



## Notice of a public meeting of

### Planning Committee

- To:** Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre, S Barnes, Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Richardson, Shepherd and Warters
- Date:** Thursday, 20 August 2015
- 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 Visit for this meeting will depart Memorial Gardens at 10am on Tuesday 18<sup>th</sup> August.

#### 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> July 2015.

## 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> August 2015**. 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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## 4. Plans List

This item invites Members to determine the following planning applications:

- a) **\*\*Item withdrawn\*\*Land Lying to the West of Metcalfe Lane, Osbaldwick, York (15/00754/FULM) (Pages 9 - 38)**

**\*\*Item Withdrawn\*\***

**b) Imphal Barracks, Fulford Road, York, YO10 4HD (15/01055/FULM)**  
(Pages 39 - 54)

A major full application for the erection of accommodation block with associated landscaping. [Fishergate Ward] *[Site Visit]*.

**5. Enforcement Cases Update** (Pages 55 - 58)

The purpose of this report is to provide Members with a continuing quarterly update on planning enforcement cases.

**6. Appeals Performance and Decision Summaries** (Pages 59 - 80)

This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 January and 30 June 2015, 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.

**7. 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](mailto: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 مہیا کی جاسکتی ہیں۔ (Urdu)**

** (01904) 551550**

## PLANNING COMMITTEE

## SITE VISITS

Tuesday 18<sup>th</sup> August 2015

<b>TIME</b>	<b>SITE</b>	<b>ITEM</b>
10:00	Coach leaves Memorial Gardens	
	<u><i>Site Visit for Land to the West of Metcalfe Lane – CANCELLED DUE TO ITEM WITHDRAWN</i></u>	
10:10	Imphal Barracks, Fulford Road	4b



City of York Council

Committee Minutes

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Meeting	Planning Committee
Date	23 July 2015
Present	Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre, S Barnes, Boyce, Cullwick, Cuthbertson, D'Agorne, Doughty, Looker (Substitute), Richardson, Shepherd and Warters
Apologies	Councillors Dew and Funnell

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**18. Site Visits**

	<b>Reason for Visit</b>	<b>Members Attended</b>
Deans Garden Centre	To enable members to familiarise themselves with the site.	Councillors Cullwick, Cuthbertson, Galvin, Reid, Richardson and Shepherd
Roman House and Cedar Court	To enable members to familiarise themselves with the site.	Councillors Cullwick, Cuthbertson, Galvin, Reid, Richardson and Shepherd

**19. 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.

Councillor Warters declared a personal interest in agenda item 4a as he knew the applicant through attendance at Police & Crime Business meetings.

Councillor Galvin declared a personal interest in agenda item 4a as he knew the applicant through attendance at Police & Crime Business meetings.

**20. Minutes**

Resolved: That the minutes of the last meeting held on 25<sup>th</sup> June be approved and signed by the Chair as a correct record.

**21. Public Participation**

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

**22. Plans List**

Members then considered 3 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.

**22a Deans Garden Centre, Stockton Lane, York, YO32 9UE (15/00234/FULM)**

Consideration was given to an application by Deans Garden Centre for a single storey extension to a cafe, a replacement storage shed, 2 retail canopy areas and an additional car parking area.

Richard Dean had registered to speak as the applicant. He advised that he was seeking permission in order to extend and modernise the cafe and kitchen area to enable the Garden Centre to compete with other similar businesses in the local area. The improvements would create up to 10 new jobs.

Officers provided an update to the committee report which is attached to the online agenda for this meeting for information, the main points were as follows:



- The percentage increase in floorspace for the cafe/kitchen area would be 130%.
- A summary of the reasons that Officers considered, when taken together, constitute very special circumstances for development in the Green Belt.

A member queried whether the obsolete vehicles seen in the yard on the site visit would be removed as part of the scheme. It was confirmed that the new storage shed which was being proposed as part of the application would be used to store the vehicles. Officers confirmed an informative could be added should the application be approved, requesting that the applicant stores the vehicles.

Resolved: That the application be approved subject to the conditions outlined in the report and subject to an informative regarding the removal of obsolete vehicles from the yard area.

Reason: The proposed development would cause some limited harm to the openness of the Green Belt, but is not considered to be significant enough to conflict with the purposes of Green Belt set out in paragraph 80 of the NPPF.

It is considered that the other considerations put forward by the applicant, particularly in relation to the operational need and future viability of the business, the socio-economic benefits and the visual improvements to the site, when taken together in the context of the support in government policy for the expansion of such rural businesses, clearly outweigh the harm to the Green Belt by reason of inappropriateness and harm to openness, even when affording this harm considerable weight. The considerations therefore amount to very special circumstances to allow the inappropriate development in the York Green Belt.

**22b Roman House, 4-8 Rougier Street, York, YO1 6HZ  
(15/00581/FULM)**

Consideration was given to a major full application by the Splendid Hospitality Group for a five storey extension, demolition of public toilets, new roof storey and change of use of offices to a hotel (use Class C1) with re-sited public toilets. An extension to the rear of Cedar Court Grand Hotel to form a dining pavilion.

Officers provided 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 dilapidation survey is required.
- The reinstatement of the footpath in place of redundant vehicle crossing and dropped kerb on Tanner Row (between the hotel and toilet block)
- Method of works to be agreed
- Historic England had been consulted on the revised scheme and had confirmed they were content in principle with the proposal, subject to conditions.

Graham Holbeck spoke as the agent on behalf of the applicant. He referred to the business reasons for the applicant making the application, in particular that the hotel wished to expand into the conference and events sector. The scheme would greatly improve the Rougier Street area and bring a poorly maintained office building back into use.

In response to questions from Members, the agent confirmed that a previous application to turn the office block into apartments had not been progressed by the previous owner. Noise prevention had also been considered by the applicant due to the bus stops on Rougier Street and appropriate measures would be put in place.

Members commented that they were pleased to see a disused building being brought back into use as well as the improvements to the Tanner Row and Rougier Street streetscene.

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

Reason:

The development is acceptable in principle; the loss of office space would not conflict with planning policy in this instance and the scheme would bring welcome regeneration to this part of Rougier Street.

There would be no harm to heritage assets, and planning conditions can enable a suitable impact with regards highway safety, flood risk and amenity.

**22c Cedar Court Grand Hotel, Station Rise, York, YO1 6GD  
(15/00582/LBC)**

Consideration was given to a Listed Building Consent application for Internal alterations and extension to rear provide a dining pavilion.

Members agreed the application in conjunction with the previous related application.

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

Reason: The proposals comply with policy in the NPPF which establishes a positive approach towards dealing with heritage assets. The proposals would sustain and enhance the significance of the listed building and assist in putting it to a viable use, consistent with its conservation. The new external development would make a positive contribution to local character and distinctiveness. The historic and architectural significance of the hotel building - the former North Eastern Railway Co. head office - would not be affected by the proposals.

The proposals constitute an enhancement to the listed building and cause no harm. Considering the requirements of Section 16 of the of the Planning (Listed Buildings and

Conservation Areas) Act 1990, the scheme is acceptable.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 5.10 pm].

**COMMITTEE REPORT**

**Date:** 20 August 2015      **Ward:**  
**Team:** Major and      **Parish:** Osbaldwick Parish  
Commercial Team      Council

**Reference:** 15/00754/FULM  
**Application at:** Land Lying To The West Of Metcalfe Lane Osbaldwick York  
**For:** Erection of 36 dwellings with associated roads and public open space - revised layout of part of phase 4 of the Derwenthorpe development  
**By:** Mr A Cornish, Richards Partington Architects  
**Application Type:** Major Full Application (13 weeks)  
**Initial Target Date:** 28 July 2015  
**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL**

## PROPOSAL

1.1 The application concerns an area of land to the west of Metcalfe Lane, which is part of a larger residential development scheme approved at outline stage by the Secretary of State in 2007. Reserved matters approval for the four quadrants of the development has subsequently been granted. This proposal relates to Phase 4 (the north-eastern quadrant accessed from Meadlands) and to a field, Field 9, immediately to the south of it. Permission was granted for 74 number of homes accessed from Meadlands. Field 9 was shown as an area of open space of ecological interest.

1.2 The current proposal seeks full planning approval to partially redesign Phase 4 by repositioning houses and resiting 6 no. dwellings onto Field 9, to accommodate the retention of overhead electricity power lines that cross the site. The application does not cover all of the properties within Phase 4. The lines were intended to be laid underground, but the application submission explains that National Grid are unable to provide this undertaking and a stand off zone distance set by the grid operator, Northern PowerGrid needs to be adhered to. The retention of the cables effectively neutralises the land beneath them and within a safety clearance distance of 11m either side of the power lines. This affects 17 no. of the dwellings approved under reserved matters application 12/01878/REMM, which cannot be constructed because the overhead lines and the associated safety clearance corridor cross over the dwelling itself or its private garden.

1.3 Access to Phase 4 would remain unchanged. The number of dwellings would reduce from 74 in total accessed from Meadlands to 66 and within the application site itself from 44 to 36. The mix of house types is as follows: 6 no. two bedroom houses, 28 no. three bedroom houses and 2 no. four bedroom houses. The open space would be reconfigured with a large section of Field 9 retained and extended north along the eastern site boundary with Metcalfe Lane, under the line of the power cables.

1.4 The application has been revised since first submission with the omission of 4 no. houses adjacent to Metcalfe Lane and detailed changes to highway and parking layout at the request of officers and following consultation responses.

## ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS

1.5 The site area does not exceed 5 hectares and the number of units is less than 150 dwellings and therefore the application falls below the threshold stated in the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015. The application, whilst related to an existing approved application that was accompanied by an EIA does not constitute a subsequent application as defined in the EIA regulations.

## 2.0 POLICY CONTEXT

2.1 2015 Draft Development Plan Allocation:

Conservation Area GMS Constraints: Osbaldwick CONF

City Boundary GMS Constraints: York City Boundary 0001

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

Schools GMS Constraints: St. Aelred's RC Primary 0223

2.2 Policies:

1. Yorkshire and Humber Regional Spatial Strategy - Green Belt policies YH9(C) and Y1 (C1 and C2))

2. National Planning Policy Framework (March 2012)

3. 2005 Draft York Local Plan (4<sup>th</sup> set of changes). Allocates the land as a housing site. Relevant policies include:

- CYGP1 – Design

- CYGP3 – Planning against crime

Application Reference Number: 15/00754/FULM

Item No: 4a

- CYGP4A – Sustainability
- CYGP4B – Air Quality
- CYGP6 – Contaminated Land
- CYGP9 – Landscaping
- CGP15A – Development and Flood Risk
- CYNE1 – Trees, woodland, hedgerows
- CYNE6 – Species protection
- CYNE7 – Habitat protection
- CYGB1 – Development in the Green Belt
- CYT4 – Cycle parking standards
- CYH1 – Housing Allocation
- CYH2A – Affordable Housing
- CYH3B – Managed Release
- CYH3C – Mix of Dwellings
- CYH5A – Residential Density
- CYED4 – Developer Contributions towards Education
- CYL1C – Provision of New Open Space in Development

4. Draft York Local Plan (2014) Publication Draft – Allocates the land as a strategic site (ST23). Relevant policies include:

- DP2 – Sustainable Development
- DP3 – Sustainable Communities
- DP4 – Approach to Development Management

- SS1 – Delivering Sustainable Growth for York
- SS2 – The Role of York’s Green Belt
- H1 – Housing Allocations (ST23)
- H2 – Density of Residential Development
- H3 – Balancing the Housing Market
- H4 – Housing Mix
- H9 – Affordable Housing
- ED6 – Preschool, Primary and Secondary Education
- D1 – Landscape and Setting
- D2 – Placemaking
- GI1 – Green Infrastructure
- GI2 – Biodiversity and Access to Nature
- GI4 – Trees and Hedges
- GI6 – New Open Space Provision
- GB1 – Development in the Green Belt
- CC2 – Sustainable Design and Construction
- ENV1 – Air Quality
- ENV2 – Managing Environmental Quality
- ENV3 – Land Contamination
- ENV4 – Flood Risk
- ENV5 – Sustainable Drainage
- T1 – Sustainable Access



- DM1 – Infrastructure and Developer Contributions

### 3.0 CONSULTATIONS

3.1 The application was publicised by means of a press notice, posting of site notices and consultation with statutory consultees and adjacent residents. Further re-consultation was undertaken following the submission of the revised plans. The consultation period expired on 31.7.15.

#### INTERNAL

#### DESIGN CONSERVATION AND SUSTAINABLE DEVELOPMENT

Ecology and Countryside Officer

3.2 States the original scheme retained Field 9 as a nature reserve to maintain habitat for great crested newts and also the nature conservation value of the wet grassland habitat found here. The area was to be enhanced with the creation of new ponds and additional hedgerow planting. Stock proof fencing was to be installed to allow grazing as a management option.

3.3 The officer visited on 22nd May 2015 and found the pond to be dry. Therefore, although the great crested newt survey is two years old, the conclusion that great crested newts are no longer breeding on site is supported. A pond drying by late Spring can indicate annual drying.

