operation of both civilian and military air traffic control radar to the detriment of air safety. As such the proposal is felt to be unacceptable in planning terms and it is recommended that planning permission should be refused.

### **6.0 RECOMMENDATION: Refuse**

1 The proposal lies within the general extent of the Green Belt as set out in the saved RSS policies YH9C and Y1C The application has therefore been considered against the policies in the Framework at Section 9 relating to development in the Green Belt. The proposal constitutes inappropriate development within the Green Belt and is therefore by definition harmful to the openness of the Green Belt contrary to paragraph 91 of the National Planning Policy Framework and Policy GB1 of the York Development Control Local Plan(4<sup>th</sup> Set Changes 2005). The other comprising farm viability and the provision of renewable energy do not amount to very special circumstances that would clearly outweigh the harm and any other harm to the Green Belt and therefore in accordance with para 87 of the Framework, the application is refused.

2 The applicant has failed to demonstrate that the operation of the proposed turbine would not materially harm the operation of military ground and air mounted air traffic control radar infrastructure to the detriment of air safety.

3 The proposed turbine would have a significant impact upon the setting of the moated site at St Lois Farm Kexby, a Scheduled Ancient Monument. Insufficient information has been submitted with the proposal to be able to properly assess or justify the degree of impact upon the setting of the Designated Heritage Asset as such the proposal is clearly contrary to the terms of Central Government Planning Policy as outlined in paragraph 132 of the National Planning Policy Framework.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

Clarification of the case for "very special circumstances".

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

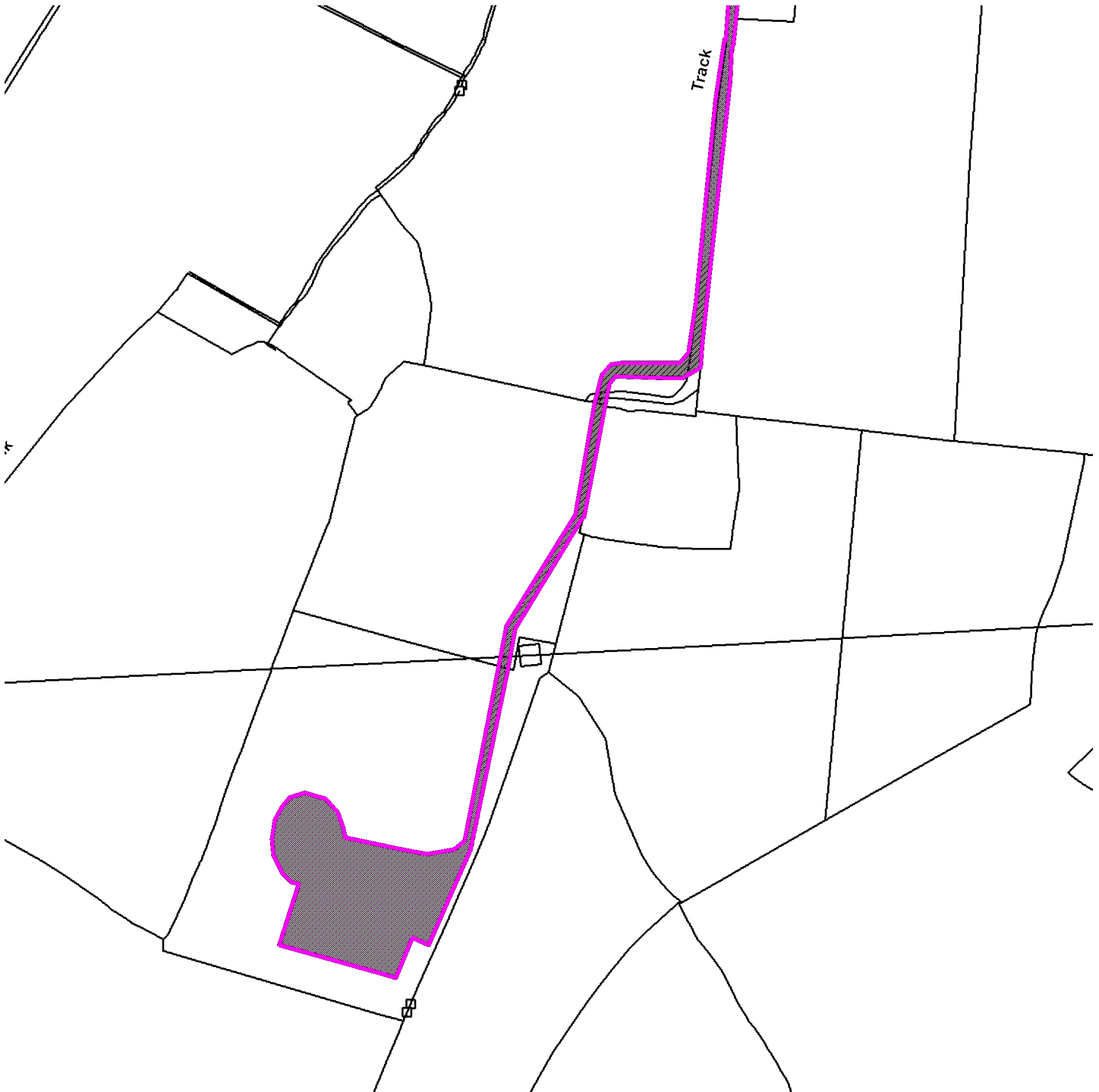
#### **Contact details:**

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14/02008/FULM

Ivy House Farm, Hull Road, Kexby, York



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<b>Department</b>	Not Set
<b>Comments</b>	Site plan
<b>Date</b>	11 November 2014
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 20<sup>th</sup> November 2014    **Ward:** Rural West York  
**Team:** Major and Commercial Team    **Parish:** Parish Of Rufforth With Knapton

**Reference:** 13/00041/FULM  
**Application at:** Land To The South Of Yorwaste Harewood Whin Tinker Lane Rufforth York  
**For:** Construction of a material recovery facility and waste transfer station including associated weighbridge and office facilities, concrete hardstandings, car parking, visual and acoustic screens, access roads and lighting.  
**By:** Yorwaste Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 27 May 2013  
**Recommendation:** Referral to Secretary of State. If not called in, defer for legal agreement. On completion Officers be authorised to grant permission subject to conditions.

