



## 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, 10 December 2015
- Time:** 4.30 pm
- Venue:** The Council Chamber, The Guildhall, York

### AGENDA

Would Members please note that the mini-bus for the Site Visits for this meeting will depart Memorial Gardens at 10am on Tuesday 8<sup>th</sup> December 2015.

#### 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 - 6)

To approve and sign the minutes of the meeting of the Planning Committee held on 19<sup>th</sup> November 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 9<sup>th</sup> December 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.

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### 4. Plans List

This item invites Members to determine the following planning applications:

**a) Hungate Development Site, Hungate, York (15/01709/OUTM) (Pages 7 - 68)**

A major outline application for the erection of two buildings (Block G and Block H) to comprise either residential units (use class C3), residential institution/elderly accommodation (use class C2), or a mixture of the two and flexible commercial uses (within use classes A1, A2, A3, A4, A5, B1 or D2) and associated infrastructure works. A full application for erection of part 5/part 6/part 7 storey building (Block D) comprising 186 residential units; erection of part 5/part 6/part 7 storey building (Block F) comprising 101 residential units, community centre (use class D1) and multi-storey car park; development of new public spaces (St John's Square and Friar's

Quay) and riverside walk and associated infrastructure works. [Guildhall Ward] *[Site Visit]*.

**b) Sewage Works, Naburn Lane, Naburn, York (15/01845/FULM) (Pages 69 - 116)**

A major full application for the installation of solar photovoltaic array with associated infrastructure including solar panels and frames, inverter kiosk, security fencing, cameras and poles, new internal access track and temporary construction compound. [Wheldrake Ward] *[Site Visit]*.

**c) Land Lying to the West of 41 Knapton Lane, York (15/01711/OUTM) (Pages 117 - 138)**

A major outline application for the erection of 14 dwellings. [Acomb Ward] *[Site Visit]*.

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

Democracy Officer:

Name: Laura Bootland

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

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 8<sup>th</sup> December 2015**

<b>TIME</b>	<b>SITE</b>	<b>ITEM</b>
<b>10:00</b>	<b>Coach leaves Memorial Gardens</b>	
<b>10:20</b>	<b>Land West of 41 Knapton Lane</b>	<b>4c</b>
<b>11:05</b>	<b>Naburn Sewage Works (meet outside Bridge Farm, Acaster Lane, Bishopthorpe, to view from cycle route)</b>	<b>4b</b> <b>4a</b>
<b>11:50</b>	<b>Hungate (assemble at Marketing Suite)</b>	



City of York Council

Committee Minutes

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Meeting	Planning Committee
Date	19 November 2015
Present	Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre, S Barnes, Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Richardson, Shepherd and Warters

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**41. Declarations of Interest**

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

**42. Minutes**

Resolved: That the minutes of the Planning Committee held on the 22nd October be approved and signed by the Chair as a correct record.

**43. Public Participation**

It was reported that there had been no registrations to speak under the Council's public participation scheme.

**44. Plans List**

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

**45. Plot 7, Great North Way, Nether Poppleton, York  
(15/01307/FULM)**

Consideration was given to a major full application for the erection of a motor dealership, sales and servicing buildings with outside vehicle parking areas.

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

- Correction to the report at paragraph 4.9 to clarify that the planning permission for the retail garden centre expired in June 2015. It is not therefore a “fall-back” option for the landowner.
- Delete condition 24 as its controls are duplicated by condition 11.
- Amended condition 2 to reflect approved plans.
- Additional conditions to prevent parking on areas shown as verge or landscaping, protection of existing trees on the north western boundary and a condition to ensure highway works are carried out before the development comes in to use.

A Member queried the use of the words ‘long term’ in condition 18(f). Concern was raised that the lack of a set time frame in relation to the maintenance of the landscaping at the site could eventually lead to the use of landscaped areas for the displaying of more vehicles. Members attention was then drawn by Officers to condition 5 in the report and it was suggested that by amending condition 5 to remove the words ‘within a period of five years from the completion of the development’, this would ensure that the landscaping is continually maintained.

Resolved: That the application be approved, subject to the conditions outlined in the committee report, the conditions in the update and condition 5 as amended as follows:

No development shall take place above foundation level until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees, shrubs and hard landscaping. 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: The application site consists of a large vacant plot within the York Business Park with a recently developed care home to the west , the East Coast Main Line to the east and a concentration of car dealerships to the north. It furthermore has a previously extant planning permission for extensive retail use in the form of a garden centre. Planning permission is sought for erection of a two storey car dealership with associated facilities including car valeting, servicing and used car sales. Concern has been expressed in terms of the impact of site lighting on the amenity of residents of the adjacent care home; the level of staff parking and servicing arrangements within the site and the mitigation for the loss of the notified SINC. These issues have subsequently been resolved, the development is felt to be acceptable and approval was recommended

#### **46. Appeals Performance and Decision Summaries**

Members considered a report which informed them of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 July and 30 September 2015 and provided them with a summary of the salient points from appeals determined in that period.

Resolved: That the report be noted.

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

**47. Planning Enforcement Cases - Update**

Members considered a report which provided them with a quarterly update on planning enforcement cases for the period 28 July 2015 to 23 October 2015.

Resolved: That the report be noted.

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

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 4.45 pm].

**COMMITTEE REPORT**

**Date:** 10 December 2015      **Ward:** Guildhall  
**Team:** Major and                      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 15/01709/OUTM

**Application at:** Hungate Development Site Hungate York

**For:** Outline application for erection of two buildings (Block G and Block H) to comprise either residential units (use class C3), residential institution/elderly accommodation (use class C2), or a mixture of the two and flexible commercial uses (within use classes A1, A2, A3, A4, A5, B1 or D2) and associated infrastructure works.  
Full application for erection of part 5/part 6/part 7 storey building (Block D) comprising 186 residential units; erection of part 5/part 6/part 7 storey building (Block F) comprising 101 residential units, community centre (use class D1) and multi-storey car park; development of new public spaces (St John's Square and Friar's Quay) and riverside walk and associated infrastructure works

**By:** Hungate (York) Regeneration Limited

**Application Type:** Major Outline Application (13 weeks)

**Target Date:** 29 January 2016

**Recommendation:** Approve subject to Section 106 Agreement

**1.0 PROPOSAL****THE SITE**

1.1 The application site covers an area of 1.98 ha, and comprises a cleared site of previously developed brownfield land located off Stonebow in the eastern part of the city centre. The site forms part of the wider Hungate regeneration site, part of which is already developed (and occupied), or under construction. The site is bound by the Stonebow to the north, Phases 1 (Blocks A, B & C) and 2 (Block E) of the Hungate development and the Hiscox scheme to the east, the River Foss and the recently developed student accommodation to the south and Garden place and the telephone exchange to the west.