3.4 The area to the west and immediately south of the pond has a lush grass sward with frequent common and meadow buttercup and occasional tufts of hard rush. The ridge and furrow is less pronounced here although there was evidence of recent areas of standing water. The ridge and furrow is much more pronounced in the area east of the pond with evidence of having held water until recently. The area is dominated by strands of hard rush where lady's smock is frequent and interspersed and boarded with areas of grass containing glaucous sedge, meadow and creeping buttercup, common vetch, common sorrel and occasional dock. Towards the centre is a small patch dominated by thistles.

3.5 This second design of the revised scheme introduces one row of housing and access road at the western side of Field 9, with a connecting shared user path along the south. It also introduces a new area of open space to the north of Field 9, along the boundary with Metcalfe Lane. An Ecological Conservation and Management Plan has been submitted which sets out the creation and treatment of the areas.

3.6 This latest revision, removing houses on the eastern side of Field 9, is an improved design as the more interesting area of wet grassland is retained with better connectivity to the wider landscape. The eastern hedgerow along Metcalfe Lane is now at less risk of inappropriate management and disturbance. The

restriction of housing to one side of the field gives it less of a 'village green' feel which could help to minimise 'people pressure' on it, although there is still some risk from this. It still feels that the area of wildflower grassland proposed behind housing on the western side is unlikely to be sustainable in the long term, being at risk of damage from garden waste or unofficial extensions of back gardens.

3.7 The ecology report still refers to land re-modelling to avoid seasonal water logging in the south of the area. It is not clear what exactly this would involve and a construction environmental management plan for biodiversity, such as detailed in British Standard BS 42020:2013, will be required to ensure that there are no adverse impacts from construction.

3.8 The improvements to the existing pond are welcomed, as are the new hedgerows which should limit the amount of blackthorn in their composition to avoid encroachment into the field. The Ecological Conservation and Management Plan details the creation of a new pond to the south of the shared user path which would enhance the area. The management for this area is now proposed as annual hay cut which will help to maintain the botanical interest.

3.9 The lighting scheme shows low level bollards on the shared user path which is appropriate for this location but 'all round' street lights on the roads. Use of this type of lighting would cause unnecessary light spillage onto the areas retained for nature conservation (including the existing pond) and an appropriate condition should be used to secure a better design.

3.10 If this application was approved the protection and enhancements of existing features, creation and future management of the areas of open space would need to be secured through a planning condition.

#### Landscape Architect

3.11 Raises concern on basis of capacity to accommodate the ecological requirements within the new layout and the visual impact of the housing arrangement. The impact on open space in the revised scheme is more openness to Metcalfe Lane and the quality of amenity space is not harmed. However it is not as satisfactory for the housing arrangement. The single rows of houses now appear somewhat isolated and vulnerable. Nonetheless there remains a reasonably close association between the single rows of houses and adjacent blocks. Along the front elevations they read with units 469-475 as part of an incomplete quadrangle around the revised open space, with appropriate pedestrian and cycle circulation.

3.12 The character of this space was to essentially reflect its purpose as a 'nature reserve'. The reduction in size of this particular space and its enclosure with housing will place greater population pressure upon it, but sees no reason why it cannot be maintained as best as possible with nature in mind, including suitable wet areas, and to discourage too much wear and tear through general recreation, given that

there is the provision of other formal facilities within Derwenthorpe. This arrangement, as for others, results in good overlooking of open spaces.

3.13 The planting and hard materials proposed in the Landscape Layout are in keeping with the standards presented throughout the rest of the Derwenthorpe development. However any shrub planting within the two open spaces should be predominantly native. The same style of LAP is provided in a different but equally suitable location. A minor detail but the visitor parking spaces to the east of the link with Meadlands could possibly be given a bit more attention e.g. by way of tree planting.

3.14 A street lighting scheme is included in the submission. In order to be assured that the electricity supply and other utility runs will not hinder the proposed street tree planting, which is so critical to the home zone principles and street amenity. This information should be provided before a recommendation can be made. It is assumed such information can be provided at this stage, given the advanced development of earlier phases. Would also expect a tree pit/trench planting detail for the street trees.

3.15 Requests conditions be attached as for the previously approved reserved matters phase 4 scheme in respect of provision of an approved landscape scheme through LAND 1 which would include details for the open spaces and secure all of the planting for a five year period; and a condition for protection of existing hedgerows, scrub and trees within the application site and alongside Metcalfe Lane.

3.16 Further to my previous email, this scheme is improved with the removal of the houses on the eastern side of the open space, resulting in a better relationship with Metcalfe Lane and a more fluid connection between the two eastern areas of open space. It is a pleasant outlook/setting for units 476 - 481, though it does still leave them looking a bit vulnerable. Given the information we have to date, requests conditions be attached to any approval to cover landscaping, a plan showing utility runs and tree/hedge protection.

#### HOUSING STRATEGY AND DEVELOPMENT TEAM

3.17 The Housing Strategy and Development Team support this application, subject to a variation to the Section 106 Agreement for 03/02709/OUT to ensure the Agreement is also applicable for this phase of development.

3.18 The large Derwenthorpe scheme of which this application is a part exceeds City of York Council's current policy target of 30% on-site affordable provision, by providing a total of 40% affordable housing pepper-potted within the scheme's various Neighbourhoods. This is split by tenure with 25% of the total scheme Social Rented and 15% Shared Ownership, all owned and managed by Joseph Rowntree Housing Trust.

3.19 In accordance with the Outline (03/02709/OUT) Section 106 Agreement, an Affordable Housing Neighbourhood Plan must be approved by the council for each phase of development which complies with the principles set out in the Section 106. Discussions are underway with the developer on the Plan for this application and development cannot begin on site until approval is given.

3.20 A high standard of environmental sustainability and generous property size is featured in this application, which creates the conditions for a mixed and sustainable community and meets the priority housing need identified in York's latest Strategic Housing Market Assessment.

#### ENVIRONMENTAL PROTECTION UNIT

3.21 This application is for a revised layout of Phase 4 of the Derwenthorpe development, as a result of which the principal of development has already been established.

3.22 Noise - Concern raised regarding noise associated with the construction of the housing, given the proximity of existing housings in Phases 1, 2 and 3 of the development and properties located on Metcalfe Lane itself. It is therefore requested that conditions be placed on any approval to ensure that residential amenity during the construction phases is not adversely affected.

3.23 Contaminated Land - The revised Phase 4 layout no longer includes electricity substation land, so land contamination is less likely to be present at the development site. However, it is recommended that conditions be attached to any planning approval in case unexpected contamination is detected during the development works.

3.24 Requirement for Electric Vehicle Recharging infrastructure on the site - In line with City of York Council's adopted Low Emission Strategy and the NPPF, developments should be located and designed where practical to incorporate facilities for charging plug-in and other ultra low emission vehicles (NPPF para 35). All residential properties that include off street parking (private driveways or garage space) should make provision for this. Suggested condition for the provision of Electric Vehicle recharging infrastructure.

#### FLOOD RISK MANAGEMENT TEAM

3.25 No objections in principle subject to conditions covering foul and surface water discharge.

#### HIGHWAY NETWORK MANAGEMENT

3.26 No objections to the proposed application. The detail submitted accords with the principles set out in the outline application for the site. As the application has

been submitted as a full application, relevant conditions will need to be applied. The Section 106 agreement would need to be varied to ensure that this application is bound by the relevant contributions and highway works linked to the outline consent.

3.27 The number of residential units served from Meadlands is in accordance with the relevant planning consents. All issues relating to traffic generation and off site highway works were secured and addressed at the outline application stage. Although the application being considered is stand alone the level of traffic that would be anticipated to be generated by the phase is less than that previously considered and as such no further assessment work is required nor justified.

3.28 A break point is provided within the phase which will permit pedestrians and cyclists to pass between the Fifth Avenue element of the scheme and the Meadlands side. Vehicular access between these access points will be prevented with the exception of emergency vehicles or refuse vehicles as may be necessary.

3.29 Much of the highway layout is based around homezone principles where the roadspace is shared amongst users and as such does not have a formal kerbed carriageway/footway construction. The highway has been designed to restrain vehicle speeds through a variety of recognised measures including the use of planting in the highway, varying the width of the highway and restricting forward visibility. Traffic calming design features together with managed on-street parking areas have been provided throughout the phase which have been designed to keep vehicle speeds to 20mph.

3.30 Car parking is in accordance with CYC Annex E maximum standards with the layout being carefully designed to create areas of managed on-street parking whilst avoiding the potential for indiscriminate parking to occur. The proportion of car parking numbers including visitor spaces and car club bays is to the same ratio as has been provided and agreed on Phases 1,2 and 3 of the development.

3.31 Refuse collection will be a mixture of kerbside collection and pick up from dedicated bin drop off points. Vehicle swept paths have demonstrated that refuse vehicles can successfully traverse the site.

3.32 There is an existing cycle route which runs along the Eastern boundary of the site between the Sustrans route and Meadlands. This route is being accommodated within the site layout.

## EDUCATION

3.33 Requests financial contributions towards education provision for foundation (£23,756) and secondary (£29,512).

## LEISURE

3.34 For off-site sports provision, a financial contribution of £22,152 towards upgrading of the Community Sports Hub at the former Burnholme College site is requested.

## EXTERNAL

### NATURAL ENGLAND

3.35 Has no comments to make regarding this application.

### ENVIRONMENT AGENCY

3.36 No objections to proposed change in layout. Any changes to surface water drainage proposals must be agreed with both City of York Council and the IDB.

### YORKSHIRE WATER

3.37 Requests conditions be attached in the event permission is granted in order to protect the local aquatic environment and Yorkshire Water infrastructure.

### SPORT ENGLAND

3.38 No Comment.

### NORTH YORKSHIRE POLICE

3.39 Confirms it was consulted by the architects in February this year in respect of an amended layout for Phase 4 of the Derwenthorpe Scheme and that reference is made to this in the Design and Access Statement with a copy of his response and comments included. The revised layout drawings subject of this application, indicate that the points that he raised have been considered and addressed. Therefore, no concerns or issues raised.

### OSBALDWICK PARISH COUNCIL

3.40 Objects to the planning application on the following grounds:

- The plans contradict the 2007 outline permission granted by the Secretary of State that field 9 should not be built on and should be kept as amenity/wildlife open space provision;
- Issues and concerns previously raised relating to flooding and ground water retention have not been addressed;
- Drainage is a major issue due to the land being built up;

- Residents of Meadlands seek confirmation that Meadlands would not be used for construction traffic/workers, that boundary hedges would be retained, that bungalows would be built adjacent to Meadlands with a minimum distance of 20 metres adhered to and working hours defined, adhered to and monitored;
- Request a meeting with CYC, JHRT and local representatives;
- Point out that item 13a) on the application form relating to protected species is incorrectly answered as it does not acknowledge that Great Crested Newts have been found in Field 9 pond in the past and the neglected state of newt fencing since the development commenced;
- Development will compromise the protected species on the area;
- Development on Field 9 further undermines the schemes so called environmentally friendly credentials even further;
  - Should approval be granted for the revised layout what undertaking will be given that the replacement open space under the power lines will not similarly be built on in the future should the power lines come down to facilitate development to the East of Metcalf Lane.
- Objection is raised to the use of outdated flood risk assessment documents to support this revised layout as Meadlands has suffered greater waterlogging problems since development of other phases commenced and concerns are heightened with development on the marshy Field 9 which has always acted as a sump for water;
- Request that dwellings on Plot No's 444 & 445 should be omitted or re-located as their positioning compromises the hedgerow forming the boundary with the PROW and concern is raised as to highway safety with the vehicles associated with these two dwellings manoeuvring onto the public highway so close to the one entrance into and out of this phase;
- Phase 4 has the same underprovision of car parking as is already causing problems on other phases and therefore, concern is expressed as to displaced parking on Meadlands upon occupation and whatever the configuration of public open space is approved the Parish Council request that post and rail fencing is used to protect the open space from damaging parking which is evident on earlier phases;
- Request clear undertakings from the local authority that, given earlier problems on phase 1, 2 & 3 construction, that planning conditions imposed regarding working hours are strictly enforced and that breaches are promptly investigated and sanctions applied;
- Request clear undertakings from the local authority that the Eastern boundary hedge is protected throughout construction and is maintained at its current height with access along the prowl maintained at all times.

## LOCAL RESIDENTS

3.41 One letter of support received from resident of Farndale Avenue.

3.42 One letter received from resident of Meadlands seeking confirmation about separation distances and confirmation of house types - queries answered directly by officer.

## 4.0 APPRAISAL

4.1 The key issues to be considered as part of this application are:

- Principle of development;
- Green Belt policy and inappropriate development;
- Openness and purposes of the Green Belt;
- Access and highway issues;
- Design and visual amenity;
- Residential amenity;
- Ecology;
- Flood risk;
- Other considerations.

## POLICY CONTEXT

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no development plan for York other than the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. These policies, YH9(C) and Y1(C1 and C2), relate to York's Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

4.3 Central Government guidance is contained in the National Planning Policy Framework (NPPF, March 2012). Paragraph 7 of the National Planning Policy Framework says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Footnote 9 of paragraph 14 contains restrictions where this presumption in favour of sustainable development does not apply, including land designated as Green Belt and locations at risk of flooding. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking, such as seeking high quality design and protecting Green Belt.