**1.0 PROPOSAL**

1.1 Harewood Whin comprises a waste disposal by landfill operation lying within the Green Belt to the north east of Rufforth village and to the west of the City Centre. Planning permission is sought for the erection of a domestic materials recycling facility(MRF)some 82m x 60 metres in area together with a Waste Transfer Station some 78m x32 metres in area to be used for the bulking up and transference of materials to be used in the proposed Allerton Park Waste Incinerator. The application is subject to Environmental Impact Assessment as falling within Schedule 2 to the 2011 Town and Country Planning(Environmental Impact Assessment) Regulations.

1.2 The application has been amended subsequent to submission to relocate both buildings further north within the site and to extensively re-enforce the area of landscape planting to the south and south west of the site adjacent to the B1224 Wetherby Road in order to deal with concerns in respect of the appropriateness of the development and its likely impact upon the openness of the Green Belt. At the same time the applicant has agreed to unilaterally revoke earlier planning permissions for the erection of a composting operation in the southern section of the site and the erection of an energy from Biomass Plant at the north western edge of the site.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: West Area 0004

### 2.2 Policies:

CGP15A -Development and Flood Risk

CYGB1 - Development within the Green Belt

CYGP1 - Design

CYMW5 - Landfill/landraising - considered on merits

## **3.0 CONSULTATIONS**

### INTERNAL:-

3.1 Highway Network Management raise no objection to the proposed layout as amended.

3.2 Environmental Protection Unit raise no objection to the proposal subject to a number of conditions being appended to any permission requiring the mitigation of odour nuisance and potential land contamination.

3.3 Planning and Environmental Management raise no objection to the proposal.

3.4 Strategic Flood Risk Management raise no objection to the proposals.

3.5 Design, Conservation and Sustainable Development raise no objection in principle to the proposal providing the remaining area between the developed part of the site and the B1224 Wetherby Road is left free of further development and the planting at the boundaries is substantially enhanced.

### EXTERNAL:-

3.6 Natural England raise no objection to the proposal.

3.7 Rufforth and Knapton Parish Council object to the proposal on the grounds that the proposal fails to demonstrate a case for "very special circumstances" for

location within the Green Belt, it would give rise to further problems of noise, odour and traffic nuisance and a further Section 106 Agreement would be required in order to enforce previous assurances in respect of vehicle movements through the village.

3.8 The Environment Agency raise no objection to the proposal.

3.9 Yorkshire Water Services Limited raise no objection to the proposal.

3.10 The York Natural Environment Panel raise concerns in respect of the management of odour and bio-aerosols at the site.

3.11 51 letters of objection have been received in respect of the proposal. The following is a summary of their contents:-

- \* Concern in respect of the impact of the proposal upon the open character of the Green Belt;
- \* Concern that the proposal would lead to an unacceptable increase in heavy goods vehicles using local roads through Rufforth village to the detriment of the amenity of local residents;
- \* The proposal would exacerbate existing problems with noise and odour nuisance from processes taking place at the site to the detriment of residential amenity;
- \* Concern that alternative sites to the proposal have not been properly examined notably a proposed employment land allocation in the Draft Local Plan to the north east of the site at Northminster Business Park.

## **4.0 APPRAISAL**

### **KEY CONSIDERATIONS:-**

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

- \* Impact upon the open character and purposes of designation of the York Green Belt;
- \* Impact upon levels of traffic generation on the local rural road network;
- \* Impact upon the residential amenity of properties in Rufforth village and the surrounding area;
- \* Consideration of Alternative Sites;
- \* Other Environmental Impact Assessment Issues.

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

4.2 GREEN BELT:- Saved Policies YH9C and Y1C of the Yorkshire and Humber Side Regional Strategy define the general extent of the York Green Belt and as such Central Government Planning Policies in respect of the Green Belt apply. Central Government Planning Policy as outlined in paragraphs 79 to 90 of the National Planning Policy Framework identifies Green Belts as being characterised by their openness and permanence. New built development is automatically taken to be inappropriate and therefore harmful to the Green Belt unless it comes within one of

a number of excepted categories. Other development may only be permitted where a case for "very special circumstances" has been forthcoming. Paragraph 88 of the National Planning Policy Framework indicates that "very special circumstances" will only be held to exist where potential harm to the Green Belt and any other harm is clearly outweighed by other considerations. Policy GB1 of the York Development Control Local Plan also applies and sets a firm policy presumption against inappropriate development within the Green Belt. The Draft Local Plan is also a material consideration although it may only be afforded limited weight by virtue of the consultation process having been paused.

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

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

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

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

4.6 The application site comprises a waste management facility of long standing within the site of a former military airfield within the York Green Belt. The proposal which comprises the erection of two substantial industrial shed type units to house a domestic Materials Recycling Facility and a Waste Transfer Station associated with the proposed Energy from Waste Incinerator at Allerton Park are clearly inappropriate development within the terms of paragraph 89 of the National Planning Policy Framework. The area surrounding the site comprises a gently rolling agricultural landscape broken up by traditional hedges and small copses of mature trees. Concern has clearly been expressed in respect of the visual relationship of the proposal to this open landscape and in particular to the surviving airfield structures to the south of Wetherby Road.