1.2 The site lies just outside the Central Historic Core Conservation Area with the Conservation Area boundary following the northern bank of the Foss, directly adjacent to the recently built Block E (Phase 2) and the southern edge of the application site. Rowntree Wharf, a Grade II listed building is sited opposite the development on the south bank of the river.

## PROPOSAL

1.3 This planning application comprises a hybrid (part outline and part detailed) scheme for residential led development to include the erection of four apartment blocks alongside complementary commercial floorspace to accommodate flexible uses. The detailed elements of the scheme relate to Blocks D and F and to landscaping and public realm works to include the development of a new public square (St John's Square), new public space (Friar's Quay) and a riverside walk. The outline elements relate to Blocks G and H.

### Detailed Elements of the Scheme

1.4 Block D comprises a part 5 / part 6 / part 7 storey building providing 186 residential units. The building would accommodate the following housing mix:

97 No. 1 bed units;  
81 No. 2 bed units; and  
8 No. 3 bed units

1.5 It is proposed that the block would have a central courtyard providing private amenity space and a proportion of green roof. All apartments would have access to balconies/ground floor terraces. Car and cycle parking for Block D would be provided within a basement car park accessed from Dundas Street. The basement car park would provide 66 car parking spaces. A further 25 spaces are already reserved for use by Block D below Block A (already constructed), providing Block D with 91 car parking spaces in total. Four electric vehicle charging points would be provided within the basement car park together with 228 cycle parking spaces and provision for refuse storage and plant.

1.6 Block F comprises a predominantly part 5 /part 6 /part 7 storey building providing 101 residential units, a community centre (use Class D1) and a multi-storey car park. It is proposed that the block would have a central courtyard providing private amenity space and would incorporate a proportion of green roof. All apartments would have access to balconies or terraces. The building would accommodate the following housing mix:

- 52 No. 1 bed units;
- 35 No. 2 bed units; and
- 14 No. 3 bed units

1.7 It is proposed that a community centre providing 240 square metres of floorspace would be provided on the ground floor of Block F, accessed off St. John's Square. This space would include a glazed entrance area that could be adapted to any future user of the community centre.

1.8 The car park would provide 119 spaces for use by residents of Blocks F and G (Block G will not have its own provision) with eight electric vehicle charging points provided. 120 No. cycle spaces and refuse stores are located on the ground floor accessed directly from the courtyard of Block F.

### **Outline Elements - Blocks G and H**

1.9 The key principles of the development of Blocks G and H are detailed on the illustrative masterplan which demonstrates how these blocks could be developed to provide up to 375 residential apartments, or up to 32,210 sq.m (GEA) (use class C3) or residential institution / elderly accommodation (use class C2), or a mixture of the two. This would be alongside up to 1,660sqm (GEA) commercial floorspace to accommodate flexible use within use classes A1, A2, A3, A4, A5 or B1 or D2. The precise quantum and location of the non-residential floorspace would be determined at Reserved Matters Stage and is not proposed to be restricted by the outline planning permission to provide flexibility to the developer in the future although the number of residential units would be to a maximum of 375 and the commercial floorspace would be conditioned to a minimum level of 1,265sqm. .

1.10 A series of parameter plans have been submitted which establish an envelope within which the future detailed design of the two blocks would be brought forward. These indicate building heights of up to seven storeys, or a maximum of 32.7m AOD, an underground car park (below Block H) and on street car parking/servicing, internal courtyards, public realm improvements and landscaping. If approved, the outline planning permission is proposed to be conditioned that any reserved matters are in accordance with the parameter plan relating to height of buildings.(Condition 5)

### **PLANNING HISTORY**

1.11 Outline planning permission was originally granted for the Hungate site in July 2006 and renewed in December 2012 for the development of the site for 720 residential units together with shops, offices, leisure uses and community facilities. This outline permission remains extant and provides an established fall back position for the remaining phases of the scheme that could be implemented following the submission and approval of Reserved Matters.

1.12 A Reserved Matters application was granted in February 2007 for the development of Blocks A, B and C (Phase 1) (06/02384/REMM). This phase of the development is now complete.

1.13 A new full planning application for the development of Block E (Phase 2) was granted in June 2014 (13/03015/FULM). This phase is under construction.

1.14 The application submission explains that "*revisions to the remaining phases of the Hungate scheme have been required to address current market demand and demographic factors, as well as the updated development context. The revised scheme is similar to that previously approved, albeit with a greater number of residential units and less non-residential floorspace, and with community uses incorporated within a combined apartment block alongside a revised landscape strategy*".

## **PRE-APPLICATION CONSULTATION**

1.15 A statement of community involvement has been submitted with the application which details that since September 2014, the revised masterplan has been developed through a series of pre-application meetings with Officers at the Council, statutory consultees including Historic England and the Environment Agency, community consultation with local residents and interested parties, and detailed assessment associated with the EIA.

1.16 The local community, members of the planning committee and stakeholders were consulted on the masterplan through a public consultation event in November 2014. The event was held at the Hungate marketing suite and was publicised in a variety of ways including letters to all existing Hungate residents and residents/businesses in Rowntree Wharf and through media coverage. The consultation event was supported by a dedicated website specifically created to allow members of the community and other stakeholders, to view and comment on the proposals online. The public exhibition was attended by 60 people over the two days and since the website went live in November 2014, it has been visited 286 times in total and viewed by 196 unique users.

1.17 Following the consultation event, the proposals were also presented to the Guildhall Resident's Trust and to the Hungate Community Development Trust and a presentation to Members was given in July 2015.