4.4 Section 6 of the NPPF 'Delivering a wide choice of high quality homes' seeks to boost the supply of housing. Paragraph 49 states that housing applications should be considered in the context of presumption in favour of sustainable development.

4.5 Section 7 of the NPPF requires good design. At paragraph 56, it says that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.



4.6 Section 9 'Protecting Green Belts' says that the essential characteristics of Green Belts are their permanence and openness (paragraph 79). Paragraph 80 sets out the purposes of Green Belt. these are to check unrestricted sprawl of large built up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and, to assist in urban regeneration. Paragraph 88 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. With regard to new buildings, paragraph 89 states that the construction of new buildings is inappropriate in Green Belt unless it falls within one of the listed exceptions.

4.7 Section 10 'Meeting the challenge of climate change, flooding and coastal change offers advice on locating new development to avoid increased flood risk.

4.8 Section 11 'Conserving and enhancing the natural environment' says that the planning system should contribute to and enhance the natural environment by, amongst other things, minimising impacts on biodiversity and providing net gains in biodiversity where possible as well as preventing adverse affects on pollution and land instability.

4.9 Although there is no formally adopted local plan, the City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. The relevant policies are summarised in section 2.2 above. Policies considered to be compatible with the aims of the NPPF and most relevant to the development are GP1 'Design', GB1 'Development in the Green Belt' and H4a 'Housing Windfalls'.

4.10 At this stage, policies in the 2014 Publication Draft Local Plan are considered to carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF).

## SITE AND HISTORY

4.11 The application site comprises an open area of grazing land approximately 2.13 hectares in size that is located to the west of Metcalfe Lane between the residential development of Meadlands to the north and National Grid land to the south. Metcalfe Lane runs along the eastern site boundary and provides vehicle access to Langton House, situated to the east of Metcalfe Lane, and pedestrian access through to the Meadlands. The application site lies within flood zone 1.

4.12 Outline planning permission (ref. 03/02709/OUTM) was granted by the Secretary of State in May 2007 for a residential scheme of approximately 540 dwellings on land to the west of Metcalfe Lane, Osbaldwick. Means of access and the general landscaping structure were approved as part of the outline consent. The scheme involved a sustainable urban extension to the east of the City with high a high proportion of affordable homes that would retained and managed by JRHT. The general layout of the development, its division into four neighbourhoods each with its own individual vehicular access point, the size and shape of these neighbourhoods and the approximate number of dwellings within each one, along with the general location of public open space, were established through an illustrative masterplan and design documents submitted in support of the outline planning application. Reserved matters consent for siting, design, external appearance and detailed landscaping were subsequently approved. Reserved matters for the phase the subject of this application were approved in 2013 (12/01878/REMM).

4.13 Phase 1 of the development (Neighbourhood D accessed from Osbaldwick Village) has been built and is now occupied. Phases 2 (Neighbourhood C accessed from Temple Avenue) and 3 (Neighbourhood A accessed from Fifth Avenue) are under construction with some homes completed and occupied.

#### PRINCIPLE OF DEVELOPMENT

4.14 Whilst the RSS has otherwise been revoked, its York Green Belt policies have been saved together with the key diagram which illustrates the general extent of the Green Belt around York. These policies comprise the S38 Development Plan for York. The policies in the RSS state that the detailed inner boundaries of the Green Belt around York need to be defined to protect and enhance the nationally significant historical and environmental character of York. The 2005 Draft Local Plan proposals map identifies the site for housing development, but the Secretary of State in considering the outline application proposal concluded that the land was part of the Green Belt. The Secretary of State considered that the site fell outside the categories of development that are considered in policy to be appropriate in the Green Belt and attributed substantial weight to the definitional harm.

4.15 It is considered that the site falls within the general extent of the Green Belt. In accordance with the footnote referred to in paragraph of the NPPF, the usual presumption in favour of sustainable development established by the NPPF does not apply in Green Belt locations. Instead, the more restrictive policies in section 9 of the NPPF apply.

## GREEN BELT POLICY

4.16 Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence. Paragraph 80 sets out the five purposes of the Green Belt:

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

4.17 Paragraph 89 states that a local planning authority should regard the construction of new buildings as inappropriate development in Green Belt. Paragraph 87 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 says when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

4.18 The proposal constitutes inappropriate development for the purposes of the Green Belt policy tests. For inappropriate development to be acceptable, very special circumstances must exist. '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.

## IMPACT ON OPENNESS AND GREEN BELT PURPOSE

4.19 The outline consent has been implemented and is part constructed. The current application seeks full planning approval to reposition the properties within Phase 4 of the approved outline scheme to take account of the retention of overhead electricity cables that cut across the site, which were previously intended to be underground by National Grid. The retention of the cables effectively neutralises the land beneath them and within a safety clearance distance of 11m either side of the power lines. This affects 17 no. of the dwellings approved under reserved matters application 12/01878/REMM, which cannot be constructed because the overhead lines and the associated safety clearance corridor cross over the dwelling itself or its private garden.

4.20 The Secretary of State, in granting outline consent, identified that the residential development of the land resulted in limited harm and concluded that the site did not fulfil any purpose of Green Belt set out in paragraph 80 of the NPPF, in particular the preservation of York's historic setting and special character. In light of the previous outline consent for residential development of the land and the fact that this full application seeks to re-site houses within the extent of the previous development site, the proposal would not cause further harm to openness and purposes of the Green Belt. Indeed, the proposal increases openness at the site's eastern boundary with the Green Belt beyond through the omission of houses adjacent to Metcalfe Lane. However, although the harm to openness is considered to be limited, it still needs to be given substantial weight by the decision maker.

## ACCESS AND HIGHWAY ISSUES

4.21 The NPPF encourages sustainable travel and the location of development in sustainable and accessible locations. The proposal relates to an approved sustainably located and accessible residential development that forms an extension to the main urban area of the City. The dwellings would be accessed via Meadlands as previously approved through the outline planning application. The main changes that impact on highway considerations relate to the internal road layout and parking provision. The hierarchy of roads within the quadrant remains the same with a circular outer road ("green lane") and internal home zones. The new section of road serving the 6 no. dwellings on Field 9 is accessed by the green lane and has adequate space to turn. Parking provision is provided on a 1:1 basis, as intended for the development site as a whole with visitor spaces and city car club spaces being distributed across the phase. No objection is raised to the application by the Local Highway Authority subject to conditions relating to highway and parking related matters. The revised scheme allows the retention, for the most part, of the existing public right of way cycle/footpath that runs along the eastern boundary from Meadlands to Metcalfe lane and beyond it to the Sustrans cycle route and Osbaldwick. Only the top section would need to be diverted to avoid the semi-detached pair of houses approved under reserved matters and the visitor parking bays now proposed.

## DESIGN AND VISUAL AMENITY

4.22 Chapter 7 of the NPPF gives advice on design, placing great importance to the design of the built environment. At paragraph 58 it states that planning decisions should aim to ensure that, amongst other things, developments will function well and add to the overall quality of an area, establish a strong sense of place, incorporate green and other public space as part of them, respond to local character whilst not stifling innovation, create safe and accessible environments and include appropriate landscaping. It goes on to say that great weight should be given to outstanding or innovative designs which help raise the standard of design in the area (para.63). At paragraph 64, it advises against poor quality design that fails to take the

opportunities available for improving the character and quality of an area and the way it functions.

4.23 Field 9 was proposed within the strategic landscape plan for the larger scheme as open space and a nature reserve between areas of housing. The proposal would alter the structural layout of the larger residential development and reconfigure the open space within this part of the larger scheme by introducing 6 no. dwellings within the western part of the field and omitting approved housing from the eastern part of Phase 4, adjacent to Metcalfe Lane. The open space would be elongated in shape and would be less contained and defined as an area. However, the reduction in the number of houses adjacent to Metcalfe Lane would benefit the rural character and openness along the lane and have a better connection to the open land to the east without adversely affecting the overall quantity and quality of the available amenity space. The omission of the houses to the east of the site would allow the retention of the majority of the cycle and pedestrian track that connects Meadlands with the Sustrans route and Osbaldwick.

4.24 The new houses within Field 9 would face towards the retained open space and would back onto what remains as National Grid land. If developed in accordance with the approved outline scheme, the houses would join two areas of housing to the north and south and fully enclose an area of open land that is already shown as being built up to on the three remaining sides. However, overall, the existing structural open space layout would be retained. The proposal would not adversely affect the existing structural planting with the exception of an opening created to allow for the new vehicle access that would serve the six houses in Field 9. The proposal includes new hedgerow to mitigate for any loss.

4.25 The revised scheme would follow the overall approach and design of the larger residential development, with the emphasis on the creation of a sustainable, accessible and cohesive community and utilising existing house types with the same palette of materials and fenestration details. The Design and Access Statement submitted with the application states that the homes are proposed to be environmentally friendly and economical to run and are to be built to Joseph Rowntree Foundation 'Lifetime Homes' standard. There would be a mix of house types ranging from 2 to 4 bedroom properties arranged in terraces, semi-detached and detached forms, with the majority of houses being three bedroom. Whilst the houses differ from the existing housing stock to the north on Meadlands, there would be a cohesive character and appearance to the approved housing within the Derwenthorpe development. No objections are raised by the Police Architectural Liaison Officer with regards to opportunities for crime. A condition covering detailed landscaping for the development is required if the application is approved.

4.26 As such, the proposal would result in limited harm to the character and appearance of the area and that of the Green Belt.

## RESIDENTIAL AMENITY

4.27 One of the core principles of planning outlined in the NPPF is to seek a good standard of amenity for all existing and future occupants. Paragraph 120 of the NPPF also states that new development should be appropriate for its location to prevent unacceptable risks from pollution and land instability, with the responsibility for securing a safe development resting with the developer. Paragraph 123 in particular advises that planning decisions should avoid and mitigate any impacts from noise and light pollution.

4.28 There are existing properties on Meadlands to the north and single properties on the east side of Metcalfe Lane (Langton House) and within the National Grid site to the south (Grid Cottage). The houses on Meadlands would be separated from the proposal by the houses previously approved as part of the outline consent and Phase 4 reserved matters approval (12/01878/REMM), which are excluded from the site boundary of this application. There would be no impact on the properties on Meadlands as no additional dwellings are proposed and no change to the dwellings already approved under reserved matters. Langton House itself is separated from the site by Metcalfe Lane and a range of associated outbuildings. The proposal does not now involve the erection of dwellings adjacent to the eastern boundary. Grid Cottage to the south is separated from the site by the existing National Grid land.

4.29 The proposal would have a higher density than the adjacent Meadlands estate, though would reflect the housing in other phases of the larger development and would be similar to the previous built form approved under reserved matters. The proposed houses would have similar separation distances within the phase to the previously approved scheme and each have an adequate private amenity space to serve them. A Local Area of Play is retained within the phase.

4.30 The Council's Environmental Protection Officer has raised concern about the potential adverse impact of noise associated with the construction of the housing on existing housing in the vicinity including within the larger development site itself. A condition is requested requiring the agreement of a construction environmental management plan that would cover noise, vibration, dust and lighting. Further conditions to cover unexpected land contamination and vehicle charge points to address air quality emissions are requested.

## ECOLOGY

4.31 Paragraph 118 of the NPPF aims to conserve and enhance biodiversity, including the refusal of planning applications where significant harm cannot be avoided or adequately mitigated and where development would adversely affect Sites of Special Scientific Interest, ancient woodland and European protected sites.

4.32 Field 9 was originally retained in its entirety due to the presence of great crested newt in the pond within it and the wet grassland habitat it provided. The application is supported by an ecology report, which confirms that a population of great crested newts is no longer present. The application proposes the retention of the majority of Field 9 with the inclusion of 6 no. houses and access to them to its western end. The loss of the houses backing onto Metcalfe Lane and the reconfiguration of the open space puts the hedgerow on the western side of Metcalfe Lane at less risk of inappropriate management and disturbance. The introduction of the housing into Field 9 and the re-modelling of land within the remainder of the Field would potentially cause harm to the nature area. However, this could be mitigated by the proposed management of the land, and the proposed bunding between it and the adjacent road.

4.33 A condition is requested by the Council's Ecologist to require a construction environmental management plan for biodiversity in line with British Standard BS 42020:2013 to ensure that there are no adverse impacts from construction. The improvements to the existing pond and creation of a new pond along with new hedgerow planting would enhance the area. A condition is also requested to require the siting and design of the proposed lighting adjacent to the open space to be submitted for approval. Therefore, the proposal is considered to be acceptable in terms of ecology and biodiversity, subject to conditions.

## FLOOD RISK

4.34 Paragraph 103 of the NPPF states that development should be directed to the areas of low flood risk and that development should not result in an increase of flood risk within the site or elsewhere. The site lies within low risk flood zone 1 and should not suffer from river flooding. Foul sewage is proposed to be discharged to the existing mains drainage sewer via the approved drainage network provided within the Derwenthorpe scheme. Surface water is proposed to be disposed of via the sustainable drainage system that was approved in principle at outline stage. The Environment Agency raises no objection to the proposal. Yorkshire Water and the Council's Flood Risk Management Team raise no objections subject to the imposition of conditions relating to foul and surface water drainage. As a result, the development is considered to be acceptable in planning terms, subject to conditions to cover the detail of the drainage proposals.