4.7 In order to lessen the impact of the proposal upon the open character of the Green Belt after a protracted period of negotiation the proposed buildings have been

relocated further to the north and re-orientated in order to lessen their visual presence on the road frontage and adverse impact upon the open character of the Green Belt. At the same time a detailed case for "very special circumstances" has been brought forward based upon the advantages of co-locating at the site with the existing waste management facilities including a commercial materials re-cycling facility. At the same time a detailed and exhaustive examination of alternative sites was undertaken which established an absence of available and serviceable non-Green Belt location for the proposal. In view of the relocation of the two buildings away further away from the boundary of the site with Wetherby Road and the opportunities this provides for further landscape planting and the formation of a nature area with public access, this is on balance felt to be acceptable.

4.8 To reinforce the case for "very special circumstances" the applicant has also agree to the unilateral waving of the right to implement previously granted planning permissions for erection of a biomass plant with in the centre of the site ref:- 12/00908/FULM and two large concrete compost pads at the south eastern edge of the site adjacent to Wetherby Road ref:- 07/02914/FULM. This would be secured by means of a Section 106 Agreement. At the same time the applicant has agreed to make a formal pledge not to develop the area between the application site and Wetherby Road and to dedicate it as a landscaped nature area with an off-road cycle track provided along the site frontage. This again may be secured by means of a Section 106 Agreement. Taken together it is felt that the proposed mitigation measures together with the submitted case for "very special circumstances "would fulfil the test outlined in paragraph 88 of the National Planning Policy Framework and the development would therefore be acceptable on that basis.

#### IMPACT UPON TRAFFIC GENERATION ON THE LOCAL ROAD NETWORK:-

4.9 On-going concern has been expressed in respect of the level of heavy goods vehicles accessing the site via Rufforth village. The proposal represents a partial relocation of the existing Materials Recycling Facility from Hessay on to the Harewood Whin site. The submitted Environmental Impact Assessment examines traffic flows in detail in respect of the existing situation and in relation to the proposed development taking account of the likely significant reduction in landfill related traffic. This establishes a current maximum flow of vehicles in to the site at 48 during the normal working week with a peak hour of 1.30-2.30pm. In the event of the proposal being implemented and allowing for the predicted diminution in landfill related traffic the maximum flow would be 47 vehicles with a peak hour of 2.30pm to 3.30pm. This is felt to be acceptable in terms of overall traffic flows although the harm to amenity caused by heavy goods traffic associated with the site passing through the surrounding area is acknowledged. It is impossible in planning terms to enforce the routeing of traffic along public roads although the applicant has agreed to provide CCTV control of the site access to record vehicles entering the site from the Rufforth direction and those attempting to egress from the site in the direction of Rufforth village. The site operators would then be able to enforce by contract routeing of vehicles as far as they are able to do so. Following on from the

introduction of a degree of CCTV control the applicant has also indicated a willingness to work with the Local Highway Authority to re-design the site access to make it as difficult as possible for traffic to enter and leave the site through Rufforth village. This again may be secured by means of a Section 106 Agreement.

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

4.10 Concern has been expressed in respect of the exacerbation of existing problems of noise and odour at the site arising from the additional building work. The submitted Environmental Impact Assessment identifies potential risks to residential amenity during both construction and operational phases of the development. These risks are however clearly capable of mitigation as with the existing largely open air activities of composting and landfill taking place at the site. The proposed processes which largely involve the unloading, sorting and batching of materials before loading them on to vehicles for onward despatch are intended to take place within the MRF building and Waste Transfer Station Buildings in a sealed system with no sorting or processing work taking place in the open air. Any noise or odour impact would thereby be lessened with the existing Commercial Materials Recycling building being only a modest source of nuisance. In order to mitigate against any further harm to residential amenity arising from noise or odour nuisance it is recommended that any permission be conditioned to secure the submission and approval of noise and odour management plans.

#### CONSIDERATION OF ALTERNATIVE SITES:-

4.11 Concern has been expressed in terms of the level of consideration given to alternative sites for the proposal, especially in relation to the availability of land at the Northminster Business Park to the north east of the site. As part of the Environmental Impact Assessment, a thorough and exhaustive analysis of alternative sites available in the locality has been undertaken. This examined issues such as accessibility via the principal road network, impact upon the amenity of neighbours, availability of land with the required configuration and availability within the required timescale. As a result of this exercise the current application site was found to be the most appropriate available within the timescale. The Northminster site referred to comprises an allocation in the Draft Local Plan which is at an earlier stage of the consultation process and can therefore be afforded little weight. At the same time it is unclear at what point the site would become available for development and it would also give rise to a potential increase in traffic movements as some traffic from Harewood Whin would head to the new site which would otherwise not need to.



## OTHER ENVIRONMENTAL IMPACT ASSESSMENT ISSUES:-

4.12 In addition to issues of amenity, landscape and location, the Environmental Impact Assessment also examined issues of water resources and flood risk, soils resource and agriculture, ecology, cultural heritage and lighting. In terms of water resources and flood risk the site lies to the south of a major water bearing aquifer and is within Flood Zone 1 and so is at the lowest deemed risk of flooding. The development is designed to channel any surface water discharges in to the existing processing system for the wider site which is subject to a system of attenuation before release in to surrounding water courses. In terms of soils resource and agriculture the site is classified as Grade 4 in terms of the agricultural land use classification and contains several buried structures associated with the former military use, as such any impact upon local agricultural land quality arising from the proposal would be modest. In terms of ecology a series of bat and breeding bird surveys have been undertaken at the site and no evidence of material harm has been forthcoming. At the same time in terms of cultural heritage an archaeological desk top survey has been submitted which relates evidence of the former airfield use of the site but no remains of such significance as to merit recording or preservation in situ are identified as being present. In terms of lighting the overall site is subject to a lighting strategy which would also apply to the new built development with the proposed new landscape planting around the southern edge of the site further contributing to its mitigation.