## **ENVIRONMENTAL IMPACT ASSESSMENT REQUIREMENTS**

1.18 The proposed development falls within part 10(b) (Infrastructure Projects) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment ("EIA") Regulations 2011. Part 10(b) relates to "urban development projects" where the size of the site exceeds 0.5 hectares / the development includes more than 150 dwellings. For such developments, an Environmental Impact Assessment (EIA) is required in situations where the development could give rise to significant environmental effects. This is deemed to be the case with the proposed development and accordingly, a comprehensive Environmental Statement (ES) accompanies this application.

## **STATUTORY DUTY : HUMAN RIGHTS**

1.19 The Human Rights Act 1998 requires the local planning authority to have regard to the need to balance the rights of individuals with the wider public interest. Where a planning proposal has a material impact upon the rights of an individual the Act will be engaged. Article 8 provides that :

- 1. Everyone has the right to respect for his private and family life, his home and his correspondence.*
- 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

Article 1 of Protocol 1 states :

- 1. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*
- 2. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*

1.20 Your Officers have considered the impact on individual existing residents, and have concluded that whilst there is some impact, it would be reasonable and proportionate in all the circumstances to grant planning permission having regard to the wider public interests.

## **STATUTORY DUTY : SETTING OF LISTED BUILDING**

1.20 Planning (Listed Buildings and Conservation Areas) Act 1990  
Section 66 states that the local planning authority shall have special regard to the desirability of preserving the setting which the listed building possesses.

## 2.0 POLICY CONTEXT

### 2.1 Policies:

1. National Planning Policy Framework (March 2012)
2. 2005 Draft York Local Plan (4<sup>th</sup> set of changes). Relevant policies include:
  - CYSP7b – York City Centre and Central Shopping Area
  - CYSP9 – Action Areas
  - CYGP1 – Design
  - CYGP3 – Planning against crime
  - CYGP4A – Sustainability
  - CYGP4B – Air Quality
  - CYGP6 – Contaminated Land
  - CYGP9 – Landscaping
  - CYGP15A – Development and Flood Risk
  - CYHE2 – Development in Historic Locations
  - CYT4 – Cycle parking standards
  - CYH1 – Housing Allocation
  - CYH2A – Affordable Housing
  - CYH3C – Mix of Dwellings
  - CYH5A – Residential Density
  - CYED4 – Developer Contributions towards Education
  - CYL1C – Provision of New Open Space in Development



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

- DP2 – Sustainable Development
- DP3 – Sustainable Communities
- DP4 – Approach to Development Management
- SS1 – Delivering Sustainable Growth for York
- SS4 – York City Centre
- EC1 – Provision of Employment Land
- EC2 – Economic Growth in the Health and Social Care Sectors
- R1 – Retail Hierarchy and Sequential Approach
- R3 – York City Centre Retail
- CF1 – Community Facilities
- H3 – Balancing the Housing Market
- H4 – Housing Mix
- H9 – Affordable Housing
- ED6 – Preschool, Primary and Secondary Education
- D1 – Landscape and Setting
- D2 – Placemaking
- D4 – Conservation Areas
- 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**

#### INTERNAL

#### PLANNING AND ENVIRONMENTAL MANAGEMENT (FORWARD PLANNING)

3.1 The revised masterplan for this site involves a reduction in office space and change to a predominately residential led mixed use development. The key policy test for the revised masterplan for this important mixed use site is the impact on the provision of employment land in the city. Changes in market conditions, economic drivers and demand and viability for the various uses proposed since the development brief was written and the original permission was granted are acknowledged. The changing circumstances of the site and developer aspirations are noted and there is no policy objection, subject to comments from colleagues in Strategy and Policy (Economy and Place) . Whilst it is noted that the revised masterplan does not anticipate further office development at the site in line with current market demand, given the flexible non-residential uses applied for as part of the outline element of the application, this would still allow for small scale inclusion of B1 floorspace should there be a future demand which is encouraged to help meet the city's employment land needs.

3.2 The principle of residential use in this location is supported, including an increase in the provision, subject to detailed site specific considerations including the mix of dwellings proposed, the provision of affordable housing and consideration of the site's location adjacent to a conservation area and listed buildings.

3.3 There is no objection to the other proposed commercial uses, community floorspace and landscaping/public realm elements of the proposals, subject to detailed consideration from colleagues in design and conservation and other comments made in this advice.

## HOUSING STRATEGY AND DEVELOPMENT

3.4 Following a detailed independent viability appraisal the level of affordable housing has been agreed at 17% based on a 60:40 split between social rent and Discount Sale. The detailed provision including unit types and pepper-potting is to be agreed, but will follow the principles set out in the Section 106 agreement and reflected in previous phases. The Housing Development Team support this application.

## STRATEGY AND POLICY (ECONOMY AND PLACE)

3.5 There is clear demonstrable evidence in the Hiscox development that there is market demand for B1a in this location. There are other start up businesses looking to locate temporarily in the Hiscox offices also supporting this. Through agglomeration benefits, the presence of Hiscox around Hungate, rather than reducing viability, will in fact enhance the market demand for office space in this area of the city. Taking a hyper-local approach to analysing B1a use class provision is therefore inappropriate in this case; and if a broader picture is considered of the provision of new good quality city centre B1a over the period since the original, only under-provision could be argued.

3.6 While it is accepted that proposed allocation at Hungate for office space in the emerging local plan includes that provided by the Hiscox development if anything demand and lack of supply grade A city centre office accommodation is greater than in 2005 due to the lack of progress (to date) on major (employment) sites such as York Central. It is acknowledged that one of the key issues for the city is the quality of office stock, rather than pure quantum and with a new a development there is the opportunity for grade A office space. As such, from an economic perspective, the reduction in office allocation in the application directly opposes the economic ambitions of the city to create high value jobs and reverse declining wages; aspirations which are currently restricted through the availability of the right commercial space, and specifically grade A office space (see appraisal at paragraphs 4.17-4.23).