## OTHER CONSIDERATIONS

4.35 Paragraphs 87-88 of the NPPF advise that permission should be refused for inappropriate development unless other considerations exist that clearly outweigh identified harm to the Green Belt, which would amount to very special circumstances.

4.36 Whilst the Secretary of State considered that the land falls within the Green Belt, she concluded that the site did not fulfil any of the Green Belt purposes and that harm to openness was limited. The following very special circumstances were identified by the Secretary of State as clearly outweighing the harm to the Green Belt from inappropriate development: the nature of the development as a highly sustainable and accessible housing scheme; the intended long term management role of JRHT; the need for an improved mix and for affordable housing in York; and, the absence of harm to any purposes of Green Belt. The outline consent has been implemented and the development is part constructed. This application seeks approval to amend the layout of houses that fall within the extent of the previous development site.

4.37 It is officers' opinion that the previous considerations identified by the Secretary of State in granting outline consent are still relevant and the fact that the land could be developed in part by virtue of this outline consent is material. Taken together, these are considered to be compelling reasons to justify development in the Green Belt and therefore very special circumstances exist to clearly outweigh the identified harm to the Green Belt.

## **5.0 CONCLUSION**

5.1 The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 88 of the NPPF and by definition causes harm to the Green Belt. This harm, and other limited harm to openness and purposes of the Green Belt, must be afforded significant weight and very special circumstances will not exist to justify the development unless the potential harm to the green belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

5.2 It is considered that the other considerations set out in paragraphs 4.29 above together with mitigation of other harm through planning conditions clearly outweigh the potential harm to the Green Belt, even when affording this harm considerable weight. This therefore amounts to the very special circumstances necessary to justify the development.

5.3 Any approval is subject to the signing of a Section 106 Agreement to cover the following matters, with the necessary consequential variations being made to the original Section 106 obligation.

- Affordable housing provision – further detail to confirmed at Committee;
- Education - Financial contribution of £23,756 towards foundation stage provision and £29,512 towards the improvement of the dining facilities at Archbishop Holgate's School;
- Off-site sports provision - Financial contribution of £22,152 towards upgrading of the Community Sports Hub at the former Burnholme College site;



- Sustainable Travel - Financial contribution of £160 per dwelling as an incentive to cover membership and drive time of the on site car club and £150 per dwelling towards the provision of a non-transferable (voucher) bus pass.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION:

Approve subject to Section 106 Agreement

Conditions:-

- 1 TIME2 Development start within three years
- 2 PLANS Plans received 7<sup>th</sup> July 2015
- 3 HWAY1 Details roads, footpaths, open spaces req
- 4 HWAY7 Const of Roads and Footways prior to occup
- 5 HWAY18 Cycle parking to be agreed
- 6 HWAY19 Car and cycle parking laid out

7 Prior to the commencement of any works on site, a Construction Traffic Management Plan and detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority. Such a Plan and statement shall include at least the following information:

- The routing that will be promoted by the contractors to use main arterial routes and details of signage
- Details of measures to be taken to mitigate the impact of construction vehicles on the local highway network, including delivery hours and phasing of deliveries to avoid traffic congestion; and the use of temporary traffic signals if required;
- Where contractors will park;
- Where materials will be stored within the site;
- Measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

The development shall be carried out in accordance with the Traffic Management Plan and method of works statement.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

8 No construction work shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs within the site. 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.

9 No construction work shall take place until there has been submitted to and approved in writing by the Local Planning Authority details and ground preparation for tree pits and a plan showing locations of utility runs in relation to proposed street tree planting.

Reason: So that the Local Planning Authority may be satisfied that appropriate details will be implemented to support the proposed tree planting, since the tree planting is integral to the amenity of the development.

10 Prior to the commencement of development, including site clearance, importing of materials and any excavations, a method statement regarding protection measures for the existing trees within and immediately adjacent to the site, shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing to be shown on a plan in accordance with BS 5837; phasing of works within the zones of influence; type of construction to be used; locations for storage of materials. The method statement shall also include details of existing and proposed ground levels such that there are no changes within the potential rooting zones of the trees. The protective fence line shall be adhered to at all times during development operations to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, mechanical cultivation, parking or manoeuvring of vehicles. Within the exclusion zone there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new trenches, pipe runs for services or drains. The fencing shall remain secured in position throughout the construction process including the implementation of landscape works. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

Reason: To ensure protection of existing trees before, during and after development which are covered by a Tree Preservation Order and/or make a significant contribution to the amenity of the area and/or development.

11 No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To secure practical measures to avoid or reduce impacts to biodiversity features during construction, as appropriate to the scale of development.

12 Notwithstanding the submitted details, a plan shall be submitted to an approved in writing prior to any construction work showing a lighting scheme for the development. The scheme shall ensure that no lighting is dispersed on to the nature area within the retained Field 9. The development shall be carried out in accordance with the approved scheme.

Reason: In the interests of visual amenity, to achieve a safe environment and to protect biodiversity.

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

Reason: In the interests of satisfactory and sustainable drainage.

15 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved by the Local Planning Authority before development commences.

Reason: To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.

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

No buildings shall be occupied or brought into use prior to completion of the approved foul drainage works, unless otherwise approved in writing by the Local Planning Authority

Reason: To ensure that the development can be properly drained and to ensure that no foul water discharges take place until proper provision has been made for its disposal.

17 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 works. The development shall be carried out using the approved materials.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

18 Prior to occupation, a three pin 13 amp electrical socket shall be provided at each property in accordance with the following:

For all garage spaces - provision in a suitable location to enable the charging of an electric vehicle using a 3m length cable. Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations and be suitable for charging electric vehicles;

For all driveways – Provision of an electrical socket which is suitable for outdoor use, located in a suitable position to enable the charging of an electric vehicle on the driveway using a 3m length cable. Any socket provided must comply with BS1363, or an equivalent standard, Building Regulations and be suitable for charging electric vehicles. It should also have a weatherproof cover and an internal switch should be

also provided in the property to enable the socket to be turned off.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles

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

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

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

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

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP, a complaints procedure shall be provided, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved.

Reason: To protect the amenity of local residents

20 Prior to works starting on site a dilapidation survey of the route used by construction traffic along highways in the vicinity of the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority. Immediately following the completion of the construction phase, a further joint survey shall be undertaken and a Schedule of Dilapidations shall be compiled. The extent of damages attributed to the development hereby permitted shall then be jointly agreed and rectified in accordance with details to be first agreed in writing by the Local Planning Authority.

Reason: In the interests of the safety and good management of the public highway the details of which must be recorded prior to the access to the site by any construction vehicle.

21 All construction and demolition works and ancillary operations, including deliveries to and dispatch 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.	

Reason: To protect the amenity of local residents

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

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

**Contact details:**

**Author:** Hannah Blackburn Development Management Officer

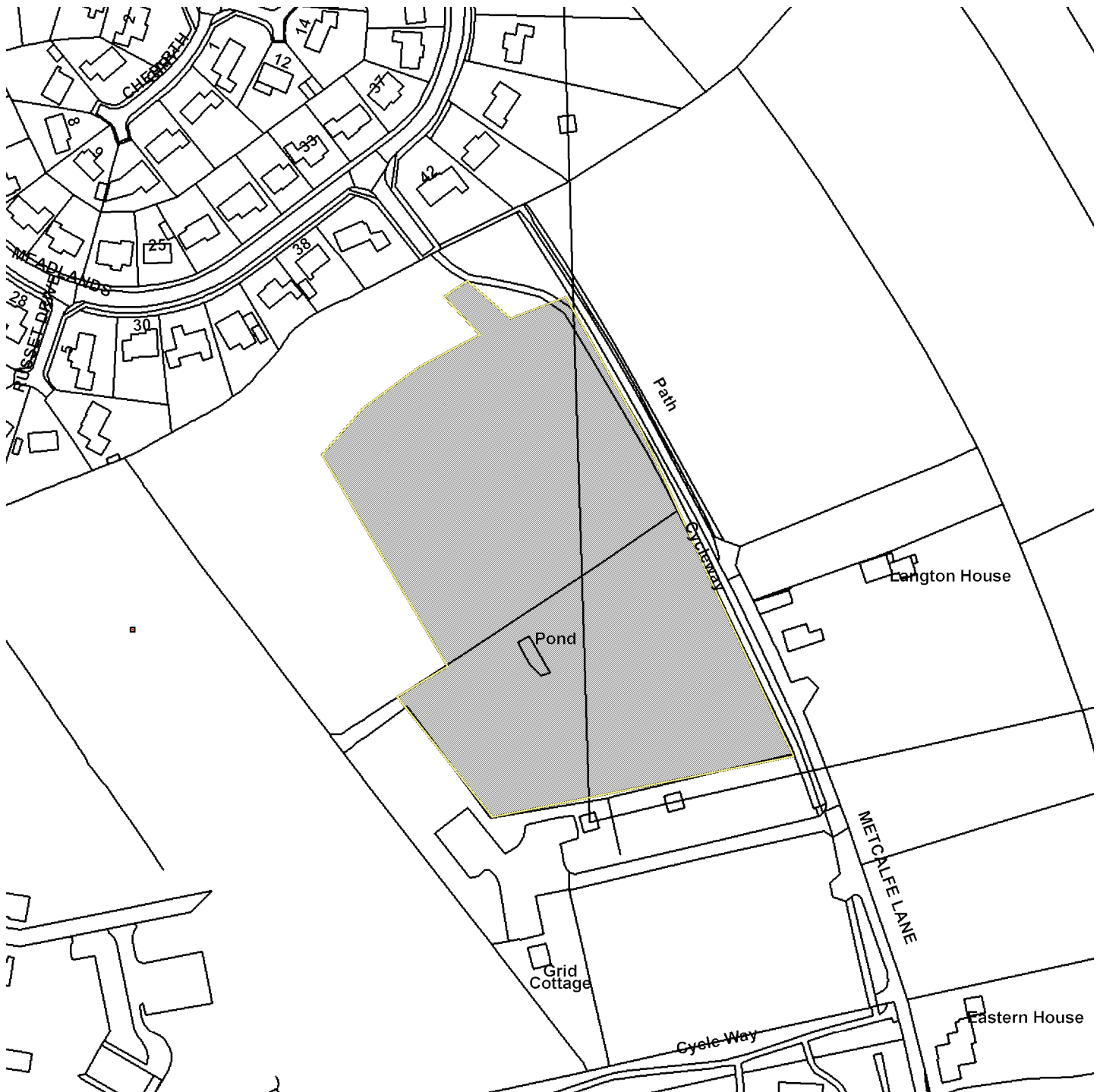
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15/00754/FULM

Land Lying To The West Of Metcalfe Lane Osbaldwick



Scale : 1:2119

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	11 August 2015
<b>SLA Number</b>	Not Set

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**COMMITTEE REPORT**

**Date:** 20 August 2015                      **Ward:** Fishergate  
**Team:** Major and                              **Parish:** Fishergate Planning  
            Commercial Team                              Panel

**Reference:** 15/01055/FULM  
**Application at:** Imphal Barracks Fulford Road York YO10 4HD  
**For:** Erection of accommodation block with associated landscaping  
**By:** Mr David Burke  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 12 August 2015  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The proposal is for the erection of a 3-storey building comprising 126 units of living accommodation. The footprint of the building (including internal courtyards) would be approximately 2700sqm. The units would be occupied by military personnel returning to the UK after being based in Germany. Most of the units would provide short-term accommodation for personnel in transit to other bases. The remainder would be larger units for personnel based permanently at the site.

1.2 The structure would be rectangular on plan with the living accommodation arranged around two landscaped courtyards. Materials would mainly comprise beige/cream brickwork, green glazed brickwork and grey metal window frames.

1.3 The building would replace a recently-demolished, 3-storey CBRN (Chemical, Biological, Radiological, and Nuclear) bunker of approximately 1000sqm plus an area of car parking. An application for a determination as to whether prior approval was required for demolition of the bunker was submitted in 2014 (14/02324/DMNOT). The council concluded that the demolition would not constitute EIA development and raised no objection to the proposal.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

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

## 2.2 Policies:

Development Control Local Plan (4<sup>th</sup> Set of Changes 2005) Policies :-

CYGP1 - Design

CYGP4A - Sustainability

CGP15A - Development and Flood Risk

CYGP9 - Landscaping

CYNE6 - Species protected by law

Draft York Local Plan (2014) Publication Draft – relevant policies include:

DP2 – Sustainable Development

DP3 – Sustainable Communities

SS1 – Delivering Sustainable Growth for York

G14 – Trees and Hedges

CC2 – Sustainable Design and Construction

T1 – Sustainable Access

## 3.0 CONSULTATIONS

### INTERNAL

3.1 Highway Network Management – Initially requested deferral pending clarification of transport needs of the anticipated personnel, anticipated level of car and cycle parking needed, on-site parking provision and traffic generation. (NB further information has now been supplied – see 4.15 below).