## SECTION 106 ISSUES:-

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

- i) Agreement not to implement Planning Permissions 12/00908/FULM and 07/02914/FULM;
- ii) Agreement that the land between the application site and the B1224 Wetherby Road shall not be developed;
- iii) Planting and maintenance of the area of land between the application site and the B1224 Wetherby Road as a nature area to be retained in perpetuity with controlled public access;
- iv) Provision of an off road cycle route across the site frontage of Wetherby Road;
- v) Provision of CCTV control of the site access and a commuted sum payment towards improvements to the site access configuration.

## 5.0 CONCLUSION

5.1 The application for the erection of a domestic materials recycling facility (MRF) and waste transfer station is subject to Environmental Impact Assessment under Schedule 2 of the 2011 Environmental Impact Assessment Regulations. It is accepted that the proposal is inappropriate development within the Green Belt. A case for "very special circumstances" based upon co-location of waste management facilities as supported by Central Government Planning Policy in the National Planning Policy Statement on Waste has been put forward. This is on balance felt to be acceptable. Concern has also been raised in respect of the consideration of alternative sites. However it is not clear that the suggested alternative site at Northminster Business Park can be delivered within the required timescale

5.2 It is considered that subject to noise and odour mitigation schemes and the landscaping and other mitigation measures offered by the application, the proposal is acceptable in all other respects and approval is recommended.

**6.0 RECOMMENDATION:** That the application be referred to the Secretary of State pursuant to Town and Country Planning(Consultation) (England) Direction 2009 paragraph 4.

Should the Secretary of State choose not to call in the application for his own determination, the application be deferred pending satisfactory completion of a legal agreement to secure the following :

- i) Agreement not to implement Planning Permissions 12/00908/FULM and 07/02914/FULM;
- ii) Agreement that the land between the application site and the B1224 Wetherby Road shall not be developed;
- iii) Planting and maintenance of the area of land between the application site and the B1224 Wetherby Road as a nature area to be retained in perpetuity with controlled public access;
- iv) Provision of an off road cycle route across the site frontage of Wetherby Road;
- v) Provision of CCTV control of the site access and a commuted sum payment towards improvements to the site access configuration.

On completion of the legal agreement, the Assistant Director Development Services Planning and Regeneration be authorised to grant planning permission subject to the following conditions :

1 The buildings shall be removed by 19th November 2039 unless prior to that date a renewal of the permission shall have been granted in writing by the Local Planning Authority.

Reason: The nature, location and use of the building is such that it is considered inappropriate on a permanent basis.

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

Drawing Refs:- HAR-PLOO-Y1128 -011 D; and HAR-PLOO-Y1128-012 D.

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

3 VISQ4 Boundary details to be supplied -

4 VISQ7 Sample panel ext materials to be approv -

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

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

6 Prior to the commencement of the development hereby permitted a Noise Management Protocol scheme for the management and minimisation of noise shall be submitted to and approved in writing by the Local Planning Authority. The approved Protocol shall include:

1. A protocol for the regular monitoring of noise levels from the site by site operators to ensure compliance with these conditions and/or other statutory noise limits.
2. A protocol for the use of audible reversing alarms and their alternatives.
3. Proposals for the siting, silencing, enclosure and screening of fixed plant and machinery.
4. A protocol for the use of portable acoustic screens around temporary plant.
5. A protocol for the use of quieter plant and machinery nearer to noise sensitive locations.

6. A protocol for the recording, investigation and reporting of noise complaints to City of York Council.

Reason: to minimise noise in the interest of the amenity of residents and the area generally.

7 An odour management scheme shall be submitted to the Local Planning Authority for written approval prior to development commencing. The requirements contained in the approved odour management scheme shall be fully implemented prior to the use hereby permitted.

Reason: For the protection of the amenity of local residents from odour.

8 The noise management scheme shall be reviewed 1 year after the first use of the development. This review must be submitted in writing with any amendments to the noise management scheme to the local planning authority for written approval.

Reason: For the protection of the amenity of local residents from noise.

9 The odour management scheme shall be reviewed 1 year after the first use of the development. This review must be submitted in writing with any amendments to the odour management scheme to the local planning authority for written approval.

Reason: For the protection of the amenity of local residents from odour.

10 Before the development hereby permitted is commenced details of all external floodlighting and other illumination proposed at the site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include: height of the floodlighting posts, intensity of the lights (specified in Lux levels), spread of light including approximate light spillage to the rear of floodlighting posts (in metres), any measures proposed to minimise the impact of the floodlighting or disturbance through glare (such as shrouding), and the times when such lights will be illuminated. The submitted details shall be "dark sky" compliant.

Reason: in the interest of the appearance of the site.

11 ENVA1 Surface water drainage through oil inter -

12 ENVA2 Prevention of pollution - tanks etc -

13 LC1 Land contamination - Site investigation -

14 LC2 Land contamination - remediation scheme -

15 LC3 Land contamination - remedial works -

16 LC4 Land contamination - unexpected contam -

17 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting 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.

Reason:- To safeguard the residential amenity of Neighbouring Properties and to Secure Compliance with Policy GP1 of the York Development Control Local Pan.

18 The hours of operation of this approved use shall be confined to 07:00 to 23:00 Mondays to Fridays, 08:00 to 18:00 Saturdays, and no working on Sundays and Bank Holidays.

Reason: To safeguard the amenities of adjoining occupants.

19 HWAY19 Car and cycle parking laid out -

20 HWAY21 Internal turning areas to be provided -

21 HWAY31 No mud on highway during construction -

22 Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent legislation revoking or re-enacting that Order, no fixed plant or machinery, buildings, structures or private ways, shall be erected, extended, installed or replaced at the site, other than those expressly authorised by this permission without the prior written approval of the Local Planning Authority.

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

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

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

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

Reason: - To protect controlled waters.