## ENVIRONMENTAL MANAGEMENT (DESIGN)

3.7 (Summary) Overall the proposal makes a positive design contribution. The negative impact of the design of massing along the Stonebow is viewed as being countered by other positive aspects of the proposal and my views are tempered for consistency purposes with the (slightly more modest) proposal of the consented 2004 application. This is with the caveat that a condition should be sought to limit absolute maximum massing of the Stonebow elevation. This condition should be viewed as an absolute maximum which will not be expected to be built up to in all instances and any design creep should not be considered immaterial.

3.8 The comments of the Council's Architect have been covered in detail in paragraphs 4.42 to 4.67 of the report.

#### ENVIRONMENTAL MANAGEMENT (LANDSCAPE)

3.9 Despite the omission of Friar's Quay as a proposed public space associated with a community centre, the proposed 'full' development presents an acceptable continuation of the riverside walkway. St. John's Square is suitably detailed as both an urban square and a much needed area of open space for the dense residential that is proposed. It is questionable whether the site provides sufficient open space, especially given the limited size of the central courtyards, in particular Block F. This aside, the landscape detailing creates an attractive, urban, tree-lined, public realm. For more detailed comments please refer to paragraphs 4.68 to 4.73 of the report.

#### ENVIRONMENTAL MANAGEMENT (ECOLOGY)

3.10 States that otter spraints have been recorded on the north and south ledges of the Fossgate bridge and an otter holt was recorded under the footbridge at Garden Place multi-storey car park/Rowntree Wharf, at the western end of Block F of the development. There are existing records of otter using King's Pool, immediately east of the site. It is understood that no works to the banks of the River Foss are being undertaken at this stage. It is imperative that any works to the banks are undertaken following advice from a suitably qualified ecologist due to the presence of otters and other species such as kingfisher.

3.11 The Block F soft works drawing shows the location of bird and bat boxes to be installed. A condition is recommended to require the provision of a minimum of four habitat features for bats and four bird nest boxes to be installed/constructed in accordance with guidance from an ecologist.

3.12 Block D and Block F are to support green roofs of sedum, wildlife plug plants and habitat features that will be a positive enhancement for biodiversity. An interesting addition could be the installation of a peregrine nest box here or on one of the other flat roof surfaces.

3.13 Additional conditions relating to a Construction Environmental Management Plan (Biodiversity) and a Sensitive Lighting Scheme are recommended.

#### ENVIRONMENTAL MANAGEMENT (ARCHAEOLOGY)

3.14 There remains a considerable amount of archaeological work that has not been completed and which was covered within the S106 Agreement covering development on this site.

3.15 All of the mitigation measures set out in the Environmental Statement and enlarged upon for Block G together with the uncompleted work from the original S106 Agreement that is not amended in the revised ES must be included within a new S106 Agreement for this application. The archaeological work carried out to date at Hungate has been an outstanding success. It is essential that this success is carried forward when and if this revised masterplan is implemented.

## HIGHWAY NETWORK MANAGEMENT

3.16 No objections are raised subject to S106 requirements and conditions. For detailed comments, please refer to paragraphs 4.76 to 4.97

## ENVIRONMENTAL PROTECTION UNIT

### Air Quality and Emissions

3.17 The City of York Council's existing nitrogen dioxide roadside diffusion tube data to the north west of the site (outside Stonebow House) has exhibited breaches of the health based nitrogen dioxide objective for over 5 years. Monitoring work undertaken by the applicant's consultant also suggests current potential breaches of the annual mean NO<sub>2</sub> concentration further along Stonebow, in front of the proposed development.

3.18 Modelling undertaken suggests that the development itself would not lead to any "new" exceedances of the air quality objectives due to operational traffic arising specifically from the site.

3.19 Given that there have been breaches of the health based nitrogen dioxide objective, a precautionary approach is recommended to ensure that future residents of blocks G and H are not exposed to concentrations of pollution above health based standards. A condition is therefore recommended to ensure that unless informed by further, site specific diffusion tube monitoring, residential premises facing the Stonebow/Peasholme Green facade shall be fitted with fixed windows that cannot be opened and provided with alternative means of mechanical ventilation. Such premises should not be provided with balconies or any other form of outdoor area.

3.20 In line with the Council's Low Emission Strategy and the NPPF, a condition relating to electric vehicle recharge points is also requested.

### Noise

3.21 Blocks G and H are located directly adjacent to Stonebow and consequently noise results presented in the submitted noise assessment indicate that noise levels along the northern facades of the proposed building will be elevated above levels

elsewhere. However internal noise levels as detailed in BS8233 and the World Health Organisation guidelines on community noise will most likely be complied with through attenuation provided by the building structure and windows. A condition is recommended to ensure that the required levels are achieved.

3.22 In terms of noise associated with the operation of the proposed commercial/retail units and delivery vehicles accessing the site, the noise assessment indicates that there is the potential for minor adverse impact, although no details are known about the proposed deliveries. It is also assumed that a Servicing Delivery Plan will be implemented. Conditions requiring the submission of a Service Delivery Plan, to the hours of delivery to and from the commercial units, to the hours of operation for the commercial units and to the requirement for noise insulation for premises put to commercial uses that adjoin residential premises, are therefore recommended.

3.23 Due to the potential for odour associated with restaurants and cafes, a condition relating to extraction is also requested and with regards to noise and vibration associated with the construction and demolition phases of the development, it is requested that the same conditions as previously applied to other new developments in Hungate relating to hours of construction works and a Construction Environmental Management Plan (CEMP), be applied.

#### Land Contamination

3.24 The Hungate site has a number of past industrial uses including a gas works, warehouses, garages and timber works. Previous ground investigations have revealed that land contamination is present at the site and remediation work has already been carried out on parts of the site. Different parts of the site therefore require different amounts of work to make them safe and suitable for their proposed use. Conditions are recommended.

#### FLOOD RISK MANAGEMENT

3.25 No objections in principle subject to conditions.

#### CHILDREN'S SERVICES, EDUCATION AND SKILLS

3.26 The development is unlikely to generate a significant number of primary and secondary pupils. Based on other flatted developments of a similar nature we would expect pupil yield ratios of 0.01 and 0.005 per dwelling for primary and secondary pupils respectively. This equates to 3 primary pupils and 2 secondary pupils, based on the number and type of dwellings detailed in the application.