3.2 Flood Risk Management – States the development is in low risk Flood Zone 1 and should not suffer from river flooding. No objections in principle. Although the Flood Risk Assessment is insufficient to determine the impact on the existing drainage system and downstream watercourse it shows that a proper drainage solution can be provided. Drainage details should be made a condition of approval.

3.3 Environmental Management (Landscape) - The loss of mature trees and a brick wall is regrettable as they are characteristic, attractive landscape features of the barracks that can be appreciated within public views of the site. The loss of

trees should be compensated for with new, large-species, trees planted within the grounds of Imphal barracks in locations where they will be visible such that they can be sustained into full maturity and contribute to the public amenity and setting of the barracks.

3.4 Environmental Management (Ecology) - No objections. Add an informative to protect nesting birds during construction.

3.5 Environmental Management (Archaeology) - Excavations may reveal or disturb archaeological features relating to the original barracks or earlier periods. Two conditions have been agreed with the applicant regarding the carrying out of a post-determination evaluation of the site.

3.6 Public Protection Unit - No objections subject to conditions to cover construction nuisance and contamination.

## EXTERNAL

3.7 Ouse & Derwent Internal Drainage Board (IDB) - The site lies outside the IDB district in an area where drainage problems exist. The development should not be allowed until the local planning authority is satisfied that surface water drainage has been satisfactorily provided for. Add a condition requiring drainage details to be submitted including attenuation to agricultural run-off rates, which is generally taken as 1.4lit/sec/ha.

3.8 Yorkshire Water - The applicant should clarify whether surface water discharges to the public sewer network, as stated in the flood risk assessment, or as we believe, already drains to a watercourse.

3.9 Public Consultation - The consultation period expired on 10 July 2015. One objection has been received objecting to any more student housing [Officers' response - The application is not for student housing].

## 4.0 APPRAISAL

### THE APPLICATION SITE

4.1 Part of an army base of 38ha on the east side of Fulford Road about one mile south of York city centre. It comprises approximately 100 buildings providing 70,000sqm of existing floorspace. The site of the proposed building is within the settlement limit of York, although some of the barracks' extensive garages and vehicular hardstandings to the east of the application site are in the green belt. The westernmost part of the base (but not the application site) lies within Fulford Road Conservation Area. The whole of the base is within flood zone 1. The application site is currently being cleared following demolition of the CBRN bunker.

## POLICY CONTEXT

4.2 Section 38 of the 1990 Act requires local planning authorities to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. There is no development plan in York other than the saved policies of the Regional Spatial Strategy relating to the general extent of the Green Belt. (The application site is not within the Green Belt). Although there is no formally adopted local plan the City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of s.38 its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are consistent with those in the NPPF. The relevant local plan policies are set out at paragraph 2.2 of the report. At this stage, policies in the 2014 Publication Draft Local Plan are considered to carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF).

4.3 National planning policy is set out in the National Planning Policy Framework (NPPF). The essence of the framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14). Local planning authorities should seek to approve applications for sustainable development where possible and work with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraph 187).

## PRINCIPLE OF DEVELOPMENT

4.4 The site is in a sustainable location with good access to public transport and local services. The principle of redevelopment on the site is acceptable.

## ASSESSMENT OF THE HERITAGE ASSET

4.5 The site is just over 250 metres from the Fulford Road Conservation Area boundary, with the main 2 storey office block in between. The conservation area includes the entrance gateways and adjacent redbrick buildings. A conservation area is a heritage asset. It is government policy that the significance of a heritage asset should be assessed in determining development proposals.

4.6 In assessing the application the Local Authority must 'identify and assess the particular significance' of the heritage asset, in line with the requirements of the NPPF, paragraph 129. It is then necessary to determine what impact the proposals

will have on that significance and where it is considered that there will be less than substantial harm, 'this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use' (NPPF, paragraph 134).

4.7 Given the distance from the conservation area and the intervening building, the proposal would not affect the setting or the public appearance of the conservation area. No harm is therefore identified to the conservation area. It is not therefore considered necessary to "identify and assess the particular significance of the conservation area that may be affected" as set out in the NPPF.

## DESIGN

4.8 The National Planning Policy Framework states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraph 56). Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative (paragraph 60). Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64).

4.9 The barracks include a range of building types and sizes in a fairly open setting. The height, scale and design of the proposed building would not look out of place among the neighbouring buildings and the barracks in general. Materials should be made a condition of approval.

## ENVIRONMENTAL PROTECTION

4.10 The proposed accommodation is far enough from the A19 to avoid nuisance from traffic noise. There is already living accommodation at the barracks so conditions should be attached to protect the amenity of the occupiers during construction. A site investigation is required to find out whether land contamination is present. If contamination is found remedial action will be required to ensure that the site is safe and suitable for its proposed use. This should be covered by appropriate planning conditions.

## LANDSCAPE

4.11 The proposed building has a larger footprint than the bunker it will replace and as a result would require the removal of six mature trees and the demolition of a traditional panelled brick wall. The wall and the trees, which are within a wide grass verge, are typical landscape features that characterise the barracks. The trees are visible from a relatively-short stretch of well-used public footpath/cycleway through the MOD land between Walmgate Stray and Fulford Road. The trees are read as

being internal to the site, and make a significant contribution to this setting. Although their loss would not impact on the amenity of Walmgate stray or Fulford Road conservation area their loss would be regrettable. The trees should be compensated for by replacing the trees on a one for one basis (as a minimum) with advanced nursery stock, large-species trees in locations where they would be visible to the public and where they could be sustained throughout maturity. The proposed landscape plan shows an appealing design for the internal courtyards but the external margins are very narrow and therefore do not provide sufficient depth to accommodate replacement trees of the size that are being lost. The compensatory tree planting should therefore be located elsewhere within proximate land under the applicant's ownership. This should be made a condition of approval.

## ARCHAEOLOGY

4.12 The site is in an area of archaeological interest. The applicant has submitted a desk based assessment and has discussed the site with the city archaeologist. It has been agreed that because of the archaeological potential of the site a post-determination evaluation will be carried out. Two planning conditions are proposed to cover this exercise.

## FLOOD RISK AND DRAINAGE

4.13 The National Planning Policy Framework (NPPF) sets out the Government's policy on development and flood risk. Its aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk. The development is in low risk Flood Zone 1 and should not suffer from river flooding. The site currently drains to an IDB-controlled watercourse. The IDB has stated that surface water run-off should be restricted to greenfield run-off rates. The site is not greenfield so limiting run-off to greenfield rates would be unreasonably restrictive. Nevertheless attenuation is required, albeit to a higher rate than recommended by the IDB. The proposals show that surface water would be attenuated within the site. The details, including the rate of run-off can be made a condition of approval.

## ACCESS AND TRANSPORT

4.14 The development would be accessed via the main entrance to the barracks, which is on Fulford Road. Entry is strictly controlled. The site is well away from any public highway. The level of traffic generated by the proposal is unlikely to have any material impact on traffic levels or highway safety. The development would result in the loss of 33 parking spaces with overall a theoretical shortfall at the Barracks resulting from this development of 40 spaces (from a total of 650). The application does not include proposals for their replacement of the spaces lost but there is a very large car park close within the barracks and close to the site of the new building. In practice even at times of personnel surges, all vehicles have been



accommodated at the site, and there are hardstanding areas in addition to the large central car park that can be used if required. The applicant has confirmed that there will be no off-site parking as a result of the development. It is not considered reasonable or necessary to require additional parking to be laid out at the site.

4.15 The applicant intends to provide cycle storage for the occupiers of the building in the courtyard area, at a ratio of one per two occupants. Provision should be made a condition of approval. It is considered that this provision is sufficient at this time. However in addition, the applicant has identified areas for future expansion of cycle parking by a further 80 spaces close to the new accommodation if required.

## ECOLOGY

4.16 The application includes a preliminary ecological assessment. Impacts on ecology could occur through the loss of six mature trees. The loss of six mature trees would impact on the general biodiversity value of the site and they should be replaced with similar large specimens within the grounds of the barracks. Currently the site is intensively managed and there is significant potential for improving and creating habitats for biodiversity. A green roof on a proposed shelter within the southern courtyard would enhance the biodiversity of the area. The details of this should be included within a landscape scheme for the development. The site has been found to be unsuitable for bats and therefore no further survey is required. Add an informative to protect nesting birds during construction.

## SUSTAINABILITY

4.17 The submission includes a comprehensive sustainability statement. This assesses the development against the criteria from the City of York Council policy GP4 and Interim Planning Statement (IPS) on Sustainable Design and Construction (Nov 2007) and addendum. It points out the proximity to the city centre and the cycle lanes along the A19 and the bus stops just outside the barracks. A green travel plan would be developed for construction staff and visitors to reduce private car use. Despite the small increase in the number of personnel based at the barracks, daily vehicle movements would decrease at the site due to the improved accommodation offer. In terms of pollution, a Construction Environmental Management Plan (CEMP) would be produced to include details on safeguarding water resources, minimising potential impacts from the construction phase. No new external lighting would be installed at the barracks for the new building. An ecological assessment has revealed that apart from the loss of the trees referred to at para 4.13 there is little biodiversity value on the site itself, however relevant works would be timed outside the bird nesting season. New planting in the courtyards would involve native species, as would the compensatory tree planting.

4.18 The statement explains that as the proposed development site is located on MOD estate it is also subject to the requirements of the DIO Secretariat Practitioner Guide 01/11 which states that all Core Works projects must achieve a DREAM

(Defence Related Environmental Assessment Method) 'Excellent' rating at every stage for all new build and major refurbishments. DREAM is taken in this instance to be an equivalent assessment to BREEAM. This would exceed the Council's IPS requirements.

4.19 It concludes that the proposals are for a relatively small development with impacts largely limited to the Imphal Barracks itself. The proposals do not represent a departure from the existing uses of the base or a significant increase in personnel.

4.20 In addition, the proposals have been subject to SEAT (the MOD Sustainability and Environmental Appraisal Tool) to identify sustainability risks and to set out mitigating actions early on in the design process. It is considered that sustainability considerations are well catered for within the proposals.

## **5.0 CONCLUSION**

5.1 The development is required to accommodate military personnel returning to the UK. Due to its location within the confines of the larger barracks complex, and the mitigation measures proposed as described above, the development would have little external impact. The development accords with national planning policy set out in the NPPF and relevant policies of the 2005 City of York Draft Local Plan.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Approve**

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the submitted plans numbered 14169/IMP-(9-)005/P4, 14169/IMP-(9-)003/P7, 14169/IMP-(9-)002/P5, 14169/IMP-SLA-(05)001/P6, 14169/IMP-SLA-(05)002/P6, 14169/IMP-SLA-(05)003/P7, 14169/IMP-SLA-(05)004/P1, 14169/IMP-SLA-(05)021/P4, IMP-SLA-(05)022/P3, IMP-SLA-(9-)002/P4 and Z9A9128Y12/MMD/IMP00/D/DR/GF/0001/P1.

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

3 VISQ8 Samples of exterior materials to be app

4 Within three months of the grant of planning permission details for the secure storage of cycles, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority and provided within the site in accordance with the approved details. These areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

5 Within three months of commencement of development a detailed landscape scheme shall be submitted to the Local Planning Authority and approved in writing. The scheme shall include the species, density (spacing), and position of trees, shrubs and other plants. It will also include the provision of 6no. extra heavy standard trees from the following species: Lime, Norway maple, Hornbeam, Beech, Oak to be located outside of the application site but within proximate land under the applicant's control. The 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 substantial completion of the planting and 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 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 throughout the site, since the landscape scheme is integral to the amenity of the development; and in order to compensate for the loss of mature trees that make a significant contribution to the setting of the barracks and the local public amenity.

6 No development shall take place until an archaeological evaluation of the site has been carried out in accordance with a detailed methodology (which shall detail a trial trench, analysis, publication and archive deposition) which shall first be submitted to and approved in writing by the local planning authority and a report submitted to and approved in writing by the local planning authority. A report on the results of the evaluation shall be submitted to the local planning authority within six weeks of the completion of the field investigation.

Reason: The site is located in an area of archaeological interest. The investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ. The work is required to be carried out prior to commencement to ensure that no harm is done to archaeological deposits prior to the archaeological evaluation being undertaken.

7 If, following the carrying out of the archaeological evaluation required by the above condition, the local planning authority so requires, an archaeological excavation of the site shall be carried out before any development is commenced. The excavation shall be carried out in accordance with a detailed methodology (to include trenches, community involvement, post-excavation analysis, publication and archive deposition), which shall first be submitted to and approved in writing by the local planning authority. Reasonable access shall be afforded to any local planning authority-nominated person, who shall be allowed to observe the excavations. A report on the excavation results shall be submitted to the local planning authority

within 12 months of the completion of the field investigation.

Reason: The site is located in an area of archaeological interest. The investigation is required to ensure that archaeological features and deposits identified during the evaluation are recorded before development commences and subsequently analysed, published and deposited in an archaeological archive. The work is required prior to commencement to ensure that no harm to archaeological deposits occurs prior to the archaeological excavation being undertaken

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

Reason: In the interest of satisfactory and sustainable drainage.