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

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

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

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

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- i) Clarification as to reasoning behind proposed site layout.
- ii) Amendment to Site Layout to lessen impact upon open character of Green Belt.
- iii) Submission of a further package of mitigation measures to be secured by Section 106 Agreement.

## 2. CONTROL OF POLLUTION ACT 1974:-

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

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

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

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

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

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

(f) There shall be no bonfires on the site

### **Contact details:**

**Author:** Erik Matthews Development Management Officer

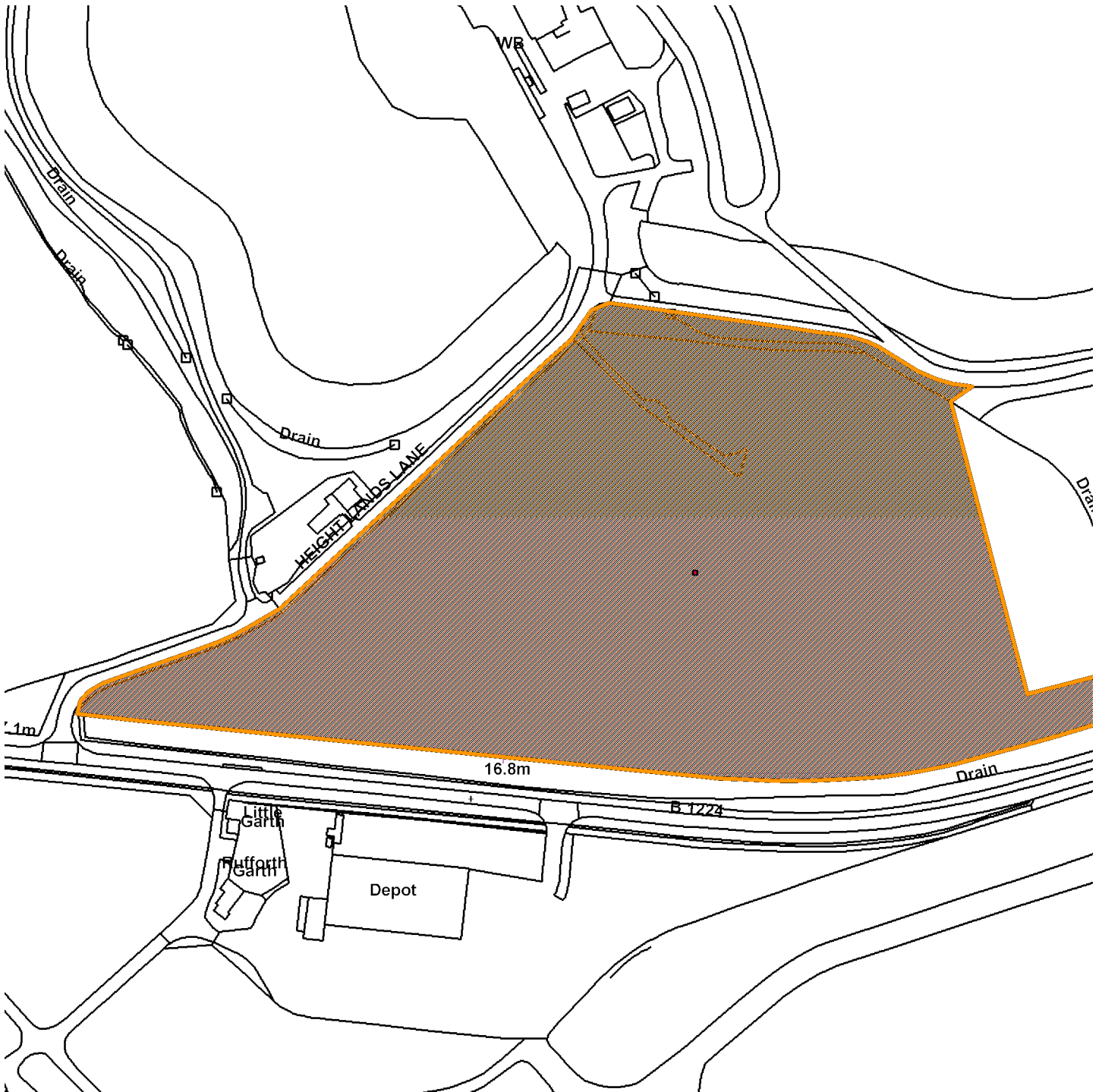
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Land to the South of Yorwaste, Harewood Whin, Tinker Lane