3.27 Pupil number projections indicate that, based on existing capacity and impact from extant permissions elsewhere in the area, there will be no places available at any of the three primary schools. A contribution equivalent to that towards the cost of provision of three additional primary school places is therefore sought, which amounts to £36,441 based on current cost multipliers.

3.28 The primary provision based Section 106 funding will be spent on conversion of an existing IT suite into a general classroom at Fishergate Primary school, plus some investment in mobile IT solutions to compensate for the resulting the lack of dedicated IT suite provision.

3.29 At secondary level, the Hungate development is served by Fulford Secondary school. This school is currently over capacity and is predicted to remain so for the foreseeable future due to its popularity with parents. A contribution will therefore be sought equivalent to that for 2 additional places at the school, costing £30,368 based on current cost multipliers.

3.30 The secondary provision based funding will be used as part of a wider project to expand and upgrade kitchen and dining facilities at the school, in order to meet the increasing demand for hot school meals brought about by increasing pupil numbers.

3.31 A contribution towards preschool / early education will not be required due to the limited impact predicted.

3.32 In summary a contribution totalling £66,809 (index linked) is sought for this development.

## PUBLIC REALM

3.33 There is not sufficient on site public open space within the development to cater for the needs of the new residents, accordingly off site contributions are required for amenity space, play provision and sports pitches in order to comply with Policy L1c of the 2005 Draft York Local Plan. Contributions have been calculated in accordance with the City of York Commuted Sums Payments for Open Space in New Developments – A Guide for Developers (Approved 26/4/07. Updated 1/6/14).

3.34 The payments required are;

Amenity open space £69,649. This will be used at the following schemes which are within a 20 minute walking catchment ;

- Tower Gardens Phase 2 – river frontage improvements including seating
- Monkbridge Gardens – access and footpath upgrade

Play £171,844. This will be used at the following schemes which are within a 10 – 15 minute walking distance

- Museum Gardens - children's themed educational planting and interactive activities
- St Nicholas Fields – woodland and beck side adventure and educational play
- Foss Islands Path – children / teenager skills and challenge course

Sport £218,325. This will be used at the following schemes which are within a 15 – 20 minute walking or 20 minutes on public transport catchment;

- Burnholme Community Health Hub, changing and ancillary facility improvements and additional sports facilities.
- Heworth Rugby Club, club house and ancillary facility improvements.

## EXTERNAL

### YORKSHIRE WATER

3.35 If permission is to be granted, Yorkshire Water recommend conditions requiring no construction of buildings/structures until measures to divert/close sewers and water mains have been agreed, separate systems of drainage for foul and surface water on and off site, no piped discharge of surface water and surface water from vehicle parking and hardstanding areas to be passed through an interceptor of adequate capacity prior to discharge.

### ENVIRONMENT AGENCY

3.36 The development will only meet the NPPF's requirements if a planning condition requiring that the development is carried out in accordance with the submitted flood risk assessment (and the mitigation measures detailed within) is secured.

3.37 In terms of Emergency Planning, it is noted that the applicant will be producing a flood management plan, post planning, that will consider an anticipated event (where a warning is provided) and a rapid inundation event in the case of an asset failure (e.g. the Foss Barrier).

### NATURAL ENGLAND

3.38 Based upon the information provided, Natural England advises that the proposal is unlikely to affect any statutorily protected sites.



## HISTORIC ENGLAND

3.39 Previously accepted the principle of the development of the Hungate area, within the parameters set out in the 2005 Design Code. Historic England does not consider the increased heights constitute a substantial deviation from what was previously consented. The Council should carefully consider whether the proposed layout, scale, massing and architectural design of the development enhances or better reveals the significance of the York Central Historic Core Conservation Area and the city's wider historic environment. Any degree of additional harm to the setting of the Conservation Area should be considered as minimal and should be balanced against the public benefits which the wider scheme may deliver, as required by paragraphs 132 and 134 of the National Planning Policy Framework.

## CONSERVATION AREAS ADVISORY PANEL

3.40 The Panel was concerned about the increase in height of the proposed buildings, particularly those along Stonebow and the brick to be used. Concern was also expressed that there appeared to be no firm proposals for the riverside walkway.

## YORK CIVIC TRUST

3.41 The Trust objects to the application on the grounds that this is a significant overdevelopment of the site in its context. Concerns are summarised as:-

- Development within the medieval walls must show regard for the scale and massing of its neighbours, in particular the effect upon the York Central Historic Core Conservation Area and the city's wider historic environment.
- The application does not analyse and assess the effect on sight lines of the proposals in the same rigorous way to all the same criteria used previously. Where the same criteria have been addressed, the mass of development has been pushed to the very limits of the previously acceptable arguments. The planning authority should give very rigorous scrutiny to the cumulative effect of increased massing.
- The greater number of residential units and the reduction in public and amenity spaces result in a cramped and awkward design which is not the high quality urban design which this important site deserves.
- The greater number of residents and other users will have an effect on the existing transport networks, including the availability of parking, and the strain upon existing public transport.

Other concerns to do with the construction materials in the development; the lack of readability of each building's function from outside; the effect of greater density of development on existing businesses; the effect of more residents upon the operation of public services; and the provision of green landscaping.

## SAFER YORK PARTNERSHIP

3.42 It has been intimated by the scheme's architects that both Block D and Block F will acquire full Secure by Design status. Having been consulted throughout the design process in respect of Block E, any security concerns relating to Blocks D and F will be addressed.

3.43 Concerns relate to the proposed public open spaces of St. Johns Square and Friar's Quay. The need to provide public spaces such as these are appreciated but it is a design feature, which in this location, will unfortunately generate crime and anti-social behaviour regardless of whether there is a management plan in place or the fact that it will be directly overlooked by residents. Of rear concern is the proposal to site a children's play area in Friars Quay, immediately next to the river. Caution is expressed against the placing of any seating along the riverside walkway or any features which could be used for seating.

3.44 CCTV could be one solution but problems still persist elsewhere despite its presence. The only answer is to design the spaces out, which is probably unrealistic.