9 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details, which shall include:

- a) Calculations and invert levels to ordnance datum of the existing surface water system should be provided together with details to include calculations and invert levels to ordnance datum of the proposals for the new development.
- b) Topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.
- c) In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling shall use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha shall be used for the above.

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

10 Prior to development taking place, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced, submitted to the local planning authority and approved in writing. The report of the findings shall include:

- (i) A survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) An assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, - woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) An appraisal of remedial options, and proposal of the preferred option(s).

The investigation and risk assessment shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

11 Prior to development taking place, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be prepared and submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination during the whole of the construction period and 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.

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

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

13 In the event that previously unidentified contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared and submitted to and approved in 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.

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

Reason: To protect the amenity of local residents

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

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

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

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the lpa would also expect the CEMP to provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved.

15 All construction and demolition works and ancillary operations, including deliveries to and dispatch 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.	

Reason: To protect the amenity of local residents

## **7.0 INFORMATIVES: Notes to Applicant**

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

In considering the application, the local planning authority implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) by seeking solutions to problems identified during the processing of the application. In order to achieve an acceptable outcome the local planning authority sought further information from the applicant and attached appropriate conditions to the planning permission.

### **2. DRAINAGE**

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

The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.

### **3. NESTING BIRDS**

All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended). To ensure that breeding birds are protected from harm during construction, works that would impact on building features or vegetation that would be suitable for nesting birds should be undertaken outside of the breeding bird season between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period. There are opportunities for the development to provide enhancement for birds without detriment to the building by the addition of bird boxes, examples of which can be found on the RSPB website  
[http://www.rspb.org.uk/makeahomeforwildlife/advice/helpingbirds/roofs/internal\\_boxes.aspx](http://www.rspb.org.uk/makeahomeforwildlife/advice/helpingbirds/roofs/internal_boxes.aspx).

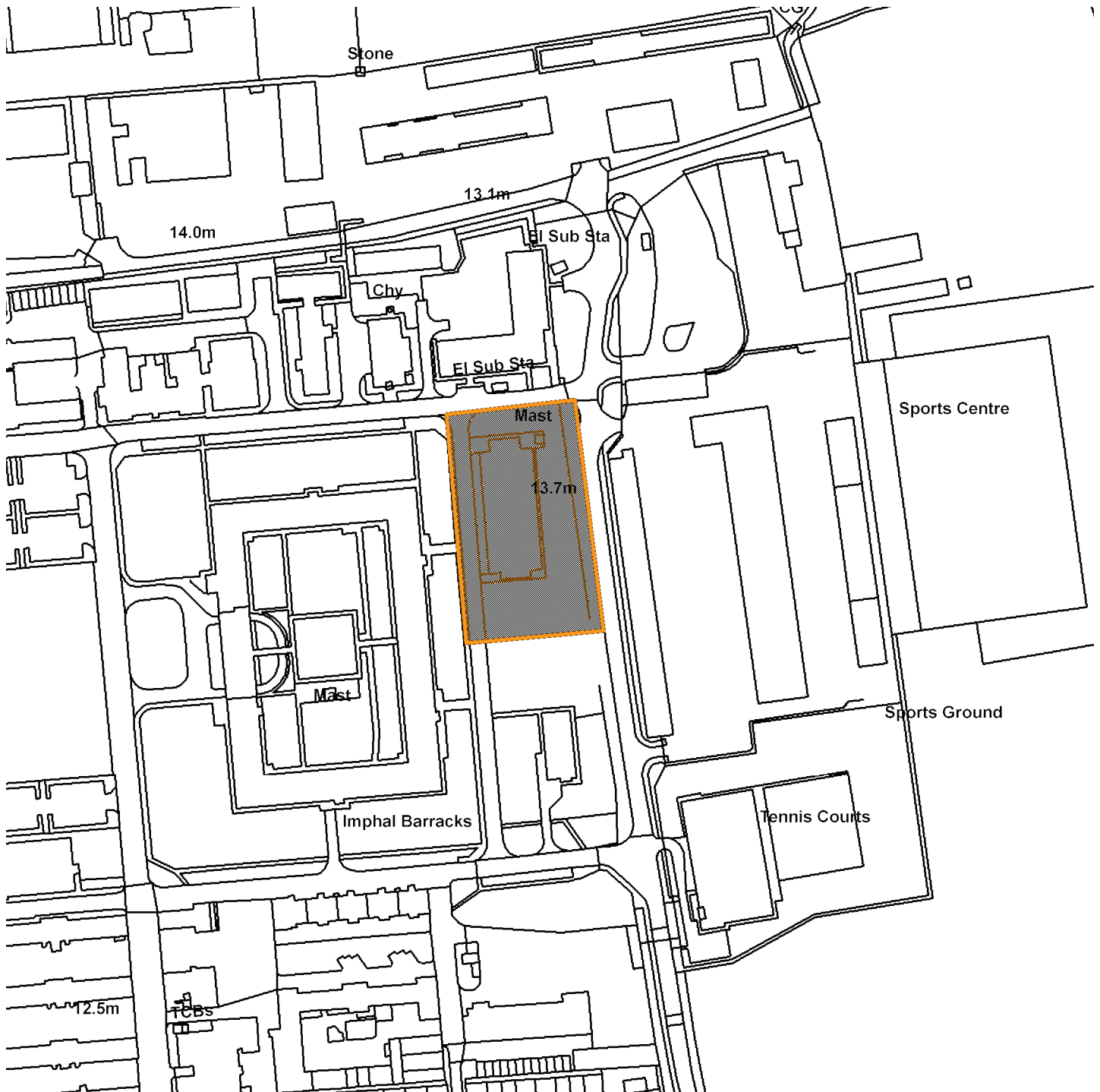
#### **Contact details:**

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15/01055/FULM

Imphal Barracks Fulford Road



Scale : 1:2119

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<b>Organisation</b>	CYC
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	11 August 2015
<b>SLA Number</b>	Not Set

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## **Planning Committee**

**20 August 2015**

### **Planning Enforcement Cases - Update**

#### **Summary**

1. The purpose of this report is to provide Members with a continuing quarterly update on planning enforcement cases.

#### **Background**

2. Members have received reports on the number of outstanding enforcement cases within the Sub-Committee area, on a quarterly basis, since July 1998. This report, also now presented to the Main Committee, continues this process for the period 1 May 2015 to 28 July 2015.
3. The lists of enforcement cases are no longer attached as an annexe to this report. The relevant cases for their Ward will be sent to each Councillor by email as agreed by the Chair of the Planning Committee. The individual case reports are updated as necessary but it is not always possible to do this straight away. Therefore if members have any additional queries or questions about cases on the emailed list of cases then please e-mail or telephone the relevant planning enforcement officer.
4. Section 106 Agreements are monitored by the Enforcement team. A system has been set up to enable Officers to monitor payments required under the Agreement.

#### **Current Position**

5. Across the Council area 147 new investigation cases were received in the period 1 May to 28 July 2015. During the same period 94 cases were shown as closed on the database system. A total of 539 investigations remain open.

## **Consultation**

6. This is an information report for Members and therefore no consultation has taken place regarding the contents of the report.

## **Options**

7. This is an information report for Members and therefore no specific options are provided to Members regarding the content of the report.

## **The Council Plan 2011-2015**

8. The Council priorities for Building strong Communities and Protecting the Environment are relevant to the Planning Enforcement function. In particular enhancing the public realm by helping to maintain and improve the quality of York's streets and public spaces is an important part of the overall Development Management function, of which planning enforcement is part of.

## **9. Implications**

- Financial - *None*
- Human Resources (HR) - *None*
- Equalities - *None*
- Legal - *None*
- Crime and Disorder - *None*
- Information Technology (IT) - *None*
- Property - *None*
- Other - *None*

## **Risk Management**

10. There are no known risks.

**Recommendation**

11. That members note the content of the report, and raise any individual queries with the case officer as appropriate.

Reason: To update Members on the number of outstanding planning enforcement cases.

**Contact Details**

**Author:**

Author's name  
Gareth Arnold  
Development Manager  
Tel. No: 551320

**Chief Officer Responsible for the report:**

Chief Officer's name  
Michael Slater  
Assistant Director (Planning and Sustainable Development)

Dept Name: **City and Environmental Services.**

**Report Approved**



**Date** 28/07/2015

**Specialist Implications Officer(s)** *List information for all Implications:*

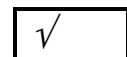
*Financial*

*Patrick Looker*

*Legal:*

*Andrew Docherty*

**Wards Affected:** *All Wards*



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**Planning Committee****20 August 2015****Appeals Performance and Decision Summaries****Summary**

- 1 This report (presented to both Planning Committee and the Area Planning Sub Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 January and 30 June 2015, 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. This report is normally presented on a quarterly basis, however due to the cancellation of the May Sub-Committee meeting and the amount of business considered at the June Sub-Committee meeting it has been held over to this meeting in order to present a full 6 month period of decisions.

**Background**

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a National Performance Indicator, the Government will use appeals performance in identifying poor performing planning authorities, with a view to the introduction of special measures and direct intervention in planning matters within the worst performing authorities. This is now in place for Planning Authorities where more than 60% of appeals against refusal of permission for major applications are allowed.
- 3 The 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 six months 1 January to 30 June 2015, and for the 12 months 1 July 2014 to 30 June 2015.

**Fig 1: CYC Planning Appeals Performance**

	<b>01/01/15 to 30/06/15 (Last 6 months)</b>	<b>01/07/14 to 30/06/15 ( Last 12 months)</b>
Allowed	3	10
Part Allowed	2	2
Dismissed	17	26
Total Decided	22	38
<b>% Allowed</b>	<b>13%</b>	<b>26%</b>
% Part Allowed	9%	5%

**Analysis**

- 5 The table shows that between 1 January and 30 June 2015, a total of 22 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 3 were allowed. At 13% the rate of appeals allowed is significantly below the national annual average of appeals allowed which is around 34%. By comparison, for the same period last year, out of 23 appeals 7 were allowed (30%), 2 were part allowed (9%). None of the appeals allowed between 1 January and 30 June 2015 related to “major” applications.
- 6 For the 12 months between 1 July 2014 and 30 June 2015, 26% of appeals decided were allowed, again below the national average, and similar to the previous corresponding 12 month period of 27%.
- 7 The summaries of appeals determined between 1 January and 30 June 2015 are included at Annex A. Details as to whether the application was dealt with under delegated powers or by committee are included with each summary. In the period covered two appeal were determined following refusals at sub-committee.

**Fig 2: Appeals Decided 01/01/2015 to 30/06/2015 following Refusal by Committee**

Ref No	Site	Proposal	Outcome	Officer Recom.
14/01777/FUL	6 Westlands Grove	Two storey detached dwelling	Dismissed	Approve
14/00447/FUL	Holmedene, Intake Lane, Acaster Malbis	Two storey front, first floor side, single storey front extensions and balcony to side	Dismissed	Refuse



- 8 The list of current appeals is attached at Annex B. There are 9 planning appeals lodged with the Planning Inspectorate (excluding tree related appeals).
- 9 We continue to employ the following measures to ensure performance levels are maintained at around the national average or better:
- i) Officers have continued to impose high standards of design and visual treatment in the assessment of applications provided it is consistent with Paragraph 56 of the NPPF and draft Development Control Local Plan Policy.
  - ii) Where significant planning issues are identified early with applications, revisions are sought to ensure that they can be recommended for approval, even where some applications then take more than the 8 weeks target timescale to determine. This approach is reflected in the reduction in the number appeals overall. This approach has improved customer satisfaction and speeded up the development process and, CYC planning application performance still remains above the national performance indicators for Major, Minor and Other application categories.
  - iii). Additional scrutiny is being afforded to appeal evidence to ensure arguments are well documented, researched and argued.

### **Consultation**

- 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.

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**Report  
Approved**



**Date** 28 July 2015

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

**Wards Affected:**

All  Y

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

**Annexes**

**Annex A – Summaries of Appeals Determined between 1 January and 30 June 2015**

**Annex B – Outstanding Appeals at 29 July 2015**

## Appeal Summaries for Cases Determined 01/01/2015 to 30/06/2015

**Application No:** 14/00447/FUL  
**Appeal by:** Mr Michael Meek  
**Proposal:** Two storey front, first floor side, single storey front extensions and balcony to side  
**Address:** Holmedene Intake Lane Acaster Malbis York YO23 2PY

**Decision Level:** CMV  
**Outcome:** DISMIS

Householder application to increase the ridge height of a previous first floor side extension to a full two storey extension running flush with the ridge of the host dwelling. In addition a two storey front extension and large balcony to the side were proposed. The property is located within the open greenbelt, outside of any settlement limits. Members refused the application on design and green belt grounds. The Inspector agreed with the council in that the extensions amounted to inappropriate development which would harm the openness of the Green Belt and detract from the character and appearance of the host dwelling. The applicant argued that the extension was to be used as additional accommodation for elderly relatives. The Inspector stated that the extensions and alterations proposed are 'likely to remain long after this ceases to be a material consideration' and as such attached only limited weight to this factor in determining the appeal.