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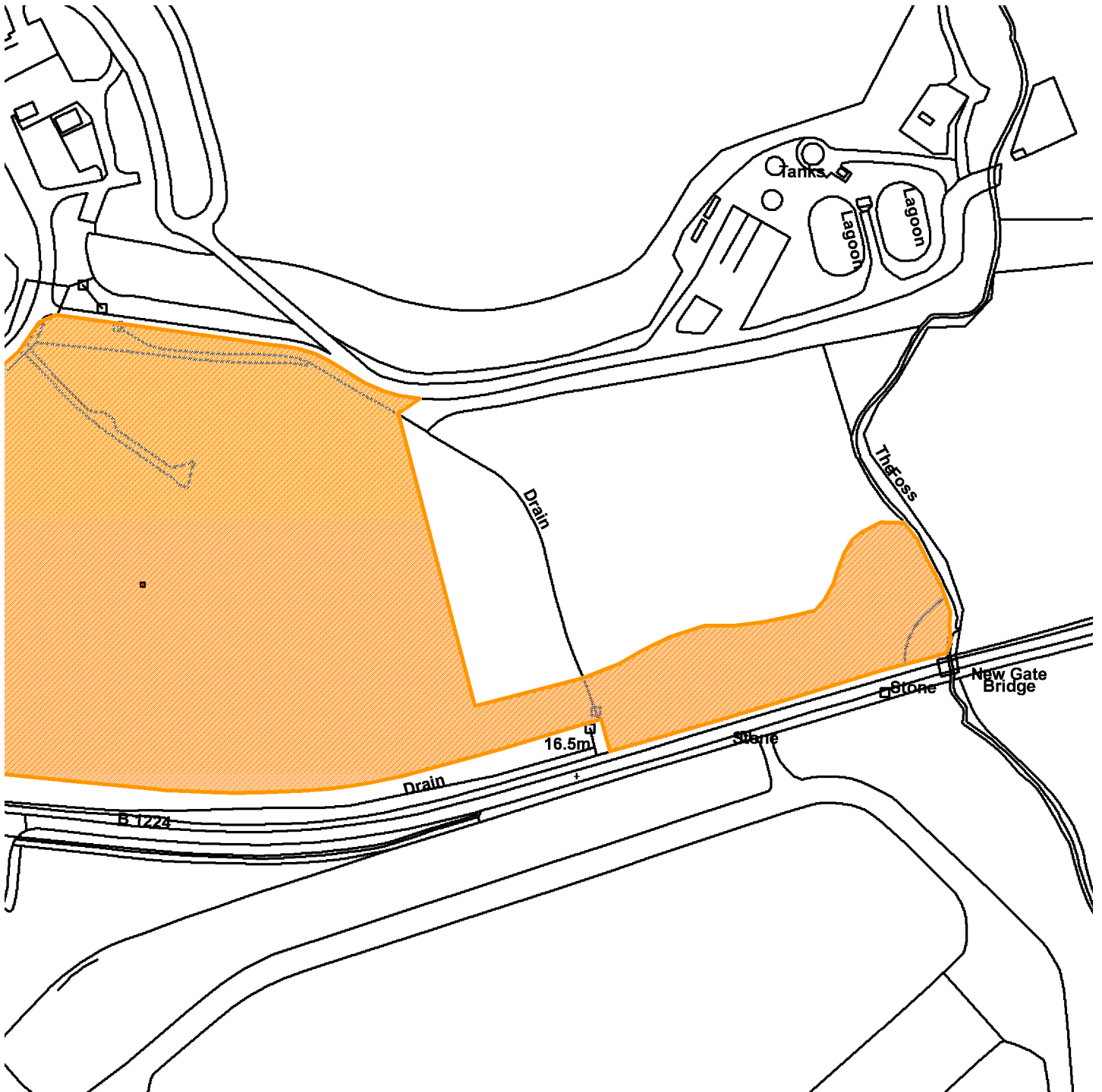
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<b>Organisation</b>	Not Set
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<b>Comments</b>	Site plan - part 1
<b>Date</b>	11 November 2014
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Land to the South of Yorwaste, Harewood Whin, Tinker Lane



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<b>Comments</b>	Site plan - part 2
<b>Date</b>	11 November 2014
<b>SLA Number</b>	Not Set

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**Planning Committee****20 November 2014****Appeals Performance and Decision Summaries****Summary**

- 1 This report (presented to both Planning Committee and the Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1 July to 30 September 2014, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

**Background**

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a National Performance Indicator, the Government announced last year that it will use appeals performance in identifying poor performing planning authorities, with a view to the introduction of special measures and direct intervention in planning matters within the worst performing authorities. This is now in place for Planning Authorities where more than 60% of appeals against refusal of permission for major applications are allowed.
- 3 The table below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications and lawful development certificates. Figure 1 shows performance on appeals decided by the Inspectorate, for the last quarter 1 July to 30 September 2014, and for the 12 months 1 October 2013 to 30 September 2014.

**Fig 1: CYC Planning Appeals Performance**

	<b>01/07/14 to 30/09/14 (Last Quarter)</b>	<b>01/10/13 to 30/09/14 ( Last 12 months)</b>
Allowed	0	7
Part Allowed	0	3
Dismissed	6	26
Total Decided	6	36
<b>% Allowed</b>	<b>0%</b>	<b>19%</b>
% Part Allowed	0%	8%

### Analysis

- 4 The table shows that between 1 July and 30 September 2014, a total of 6 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 0 were allowed. At 0% the rate of appeals allowed is below the national annual average of around 34% and lower than our previous quarter figure of 18%. By comparison, for the same period last year, 3 out of 7 appeals were allowed. None of the appeals allowed between 1 October 2013 and 30 September 2014 related to “major” applications.
- 5 For the 12 months between 1 October 2013 and 30 September 2014, 19% of appeals decided were allowed, lower than the previous corresponding 12 month period of 33%.
- 6 The summaries of appeals determined between 1 July and 30 September 2014 are included at Annex A. Details as to whether the application was dealt with under delegated powers or by committee (and in those cases, the original officer recommendation) are included with each summary. In the period covered, no appeals related to applications refused by committee.
- 7 The list of current appeals is attached at Annex B. There are 12 planning appeals lodged with the Planning Inspectorate (excluding tree related appeals) and we have received the decision for the appeal against the refusal of permission at Laura Ashley 11 Little Stonegate (Allowed). Also in the table is the Public Inquiry for the application for 102 houses at Land to the North of Brecks Lane, Strensall which has been called-in for determination by the Secretary of State. The Public Inquiry was heard for 4 days from 14 October 2014 and has been adjourned until 6 November.
- 8 The quarter performance at 0% allowed is lower than for recent quarters. The current 12 month performance at 19% allowed is a significant

improvement on the figure for October 2012 – September 2013 (33%), and is better than the National average of 34% of appeals allowed.

The initial impact of the publication of the NPPF (March 2012) on appeal outcomes (which saw many cases allowed) appears to have receded, with the trend in CYC performance continuing to improve as the use and interpretation of policy and guidance within the NPPF (by both the Council and the Planning Inspectorate) has become more consistent.

9 The main measures successfully employed to regain the previous performance levels have been as follows:-

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

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

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

### **Consultation**

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

### **Council Plan**

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

### **Implications**

12 Financial – There are no financial implications directly arising from the report.

13 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information.