## PUBLICITY

3.45 The application was publicised by site notice, press notice and letters of neighbour notification. Three letters of objection have been received, two of which are from residents of Rowntree Wharf and one from a resident of Peasholme Court. The letters of objection raise the following points;

### Impact on Peasholme Court

- Loss of sunlight and privacy are inevitable through the size of Block H but would ask that at worst, the building does not exceed the height of the Hiscox building. Would prefer something to scale with existing buildings, or at least with a stepped upper frontage to minimise the Brutalist effect.
- No objection to commercial use of the section of Block H adjoining the Stonebow if there is provision for off-road unloading otherwise we have fears of constant congestion by the users of these new blocks.
- When the commercial units are built, request no more bars/ public houses as there is enough night-time noise.

Impact on Rowntree Wharf

- The scheme disregards the listed building status of Rowntree Wharf by ensuring that it will no longer be visible from The Stonebow as it will be completely blocked out by the massing and scale of the proposed development.
- The riverside walk, public spaces and multi-storey car park proposed will be directly opposite Rowntree Wharf which has only single glazing. The proposal lacks measures or initiatives to deal with crime, anti-social behaviour and noise which will be intensified with the inclusion of open spaces, access to the river bank and a multi-storey car park.
- The height of Block's F and Block D exceeds that of existing buildings and is higher than Rowntree Wharf. For residents who face directly onto the Hungate site, this means that all natural light will be blocked out and they will look onto an array of windows, balconies and walls with no breaks whatsoever. This compromises the privacy and amenity of the north facing residents of Rowntree Wharf.
- Rowntree Wharf is single glazed and the existence of balconies metres away is likely to create nuisance particularly in the summer months. The design will also give rise to wind tunnel issues already causing problems on the south side of Rowntree Wharf since Grays Wharf was built.
- Complaints from Rowntree Wharf residents were made during Phases 1 & 2 and during the building of St. John Central about out of hours working, intrusive lighting left on overnight and unacceptable levels of noise from the site but no enforcement action was ever taken by CYC. Request a clear, transparent and enforceable noise impact and community management plan (CEMP) in place between CYC and the developer which is not simply ignored or treated as unenforceable when concerns are raised.
- The severe noise and nuisance impacts on residents daily life, has placed a significant stress and strain on domestic life and health. This is compounded with the practices of insensitive and uncooperative developers working out of hours and being in occupation of the site out of hours, as well as the stress this causes when interacting with CYC about enforcement.
- The scheme includes a multi storey car park which appears to conflict with CYC policy to reduce congestion and car usage in the city centre.

- The increase in residential density is a concern in terms of the impact of the local community. The proposal represents over development and is unconvincing in terms of sustainability and future proofing.
- Lack of consultation with local community about this phase of development. Would like to see the planning authority insist that well publicised, meaningful, specific and targeted community engagement events are arranged.
- The documents are inconsistent with the provisions of Article 8 of the Human Rights Act. Can written assurances be provided that legal advice has been received on this matter and that relevant risk assessments carried out in relation to existing residents wellbeing and measures implemented to ensure that this proposed development does not breach Article 8 of the HRA 1998? Without such assurances and relevant risk assessments any decision made by the planning committee in relation to this application will be subject to challenge under the provisions of Article 8.

## **4.0 APPRAISAL**

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

- Principle of residential-led, mixed use development / Loss of commercial space
- Housing need and the proposed housing mix
- Affordable Housing / Viability Issues
- Design and External Appearance
- Impact on Heritage Assets
- Landscaping
- Ecology
- Archaeology
- Transport and Access
- Sustainability
- Flood Risk and Drainage
- Residential Amenity

## **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 relate to York's Green Belt.

Section 66 the Planning (Listed Buildings and Conservation Areas) Act 1990

4.3. Section 66 of the 1990 Act requires that in determining planning applications for development which would affect a listed building or its setting the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

National Planning Policy Framework (NPPF, March 2012)

4.4 Central Government guidance is contained in the National Planning Policy Framework. Paragraph 7 of the NPPF says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. 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 a good standard of amenity for all and to proactively drive and support sustainable economic development to deliver the homes and businesses that the country needs.

4.5 At paragraph 20, the NPPF states that local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century and at paragraph 22 states that "policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities".

4.6 Section 2 of the NPPF "Ensuring the vitality of town centres" seeks to promote competitive town centre environments and at paragraph 23 states that planning policies should set out policies for the management and growth of centres over the local plan. It includes the need for local planning authorities to recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites.

4.7 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. To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, paragraph 50 states that local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community, identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and where it has been

identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified.

4.8 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. Paragraph 65 says Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).

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

#### City of York Draft Local Plan (2005)

4.10 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.

4.11 The site falls within the Hungate Development Site as shown on the Local Plan Proposals Map (2005). It is identified as a mixed use allocation for both office development (B1a) and residential development. The relevant policies are listed in section 2.1 above. Policies considered to be compatible with the aims of the NPPF and most relevant to the development are SP9 (Action Areas), SP7b (York City Centre and Central Shopping Area), HE2 (Development in Historic Locations), GP1 (Design) and GP9 (Landscaping). A development brief for the site was prepared in 2005 and details the main planning and design principles that the development of the site should be based upon.

#### Emerging Local Plan

4.12 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). However, the evidence base that underpins the proposed emerging policies is a material consideration in the determination of the planning application.

## PRINCIPLE OF DEVELOPMENT

4.13 The application site has extant planning permission for a mix of uses incorporating residential (720 units), Class B1 business (total floorspace 12,062 sq. m), Class A1 retail, A3/A4/A5 food/drink uses (total 6,392 sq.m) together with a focal building and a central square. This permission could be implemented at any point up to 2022 subject to the granting of reserved matters.

4.14 Within this context and given the site's policy allocation, Officers recognise that the principle of the development of the site for a mix of uses has been established.

4.15 Since the submission of the outline planning application over 12 years ago, the applicant notes that market conditions and economic drivers have changed considerably, and the demand and viability for various uses in the city has also altered. As a consequence, the masterplan has been reviewed such that a predominantly residential based scheme is now proposed.