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**Application No:** 14/00476/FUL  
**Appeal by:** Mrs Sheila Cronin  
**Proposal:** Erection of two storey dwelling on adjacent land with associated detached garage and front driveway  
**Address:** 4 Cornborough Avenue York YO31 1SH

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

Planning permission was refused for the erection of a detached house in the rear garden of a suburban semi-detached house due to impact on the adjacent occupiers. Access would be via an existing drive down the side of the host house (No.4). The Inspector concluded that although the amount of traffic generated would be low, the comings and goings of vehicles and pedestrians, who would pass within 3.5m of the living/dining room window of No.4, would compromise the privacy of the occupiers. Noise from coming and going would compound this harm especially when windows were open. Lights would also be intrusive. A fence or planting would not address these concerns in any meaningful way. No other neighbouring occupiers would be significantly affected. There were no other planning issues.

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**Application No:** 14/00515/FUL  
**Appeal by:** Mr John Brassington  
**Proposal:** Change of use from residential (use class C3) flexible use house in multiple occupation and residential (use class C3/C4)  
**Address:** Apartment 4 Neptune House Olympian Court York YO10 3UD  
**Decision Level:** DEL  
**Outcome:** ALLOW

The appeal site is a two-bedroom flat on the first floor of a four-storey block within a modern residential development. Permission was refused for the change of use to a HMO because both the neighbourhood (20.59%) and street level (25.53%) thresholds had been breached. The Inspector gave considerable weight to Council's SPD "Controlling the Concentration of Houses in MultipleOccupation" and accepted that high concentrations of HMOs can lead to imbalanced communities and affect the character of an area. However in this case she considered that the apartment block appeared to be well-managed with no evidence of harm to the appearance of the area arising from litter, proliferation of letting boards or other issues commonly associated with HMOs. It is different in character from the larger and older properties in the area where the housing mix has changed as a result of their use as HMOs. In respect of noise and disturbance, she noted that there were no other flats within the internal communal areas that would have to be passed to get to the property. Outside the block, the noise and disturbance from the limited additional number of occupants going to and from the property would not be perceptible above existing levels.

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**Application No:** 14/00525/FUL  
**Appeal by:** Mr Andrew Gibson  
**Proposal:** Erection of detached dwelling  
**Address:** 9 Fawkes Drive York YO26 5QE

**Decision Level:** DEL

**Outcome:** DISMIS

The application was for a dwelling within a large side/rear garden. Pre-application advice had been given stating the application would not be supported. The application was refused on 2 no. grounds. By virtue of its backland location, it was considered to result in an incongruous form of development that would appear cramped and overdeveloped and would be out of keeping with the character and appearance of the street scene and surrounding area. Secondly, the proposed access would be to the front and side of 9 Fawkes Drive, which has primary rooms fronting onto the access and the parking area (of the proposed dwelling). The proposed comings and goings so close to the host dwelling were considered to result in a loss of amenity to the occupants. The appeal was dismissed. The Inspector agreed with the first reason for refusal but not the second. The Inspector did not consider that the number of comings and goings from the proposed dwelling would be sufficient to cause a disturbance.

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**Application No:** 14/00579/OUT  
**Appeal by:** G Blades & Sons Ltd  
**Proposal:** Outline application for 9no. dwellings with associated garages and parking  
**Address:** Blue Coat Farm Murton Lane Murton York YO19 5UF

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal related to the erection of 9 dwellings on an area of paddock accessed from Blue Coat, Murton. The site is beyond the settlement limits for Murton and adjacent to Murton Conservation Area. The reasons for refusal were inappropriate development in the Green Belt (paragraph 87 to 89 of NPPF) and adverse impact on the setting of the Murton Conservation Area. The Inspector in dismissing the appeal concluded that the openness of the site and its appreciation would be severely compromised by the appeal scheme. Development of the site would extend the built envelope of the village into the open countryside, utilising agricultural land. This would be significantly harmful to the character and appearance of the area. The adverse effects on the setting of the Conservation Area attracted considerable weight against the appeal scheme. The other considerations put forward by the applicant including the lack of a five year housing land supply; the site not being rejected on Green Belt or Conservation grounds at preferred options stage of the local plan (rejected for lack of local services) and development would be infill, did not amount to 'very special circumstances' to outweigh the harm identified to the Green Belt.

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**Application No:** 14/00928/ADV  
**Appeal by:** Mr Mark Davison  
**Proposal:** Display of halo- illuminated fascia sign, internally illuminated hanging sign, menu box and canopy sign  
**Address:** Gourmet Burger Kitchen Limited 7 Lendal York YO1 8AQ

**Decision Level:** DEL

**Outcome:** PAD

Consent was refused for a fascia sign, brickwork painting and a hanging sign at The Gourmet Burger King, 7 Lendal, which forms part of a modern terrace within the Conservation Area. The proposed fascia sign comprised backlit, halo effect lettering in black perspex material with tracks below and above the lettering. It was proposed to add paint to the brickwork to extend across most of the property to give a backdrop to the lettering. Officers considered that the tracks above and below the fascia lettering would create a strong horizontal element to the fascia text, which would detract from the simple and uncluttered appearance of the principal elevation of the building and that the painting of the brickwork would not be characteristic of the area and would detract from the appearance of the building and wider streetscene. The Inspector commented that the fascia sign would have a more horizontal emphasis than is characteristic of the building and area and the painting of the brickwork would further emphasise the harmful visual effect of the sign and would introduce an element of clutter. This part of the appeal was dismissed. The hanging sign was refused for the reason that the proposal involved internal and external illumination with both trough lights and directional LED lighting, which would be considered to detract from the character and appearance of the building and that of the Central Historic Core Conservation Area. The Inspector considered that the removal of the directional LED signage could be secured by condition and that the proposed trough lighting would be acceptable for the reason that it would be positioned on and would be in proportion with the hanging sign. This part of the appeal was allowed.

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**Application No:** 14/00939/FUL  
**Appeal by:** Mr Robert Rhodes  
**Proposal:** Erection of a detached dwelling  
**Address:** Land To The South Of 20 Garden Flats Lane Dunnington  
York  
**Decision Level:** DEL  
**Outcome:** DISMIS

Consent was sought for the erection of a detached house on an overgrown vacant plot in a suburban street. The plot was characterised by a range of mature trees, some of which contributed to the character of the area. Of lesser value was a row of mature conifers near and parallel to the boundary with the adjacent house. These conifers would be felled. The new house would have extended well beyond the rear elevation of the adjacent house. Planning permission was refused mainly due to the proposed house having an overbearing and intrusive impact on the occupiers of the adjacent house. This was the main issue for the inspector. He found that the scale and proximity of the two storey elevation facing the adjacent house would appear over-dominant and oppressive when viewed from the adjacent conservatory and garden. He accepted that the current outlook was dominated to a certain extent by the row of conifers but found that this could not reasonably be considered equivalent to the harsh and uncompromising lines of a new dwelling.

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**Application No:** 14/01088/FUL  
**Appeal by:** Mr G Singh  
**Proposal:** Change of use from residential (use Class C3) to large house in multiple occupation (Sui Generis) (retrospective)  
**Address:** 15 Green Dykes Lane York YO10 3HB  
**Decision Level:** DEL  
**Outcome:** ALLOW

The application was retrospective. The application was refused as the percentage of HMOs in the 100m catchment was 49% and 28% for the neighbourhood (the threshold maximums in the SPD were 10% and 20% respectively). In the officers conclusions it was stated that, the SPD sets out some of the issues of concern related to high concentrations of HMO's. It was mentioned that some can be visible such as poor property maintenance, however, others that impact on community well being are not readily apparent. These can include a decline in community integration and decreased demand for some local services, particularly outside term time. The Inspector stated that the Council had provided no evidence of how harm from the use had manifested itself such as in falling school rolls or closing shops. She also stated that having less HMOs close to the University would increase travel costs for students. The appeal was allowed.

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**Application No:** 14/01197/FUL  
**Appeal by:** Raglan HA  
**Proposal:** Replace existing windows and doors to various different properties at Margaret Philipson Court and Aldwark, York  
**Address:** 13 Margaret Philipson Court York YO1 7BT

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal related to the replacement of the existing timber windows and doors with UPVC double glazed units to 32 flats within four three storey blocks built in the 1980s that comprise Margaret Philipson Court, Aldwark. The appeal site is located in York Central Historic Core Conservation Area, Character Area 8 Aldwark, and within the setting of the Merchant Taylors Hall, a grade I listed building and the City Walls, a grade I listed building and scheduled ancient monument. The Inspector stated that the proposed windows would be of a more bulky appearance than the existing windows and the texture and grain of their finish would not encapsulate the traditional qualities of wood to any significant extent. The Inspector considered that within the context of Aldwark the proposed replacement windows and doors would appear obtrusive and visually prominent. The substantial bulky form and non traditional materials of the proposed replacement windows would stand out as unsympathetic additions that would detract from the appearance of Margaret Philipson Court and the established residential character of the area, which are of significance to the areas heritage. In dismissing the appeal, the Inspector concluded that the proposal would fail to preserve or enhance the character or appearance of York Central Historic Core Conservation Area. The Inspector considered that the proposed replacement windows, due to their unsympathetic design and inappropriate materials would appear at odds with the traditional historic appearance of the adjacent Merchant Taylors Hall and City Walls. In dismissing the appeal, the Inspector concluded that the proposal would be harmful to the settings of the listed buildings and scheduled ancient monument and would adversely affect the significance of these designated heritage assets.



**Application No:** 14/01333/ADV  
**Appeal by:** Sainsbury's Supermarkets Limited  
**Proposal:** Display of 1no. externally illuminated timber fascia sign  
**Address:** Swan Court Piccadilly York

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal was against refusal for a non-illuminated fascia sign positioned on a brick panel, above the shop front fascia. The inspector referred to the rhythm and architectural design of the building; its shop fronts, with horizontal emphasis and the upper floor facade. Signs on the building were consistently located immediately above the shop front. The inspector considered the advertisement was poorly located. It visually interfered with the design of the upper floor facade and subsequently had an adverse effect on the appearance of the host building and the conservation area.

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**Application No:** 14/01345/FUL  
**Appeal by:** Mr Richard Haxby  
**Proposal:** Change of use from retail (use class A1) to residential dwelling (use class C3) with associated works including removing shop front and replacement with new entrance door and windows  
**Address:** Fantasy World 25 Main Street Fulford York YO10 4PJ

**Decision Level:** DEL

**Outcome:** DISMIS

Planning permission was granted for the change of use of a retail unit occupying the whole building to a single dwelling house. The building is within the Fulford Air Quality Management Area. The approval required a scheme of ventilation and extraction to include non opening windows to habitable rooms on the front elevation and the installation of a continuous supply and extract ventilation system. The appellant appealed on the basis that the condition was not necessary and reasonable. He supported his case with his own evidence showing that there had been an improvement in air quality in recent years. The Council defended its position that the condition met the tests set out in Planning Policy Guidance and evidence was provided by the Environmental Health Air Quality Officer demonstrating that, whilst the overall trend for Nitrogen Dioxide levels had been declining in the vicinity, the levels at the two closest stations fell only very marginally and remained above acceptable levels. The Inspector considered that the underlying principle of the condition was sound given the AQMA and the aims of the NPPF. She concluded that, on the basis of the current evidence and in the absence of site specific data, the levels at the appeal site did not presently fall within acceptable levels. As such, the condition was reasonable and necessary in the interests of the health of future occupants. She expressed considerable sympathy with appellant's contention that many homes in the AQMA were not subject to such conditions, but noted that they cannot be applied retrospectively and are confined to new development proposals.

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**Application No:** 14/01535/FUL  
**Appeal by:** Palladian (York) Ltd  
**Proposal:** Erection of 5no. dwellings with associated parking and access (resubmission)  
**Address:** Land To The North Of Twinam Court Intake Lane  
Dunnington York  
**Decision Level:** DEL  
**Outcome:** DISMIS

The appeal related to the erection of 5 no. detached, Passivhaus energy efficient homes on a pasture field located north of Intake Lane. The site lies within the general extent of Green Belt and outside, though adjacent to, the defined settlement limit of Dunnington village. The Inspector agreed that the proposal was inappropriate development that would result in a considerable loss of openness - confirmed as being, an absence of built development. Furthermore, it would introduce a significant row of residential development that would encroach into the countryside, causing significant harm to the character and appearance of the surrounding countryside. In assessing the other considerations stated by the appellant, the Inspector concurred with the LPA that the Passivhaus features were not uncommon, ground breaking in design or innovative in nature nor would act as an exemplar due to their remote location. She gave some weight to minimising energy consumption, but saw no reason why Passivhaus requirements gave rise to a Green Belt location. Whilst attributing a limited amount of weight to the construction of dwellings in an area where a 5 year housing supply cannot be demonstrated, she noted that the NPPF advises that unmet housing need is unlikely to outweigh harm to the Green Belt. She concluded that the other considerations did not amount to the very special circumstances necessary to clearly outweigh the identified harm to Green Belt. The appeal was, therefore, dismissed.