- 14 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 15 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

**Risk Management**

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

**Recommendation**

- 17 That Members note the content of this report.

**Reason**

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

**Contact Details**

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01904 551320

**Report  
Approved**



**Date** 24 October  
2014

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

**Wards Affected:**

All  Y

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

**Annexes**

**Annex A – Summaries of Appeals Determined between 1 July 2014 and 30 September 2014**

**Annex B – Outstanding Appeals at 24 October 2014**



## Appeal Summaries for Cases Determined 01/07/2014 to 30/09/2014

**Application No:** 14/00269/FUL  
**Appeal by:** Mr Paul Nicholas  
**Proposal:** Two storey side extension and porch to front  
**Address:** 2 Almsford Road York YO26 5HZ

**Decision Level:** DEL  
**Outcome:** DISMIS

Planning permission was refused for a two storey side extension on the grounds that its size and position harmed the light and outlook of neighbouring occupiers on Carr Lane. The existing side elevation of the property faces directly onto the rear elevations of no's 128 and 128A Carr Lane. The Inspector agreed with the Council that visual impact within the street would be limited but that the side extension would see a significant increase in the bulk and massing of the house in close proximity to these rear gardens and habitable room windows, resulting in a significantly worse outlook for the occupiers and creating an undue sense of enclosure which would be overbearing for these neighbours. The Inspector had regard to the submitted daylight sunlight assessment which said that the increase of overshadowing would be limited to the mid afternoon, the appellants suggestion that the significance of the impact was therefore limited, and the lack of objections from neighbours. However he relied on his own observations on site and dismissed the appeal.

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**Application No:** 14/00399/FUL  
**Appeal by:** Mr Max Reeves  
**Proposal:** Change of use from travel agents (use class A1) to financial and professional service (use class A2)  
**Address:** Tui Uk Ltd 14 Low Ousegate York YO1 9QU

**Decision Level:** DEL

**Outcome:** DISMIS

Permission was refused for the change of use of 14 Low Ousegate, which is a Primary Shopping Street, from A1 to A2 as it would result in the proportion of non retailing uses on the street frontage increasing to 56.7% representing a further dilution of the retail function of the street. At the time, the property had not been marketed for an A1 use for a significant period and with the exception of one unit which was shortly to be occupied, there were no vacant units on Low Ousegate. There was therefore considered to be a lack of evidence to demonstrate that the property could not be occupied as an A1 use. The Inspector was satisfied that, despite its age, the relevant part of the Local Plan broadly reflects the objectives of the NPPF which encourages policies to support the viability and vitality of town centres. Although the appellant argued that despite its designation as a PSS, Low Ousegate is not part of the prime area of retail activity around Coney Street and Parliament Street, the Inspector notes that the street has a discernible vibrancy and clear retail function. In finding that Low Ousegate is a PSS that contributes to the retail attractiveness of the city centre, the Inspector considered that the demand for its continued use as an A1 unit in this location had not been properly tested. Mailing lists were not supplied and it was unclear whether the premises are or were advertised in the local press or relevant trade publications. Only a copy of one agents particulars was provided. Furthermore, the property was only marketed for about 1 month before the application was submitted and although it is still being advertised, only some 6 to 7 months have elapsed since the exercise began. Although the Inspector considered that the proposal would generate a similar footfall to the previous use and would incorporate display windows, these positive factors were not considered to outweigh the harm that would result if the appeal were to succeed.

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**Application No:** 14/00423/ADV  
**Appeal by:** Ms Henny Clark  
**Proposal:** Display of 1no. internally illuminated fascia sign  
(retrospective)  
**Address:** Lady Anne Middletons Hotel Skeldergate York YO1 6DS

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal relates to an existing internally illuminated sign at the rear vehicular and pedestrian entrance to the Grade II\* Listed hotel. It is situated on a smaller, non-listed building that is in scale and character with the domestic scale, mass, and form of the largely residential buildings on Cromwell Road. The Inspector considered that the sign is too large in relation to the scale of the building, and the size and proportions of the gabled facade. It obscures important architectural details. The Inspector considered the design and style of the sign appropriate, and interestingly the issue of its existing low level internal illumination was not assessed. The Inspector therefore dismissed the appeal as the degree of harm is not outweighed by public benefit, and conflicts with the policies in the Development Control Local Plan that are consistent with the NPPF.

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**Application No:** 14/00634/FUL  
**Appeal by:** Mr And Mrs A Norton  
**Proposal:** First floor extension to side  
**Address:** 18 Milson Grove York YO10 3AG

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal was against the refusal of a proposed two storey side extension. 18 Milson Grove is a two storey semi-detached property located within a street characterised by two storey semi-detached dwellings with distinct open spaces between. The first floor pitched roof side extension would adjoin an existing two storey side extension at 16 Milson Grove. Although proposed side extension was to be set down by 1.6 metres from the ridge of the adjacent side extension, the inspector agreed that because neither of the side extensions would be set back more than marginally from the main facades, the scheme would create an apparent terrace of 4 dwellings within a street of semi-detached houses. The inspector also agreed that the reduced height of the extension and the proposed front dormer would accentuate the discordant impact of the proposal.

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**Application No:** 14/00642/FUL  
**Appeal by:** Amplifon Ltd  
**Proposal:** Alterations to shopfront  
**Address:** Johnson Cleaners Uk Ltd 5 Low Ousegate York YO1 9QX

**Decision Level:** DEL

**Outcome:** DISMIS

This retrospective proposal involved the redecoration of the shop front in silver and the installation of new fascia signage at 5 Low Ousegate which is occupied by Amplifon. The property is Grade II listed and located within the Central Historic Core Conservation Area. We refused the application on the basis that the design, materials and finish of the new fascia panel together with the colour and finish of the shop front contrast sharply with the traditional materials used in the construction of the host building and later shop front, and appear at odds with the building's appearance. The Inspector commented that the Perspex material used in the fascia is not a traditional material and its glossy finish, over such a large area, is wholly out of keeping with the traditional style of the shop front surround and the historic character of the host building. With reference to the colour of the shop front, the Inspector commented that the silver finish is not typical of shop fronts of that period. The Inspector dismissed the appeal on the grounds that the proposal conflicts with the generality of policy on good design and the conservation of the historic environment in the NPPF and Local Plan.