## REDUCTION IN OFFICE SPACE

4.16 A key change in the revised masterplan is the shift away from the provision of large scale employment uses on the Hungate site. Only within the flexible non-residential uses applied for as part of the outline elements of the scheme (Blocks G and H) is there the scope for the small scale inclusion of B1 floorspace should there be future demand.

4.17 The principle of providing office development on the site complies with the Hungate Development Brief and Policy SP9 of the Draft Local Plan and has been established through the extant outline planning permission. Emerging Local Plan Policy EC1 identifies Hungate as a suitable location for up to 12,000sqm of B1a office space.

4.18 As a site with planning consent, Hungate was removed from the emerging local plan site selection process. Accordingly there is no analysis of the site for residential or employment use in the Site Selection Paper (2013). The applicant submitted representations to the Further Sites Consultation in July 2014 seeking a consolidation of residential uses on the site rather than the proposed allocation for B1a office floorspace. This was sought to better reflect market conditions, be more viable and deliverable and assist in delivering housing requirement in early years on a brownfield site. The evidence was considered by Strategy and Policy / Economy and Place (formerly known as the Economic Development Unit) who concluded in the Site Selection Paper Addendum (2014) that Hungate is a city centre location which offers significant potential for further office use and would not like to see this diluted. It was concluded that the site should be retained as a B1a allocation in the Local Plan for 12,000 sq.m as per the existing outline consent and the Preferred

Options position. Accordingly, the current iteration of the emerging local plan continues to identify Hungate as a suitable location for this level of office space.

4.19 The applicant contends that the recently granted Hiscox permission achieves the Council's aspiration for securing a major office development in this part of the city, and could provide up to 10,400 sqm of B1(a) office space. This comprises over 86% of the requirement currently identified within the Preferred Options Local Plan, and 112% of the amount of that originally identified within the Hungate Development Brief.

4.20 Further to this and in line with their representations submitted to the Further Site Consultation, the applicant contends that the planning policy framework, including the extant outline planning permission which forms the basis of Hungate's emerging Local Plan allocation under Policy EC1, is out of date stating that the outline planning permission was conceived during a very different economic climate.

4.21 Strategy and Policy (Economy and Place) in responding to this application confirm their view, as evidenced in the Site Selection Paper Addendum (2014), that there is market demand for B1a use and note that through agglomeration benefits, the presence of Hiscox will enhance the market demand for office space in this area of the city.

4.22 The economic ambitions of the city to create high value jobs through providing Grade A office space are recognised. However, these ambitions are balanced against the need to provide housing and decisions have to be made in the context of the developer's aspirations for this site. In the submission, the applicant states that "there is no reasonable prospect for the development of further large scale employment uses as part of the Hungate allocation".

4.23 As detailed in paragraph 4.4 of this report, the NPPF advises that land allocations should be regularly reviewed, and that the long term allocation of sites for employment use should be avoided where there is no reasonable prospect of a site being used for that purpose. With this in mind and in the context of the limited weight which should be afforded to Policy EC1 of the emerging plan given that it is subject to objections and in the context of the Hiscox development adjacent to the site, which could provide up to 10,400sqm of office space, Officers accept that the proposed allocation for office space at Hungate in the emerging local has been superseded by the revised masterplan and developer aspirations for a predominately residential led mixed use site.

4.24 With regard to the other commercial uses proposed, namely use class A1, A2, A3, A4, A5 and D2, these uses are already established through the original permission for the site and as such, remain supported in this location in recognition of the contribution they can make to the vitality and viability of the city centre. The outline application seeks planning permission for up to 1,660sqm of floorspace to



come forward on a flexible basis within use classes A1- A5, B1 or D2 compared to the previous 6,392 sq.m of A1, A3, A4 and A5 uses. As such, given the reduction in potential retail floorspace there is not considered to be any conflict with the advice from the Retail Study Update which concluded that the site is unlikely to absorb potential future retail capacity as originally envisaged at the site.

## HOUSING NEED

4.25 Significant weight must be given to the need to supply housing in sustainable locations, considering policy established within the NPPF which requires LPAs to "boost significantly the supply of housing"(paragraph 47) whilst delivering a wide choice of high quality homes in order to widen opportunities for home ownership and the creation of sustainable, inclusive and mixed communities (paragraph 50).

4.26 As the factors determining the calculation have not yet been set e.g. the level of assumed windfall dwellings per annum, a five year housing land supply cannot be clearly demonstrated at this time and the City has under delivered in terms of its housing requirements in recent years. The application facilitates the use of brownfield land in a sustainable location within the settlement limit of York and with good access to public transport and local services. There is therefore strong planning justification for accepting the principle of the increased number of residential units at the site, which is demonstrably in need in the city and on this basis Officers raise no objections to the principle of the increase in the number of units.

## HOUSING MIX

4.27 2005 Draft Local Plan Policy H3c and emerging 2014 Local Plan Policy H4 require residential developments to provide a mix of house types, sizes and tenures appropriate to the location and nature of the development.

4.28 The proposed housing mix for the detailed elements of the scheme comprises 52% one bed units, 40% two bed units and 8% three bed units, which is similar to that envisaged by the approved outline scheme. Such a mix responds to housing demand as identified within the North Yorkshire and York SHMA (2011) which concludes that demand is particularly high for smaller properties.

4.29 The overall mix to be delivered by the outline elements would be determined at the reserved matters stage but it is anticipated that the housing mix is likely to reflect the mix as proposed for blocks D and F. Should the provision of elderly care housing (Use Class C2) be progressed, this would address housing needs associated with York's ageing population, as identified within the North Yorkshire SHMA.

## VIABILITY ISSUES / AFFORDABLE HOUSING

4.30 The Homes & Communities Agency advises Local Planning Authorities (LPA's) to work collaboratively with developers in order to understand the economics of their proposed developments. The NPPF also promotes this approach, stressing that LPA's should take account of changes in market conditions over time and wherever appropriate be sufficiently flexible to prevent planned development from being stalled (para 205).

4.31 The Hungate scheme agreed 20.3% affordable housing at outline approval in 2009. Since then local affordable housing targets have been lowered to 20%, and Phase 1 of the development was agreed and built out at that 20% level.