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**Application No:** 14/01642/FUL  
**Appeal by:** Mr John Slemore  
**Proposal:** Installation of dormer windows to front and rear of granny annexe (resubmission)  
**Address:** Holme Lea 57 Temple Lane Copmanthorpe York YO23 3TD

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

The host site is located in an area 'washed over' by green belt. The submission proposed front and rear dormers to an existing detached 'granny annexe' building, to the rear of a dormer bungalow, which benefited from planning permission for this use (though for which permitted development rights were removed); the accommodation is used for an elderly relative. It was considered that the further extension of this building would result in it appearing as a separate dwelling as opposed to it appearing as an annexe and being subservient to the original dwelling, thus the application was refused on the grounds that it caused harm to the character and appearance of the surrounding area. The Inspector agreed, and further to the supporting statement by the applicant, added that no compelling explanation as to why carers for the elderly relative could not stay overnight in the main house had been provided, and in any event this positive aspect of the scheme did not outweigh the visual harm which would be caused by the proposed dormers. The appeal was dismissed.

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**Application No:** 14/01694/FUL  
**Appeal by:** Mr Paul Hodgson  
**Proposal:** Dormer window to rear  
**Address:** 9 Church Street Copmanthorpe York YO23 3SA

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

The host site is a traditional cottage within Copmanthorpe Conservation Area, opposite the Church. This application proposed a large wrap around box style dormer to the rear of the dwelling, which included having to raise the ridge height of an existing two-storey rear extension. Only very limited views to towards the dormer would be gained from Church Street to the front. Amended plans were sought but not received to reduce the scale of the dormer, thus it was refused on the grounds of harm to the character of the Conservation Area. The Inspector agreed and considered that views from the small rear residential development of Stakers Yard, would cause sufficient harm to the character of the Conservation to dismiss the appeal.

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**Application No:** 14/01777/FUL  
**Appeal by:** Mr Nigel Travis  
**Proposal:** Erection of two storey detached dwelling including alterations to existing dwelling  
**Address:** 6 Westlands Grove York YO31 1DR

**Decision Level:** CMV  
**Outcome:** DISMIS

Planning permission was refused by Committee against officer recommendation, for the erection of a detached two-storey house in the garden of an existing detached two-storey house. The existing house is situated on a large corner plot at the junction of Westlands Road and Elmlands Grove, with elevations facing towards both Westlands Grove and Elmlands Grove. The proposed house was to be built in line with the elevation fronting Elmlands Grove, but forward of the Westlands Grove elevation. The grounds for refusal were based on the loss of openness on a prominent corner site, which is an important gap within the surrounding development, and the detrimental harm this would have to the character and amenity of the local environment. In dismissing the appeal, the Inspector commented that the plot is markedly larger than other nearby corner plots and the openness of the front garden makes a positive contribution to the spacious character of the area. Whilst the proposed dwelling would have projected no farther forward than the host property and would echo the building line of 4 Westlands Grove, the introduction of a detached dwelling would erode the sense of openness on this prominent corner plot and would result in an uncharacteristic form of development in relation to the semi-detached properties on the corner plots on the opposite side of Elmlands Grove.

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**Application No:** 14/01781/FUL  
**Appeal by:** Mr N Thompson And Mrs D Davies  
**Proposal:** Two storey and single storey rear extension  
**Address:** 6 Northfield Lane Upper Poppleton York YO26 6QF

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

The appeal site is an end of terrace property located within the Green Belt. The application sought permission for the erection of a large single storey rear extension and a first floor rear extension. In dismissing the appeal the inspector agreed with the Council in that the extension would constitute inappropriate development and that it could not be considered as being 'limited' or 'small scale', thus being contrary to policies GB1 and GB4. The Inspector noted that the neighbouring properties had existing large single storey rear extensions but that these were not visible at long range unlike the proposed first floor element of the scheme. The first floor element would therefore be harmful to both the openness and character of the Green Belt.

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**Application No:** 14/01803/FUL  
**Appeal by:** Mr Owen Legg  
**Proposal:** Single storey front, side and rear extensions  
**Address:** 2 Westholme Drive York YO30 5TH

**Decision Level:** DEL  
**Outcome:** PAD

A planning application was submitted for single storey front, side and rear extensions to this bungalow. It was refused because the the front extension was considered to be harmful to the appearance of the dwelling and to the street scene as it would project forward of an established building line and would have been an overly prominent addition in relation to the existing dwelling and the streetscene. The Inspector agreed that there was a consistency of form and layout to the bungalows in the street and the small front extensions evident in the street did not alter the consistant relationship between the bungalows and gardens. This extension would introduce a bulky, conspicuous and incongruous addition to the host dwelling. The side extension would add further bulk to the property which when allayed to its front projection would cause further harm to the character and appearance of the dwelling and the streetscene. The Inspector dismissed the appeal on those areas on which the Council had refused planning permission and agreed with the Council that there was no harm form the rear extension and thus granted permission for that aspect of the scheme (something an Inspector can do but the Council can't).

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**Application No:** 14/02249/FUL  
**Appeal by:** Mr Ian Smales  
**Proposal:** Loft conversion with 4no. dormers to front, side and rear and the increase in the height and front extension to, the roof to existing rear projection  
**Address:** 8 Sherwood Grove York YO26 5RD

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

The host site forms a detached bungalow which has previously been extended by a large rear/side extension, and it was proposed to now increase the living space by providing additional rooms within the roof, by way of front, side and rear dormers, and raising and extending forward the roof to the extension. The element of the existing extension sited along the common boundary with No. 6 Sherwood Grove already was considered to harm the outlook for these neighbouring residents, thus any further front dormers or increase/change in the height and further front projection of this roof was considered inappropriate and the application was refused on these grounds. The Inspector agreed and stated that the current proposal would increase the oppressive sense of enclosure along the side boundary.

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**Application No:** 14/02301/FUL  
**Appeal by:** Mr Peter Broadley  
**Proposal:** Erection of replacement garage  
**Address:** Sycamore Cottage Main Street Holtby York YO19 5UD

**Decision Level:** DEL

**Outcome:** ALLOW

The application was refused because the replacement garage was determined to have an inappropriate impact on the openness of the Green Belt as it was considered to be materially larger than the building it was replacing in terms of the combined mass, footprint and height and that it would be unduly prominent in this location. In allowing the Appeal, the Inspector however found that the replacement building was not materially larger than the existing garage in terms of overall volume because it had a slightly smaller footprint which offset against the increased height. As there would be no material increase in the volume of the building there would be no material loss in the openness of the Green Belt and therefore no conflict with the purposes of including land within it. Further, the building would be largely screened by the laurel hedge and high gates. The building would appear sympathetic with other buildings in the vicinity on the edge of the settlement. An application for an award of costs was refused.

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**Application No:** 14/02381/FUL  
**Appeal by:** Lisa Parker  
**Proposal:** Two storey rear extension and erection of detached garage (resubmission)  
**Address:** 32 Campleshon Road York YO23 1EY

**Decision Level:** DEL

**Outcome:** DISMIS

Permission was refused for part two storey and part single storey rear extensions to this semi-detached house on the grounds that the size, scale and massing was harmful to neighbouring amenity, in particular being oppressive and overbearing when viewed from the adjoining property. The rear of these properties are north facing and the Inspector considered that even a small loss of natural sunlight, as would be the case as a result of this proposal, would be harmful to the living conditions of this neighbour. The Inspector also agreed that a 3m deep 2 storey extension so close to the boundary would have an oppressive and overbearing impact on the nearest ground floor room (dining kitchen) of the adjoining house. The personal circumstances behind the extension i.e. to meet the needs of the applicant's disabled son were taken into consideration but did not outweigh the harm caused to the neighbour.

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**Application No:** 14/02456/ADV  
**Appeal by:** Mr JD Sports  
**Proposal:** Display of 2no. externally illuminated fascia signs and 2no. non-illuminated hanging signs  
**Address:** Stylo Barratt Shoes Ltd 1 - 2 St Sampsons Square York YO1 8RL  
**Decision Level:** DEL  
**Outcome:** DISMIS

Advertisement consent was refused for the retention of the signs currently displayed at 1 to 2 Feasegate. The signs comprise 3 externally illuminated fascia signs on light grey coloured, patterned panel backgrounds and 2 non-illuminated hanging signs. The 3 buildings which form the retail premises are listed in Grade 2 , have 20th Century shopfronts, and the existing advertisements are at a prominent corner seen from St Sampsons Square, Parliament Street, Davygate, Feasgate and Church Street. The Inspector supported the Council's view that the modern design and materials, the contrast between the black faced lettering and the shiny light coloured and patterned panels, results in bright gaudy and distinctly out- of- character signage in this part of the City. He noted that the streetscape in the area is generally appropriately restrained in relation to signage, colouring and signage illumination. The overtly modern signs result in visual harm to the buildings themselves and to the character and appearance of the conservation area. Although the hanging signs in terms of their size and the brackets used were acceptable the shiny light coloured background results in signage that detracts from, rather than enhancing the appearance of this part of the City. He also noted that the painted out first floor windows in green which are not part of the appeal, exacerbate the overall impact and the green, light grey and black colour scheme is garish and stark.

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**Application No:** 14/02768/FUL  
**Appeal by:** Mr David Harper  
**Proposal:** Second floor rear extension (resubmission)  
**Address:** 1 Longfield Terrace York YO30 7DJ

**Decision Level:** DEL

**Outcome:** DISMIS

1 Longfield Terrace is the first house in a row of three storey terraced dwellings, situated behind original brick walls to the principal elevations and incorporating small enclosed rear courtyards. The appeal related to the refusal of planning permission for an extension of approx 4.7 metres in length to an original second floor projection. The Council considered that the proposed extension would by virtue of its massing and total height create an oppressive, dominant and overbearing impact on the attached dwelling at 2 Longfield Terrace. Furthermore, it was considered that the extension would further decrease the light levels into this property and views of the sky when looking from the side of this property. The Inspector agreed with The Council and dismissed the appeal on the basis that the additional expanse of wall above the existing eaves level of the rear projection would further increase the height, bulk and massing would have an oppressive and overbearing effect which would worsen the outlook from the rear facing habitable room windows and outdoor space to 2 Longfield Terrace.

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Decision Level:

DEL = Delegated Decision

COMM = Sub-Committee Decision

COMP = Main Committee Decision

Outcome:

ALLOW = Appeal Allowed

DISMIS = Appeal Dismissed

PAD = Appeal part dismissed/part allowed

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## Outstanding appeals

<b>Officer: Erik Matthews</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
10/07/2015	15/00023/REF	APP/C2741/W/15/3129586	W	Country Park Pottery Lane Strensall York YO32 5TJ	Variation of conditions 2, 7 and 8 of permitted application 12/03270/FUL to allow an increase in number of caravans from 40 to 55 and allow use of part of the site (15 caravans) all year	
<b>Officer: Esther Priestley</b>						<b>Total number of appeals: 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</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
27/05/2015	15/00020/REF	APP/C2741/W/15/3049419	W	Whinchat House York Road Deighton York YO19 6EY	Erection of detached dwelling and garage on land adjacent to Whinchat House	
<b>Officer: Matthew Parkinson</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
17/06/2011	11/00026/EN	APP/C2741/C/11/2154734	P	North Selby Mine New Road To North Selby Mine	Appeal against Enforcement Notice	
<b>Officer: Neil Massey</b>						<b>Total number of appeals: 2</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
15/01/2015	15/00006/EN	APP/C2741/C/15/3002821	W	105 Newland Park Drive York YO10 3HR	Appeal against Enforcement Notice dated 21 November 2014	
02/04/2015	15/00015/NON	APP/C2741/X/15/3011874	W	The Annexe 20 Asquith Avenue York YO31 0PZ	Use of detached garden building as separate dwelling	

<b>Officer: Paul Edwards</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
07/04/2015	15/00019/REF	APP/C2741/D/15/3013718	W	75 Heslington Road York YO10 5AX	Change of use from dwelling (use Class C3) to house in multiple occupation (use Class C4)	
<b>Officer: Rachel Tyas</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
22/05/2015	15/00022/REFL	APP/C2741/Y/15/3039087	W	Flat 1 9 Bootham Terrace York YO30 7DH	Conversion of basement and ground floor flats into 1 no. residential dwelling with associated works including blocking up existing window, opening existing staircase from basement to ground and installing partition wall between ground floor and first floor	
<b>Officer: Sandra Duffill</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
12/05/2015	15/00021/REF	APP/C2741/D/15/3033300	H	Burlands Farm Burlands Lane Upper Poppleton York	Single storey side extension attaching the main house to existing detached garage	
<b>Officer: Sharon Jackson</b>						<b>Total number of appeals: 1</b>
<b>Received on:</b>	<b>Ref No:</b>	<b>Appeal Ref No:</b>	<b>Process:</b>	<b>Site:</b>	<b>Description:</b>	
21/07/2015	15/00024/REF	APP/C2741/D/15/3095239	H	17 Derwent Road York YO10 4HQ	Two storey side and single storey rear extensions	
<b>Total number of appeals: 11</b>						