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**Application No:** 14/00868/ADV  
**Appeal by:** Mr Ray Murphy  
**Proposal:** Display of 1no. internally illuminated fascia sign  
**Address:** Next Retail Ltd Unit B Vangarde Way Huntington York  
YO32 9AE  
**Decision Level:** DEL  
**Outcome:** DISMIS

There application has been for 1 no internally illuminated fascia to be sited approx 1 metres above an existing recently approved fascia sign. The signage was for a coffee shop within the main retail unit. The application was refused on the grounds that the positioning and the resulting cumulative impact, would create a cluttered and incongruous appearance that would be harmful and detrimental to the visual amenity of the host building, and the character and appearance of the retail development as whole. The Inspector agreed with this conclusion and stated that the juxtaposition of 2 advertisements in a small segment of this glass facade would lead to a plethora of lettering squeezed into a relatively narrow portion of the facade. The accumulation of letters of different sizes within different signs and in different colours that would upset the proportionate spacing and symmetry evident in the size, spacing and colours of the letters and names across the facade as a whole. The elevated position of the lettering would convey a scale of use inconsistent with the nature and scale of the operation currently undertaken, in contrast to the synergy between the relatively subservient position of the current sign and the ancillary nature of the cafe. By virtue of the simple lines and evident symmetry of the glass facade, the visual impact due to the proposal would be damaging.

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

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## Outstanding appeals

<b>Officer: Diane Cragg</b>						<b>Total number of appeals:</b>	<b>2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
14/04/2014	14/00014/CALL	APP/C2741/V/14/2216946	P	Land Lying To The North Of Brecks Lane Strensall York	Residential development of 102 dwellings with associated highways infrastructure, landscaping and public open space		
27/06/2014	14/00023/REF	APP/C2741/A/14/2221021	W	Blue Coat Farm Murton Lane Murton York YO19	Outline application for 9no. dwellings with associated garages and parking		
<b>Officer: Esther Priestley</b>						<b>Total number of appeals:</b>	<b>2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
12/05/2014	14/00017/TPO	APP/TPO/C2741/3909	W	14 Sails Drive York YO10 3LR	Fell Silver Brch (T3,T11), Mountain Ash (T5), Oak (T8), Trees protected by Tree Preservation Order CYC15		
09/05/2014	14/00015/TPO	APP/TPO/C2741/3907	W	7 Quant Mews York YO10 3LT	Crown Reduce Silver Birch (T1,T2), Trees protected by Tree Preservation Order CYC 15		
<b>Officer: Heather Fairy (Mon - Wed)</b>						<b>Total number of appeals:</b>	<b>1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
07/07/2014	14/00026/REF	APP/C2741/D/14/2221759	H	Holmedene Intake Lane Acaster Malbis York YO23	Two storey front, first floor side, single storey front extensions and balcony to side		
<b>Officer: Jonathan Kenyon</b>						<b>Total number of appeals:</b>	<b>2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
28/08/2014	14/00033/CON	APP/C2741/A/14/2223713	W	Tree Tops Nursery To Red Lion Upper Poppleton York	Erection of detached dwelling with associated access		
17/07/2014	14/00027/REF	APP/C2741/A/14/2222238	W	Laura Ashley Ltd 11 Little Stonegate York YO1 8AX	Change of use to a restaurant and/or drinking establishment (A3 and/or A4 use class) and associated external alterations		
<b>Officer: Kevin O'Connell</b>						<b>Total number of appeals:</b>	<b>3</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>		
13/10/2014	14/00040/REF	APP/C2741/A/14/2226495	W	Land To The South Of 20 Garden Flats Lane	Erection of a detached dwelling		

08/09/2014	14/00034/REF	APP/C2741/A/14/2223296	I	Raddon House 4 Fenwicks Lane York YO10 4PL	Demolition of existing house, garages and outbuildings and the construction of a replacement dwelling and garages (resubmission)
26/09/2014	14/00036/EN	APP/C2741/C/14/2225236	P	Land At OS Field No 9122 Holtby Lane Holtby York	Appeal against Enforcement Notice dated 31 July 2014

**Officer: Matthew Parkinson** **Total number of appeals: 1**

Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
17/06/2011	11/00026/EN	APP/C2741/C/11/2154734	P	North Selby Mine New Road To North Selby Mine	Appeal against Enforcement Notice

**Officer: Neil Massey** **Total number of appeals: 1**

Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
04/09/2014	14/00035/REF	APP/C2741/A/14/2224965	W	Grantchester Stripe Lane Skelton York YO30 1YJ	Variation of condition 2 of permitted application 12/01877/FUL to introduce gable to north elevation and alter roof lights

**Officer: Rachel Tyas** **Total number of appeals: 3**

Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:
05/08/2014	14/00032/REF	APP/C2741/H/14/2223047	W	Gourmet Burger Kitchen Limited 7 Lendal York YO1	Display of halo- illuminated fascia sign, internally illuminated hanging sign, menu box and canopy sign
05/08/2014	14/00031/REF	APP/C2741/A/14/2223042	W	Gourmet Burger Kitchen Limited 7 Lendal York YO1	Alterations to shopfront including new serving counter and canopy
23/09/2014	14/00039/EN	APP/C2741/C/14/2226046	W	9 Feasegate York YO1 8SH	Appeal against Enforcement Notice dated 11 August 2014

**Total number of appeals: 15**

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