4.32 Phase 2, approved in 2013 and due for completion in 2016, agreed a reduced level of 16% affordable housing following detailed re-appraisal of viability which concluded that increasing (projected) revenues were not quite keeping up with increasing development costs.

4.33 The current application, if implemented instead of the remainder of the extant permission, would result in an increase in total apartments on the whole of the Hungate Regeneration site from 720 to a maximum of 1025 and includes detailed proposals for Blocks D and F, as set out in this report. The scheme viability has been considered having regard to both the elements of the extant permission already built (or in progress), and the new application, and has shifted as unit numbers have increased, together with development costs and projected revenues.

4.34 Following a detailed re-appraisal of the remaining phases of the scheme in recent months, and collaborative working with the developer Lend Lease and independent District Valuation Service (DVS), a 17% proportion of affordable housing has been agreed as a recommended way forward. CYC Officers and the DVS are supportive of this level of provision.

4.35 Section 106 contributions for education, sports/ recreation, community provision and transport have also been agreed following detailed assessment and negotiation. The contributions are considered to meet the tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) regulations. Specific off-site projects have been identified for which the commuted sum payments will be used, which do not fall foul of the pooling restrictions set out in Regulation 123, as not more than 5 obligations have contributed to the projects since April 2010. For greater detail on the contributions relating to education and sports / recreation, please refer to paragraphs 3.26 to 3.34.

## COMMUNITY FLOORSPACE

4.36 The revised masterplan incorporates a community facility within Block F which would provide 240 sq.m of flexible space with access from St. John's Square, including a glazed area that can be adapted to any future user of the community centre. The extent of community floorspace proposed is significantly less than the stand alone focal building established by the extant permission. In response to this reduction, the applicant states that "the amount of community floorspace envisaged by the outline scheme is not considered to be viable and there are no identified community groups or organisations with a requirement to take over the management of such a facility".

4.37 In the context of the extant permission, the increase in the number of the units and Policy CF1 of the emerging Local Plan, which recognises that the expansion of existing community facilities is expected to meet the needs arising from new homes being provided, an off site commuted sum of £100K to the adjacent Central Methodist Chapel on St. Saviourgate has been negotiated. The Church is developing ambitious plans to refurbish and redevelop their building in order to provide more and better quality space for community use, and further secure its longer term use. There are already a number of groups using the various church rooms, and this will be developed much further in consultation with community groups, the Hungate Community Development Trust (HCDDT), and City of York Council.

4.38 The HCDDT was set up in 2002 (as the Hungate Community Trust) in order to understand and reflect the needs and aspirations of the local community. They have continued to consult and work with other city-based organisations such as York Unifying Multicultural Initiative (YUMI), York Womens Group KYRA and the disability group York People First.

4.39 Through these discussions there appears to be an opportunity to optimise the use and management of both spaces for not only Hungate residents but the wider York community. Potential uses include children's play, youth services, family support and counselling, adult learning, community cafe, office space, enterprise support programmes, and art/ cinema/ theatre/ performance/ exhibition space. As an additional benefit, the two centre operation would help to bridge the gap between the city centre and new Hungate community.

## DESIGN AND EXTERNAL APPEARANCE

4.40 The NPPF advises that good design is a key aspect of sustainable development and is indivisible from good planning. Planning policies and decisions should aim to ensure that developments:

- Will function well and add to the overall quality of the area

- Establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit
- Respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- Are visually attractive as a result of good architecture and appropriate landscaping

4.41 The revised masterplan has developed through a series of pre-application meetings, the framework for which has been provided by a number of key architectural and urban design sensitivities. The following section of the report tests these key sensitivities against the proposed scheme and is based on comments provided by the Council's Architect.

4.42 The revised masterplan has involved a shift away from a mix of uses to a residential led scheme and consequently attention has been paid to ensuring that the dilution of the mix of the uses does not impact negatively on the vibrancy and sense of place.

4.43 The treatment of public spaces is important in making a place that is inviting to the public and Officers consider that the revised masterplan has taken successfully account of this evidenced by;

- the retention of a network of public spaces that promotes permeability along primary routes and degrees of enclosures that correspond to needs of privacy;
- the proposed use of high quality materials in the public realm;
- the inclusion of public open spaces, for example, St. Johns Square, Friars Quay and the tree lined pedestrian route between Blocks G and H;
- the inclusion of public access to the riverside and;
- the general limiting of vehicular movement to ensure it is a pedestrian focused place

4.44 In terms of the ground floor uses, the mixed uses (office/retail/restaurant) are appropriately focussed on the Stonebow frontage which has the highest casual footfall and the public uses (the cafe and community centre) with its associated outdoor tables and chairs, fronting the new public St Johns square. To make a direct connection with the square and engender a community feel, the main entrance to Block D is located on the square with direct stepped access from some of the ground floor apartments (over basement); and shallow balconies overlooking it from the upper floors.

4.45 Elsewhere, with the exception of the multi storey car park, ground floor use would be residential apartments. If designed poorly, blocks of apartments can create sterile public environments but it is considered that this scheme manages to overcome such design challenges by;

- The ability to control the level of the external ground when new road/squares are built. This has meant that flood control has been handled sensitively and in most places the ground floor level of buildings relates closely to the street level
- In some instances, a separation in level has been used to create desirable buffer spaces for residents such as a soft landscape strip;
- Level control informally guides degrees of permeability through out the masterplan and reinforces the primary public routes
- Individual entrances to apartments are encouraged and residential buildings are designed with cluster core principles increasing the likelihood of knowing your neighbour.

4.46 A key change from the 2004 scheme has been the reduction in the community function of Block F which has led to the adoption of a fundamentally different approach. Block F now incorporates the Focal Building and creates an urban block with a frontage to St Johns Square. In some ways, Officers consider this to be an improvement as the approved Block F is a standard width apartment building located adjacent to the side of the Shambles car park with the western elevation having the potential for little daylight.

4.47 It is noted however, that the previously approved scheme had the community use running through the full length of the ground floor of block F thus making a connection between St. John's Square and the riverside and 'Friar's quay", a publicly accessible riverside garden facing Rowntree Wharf across the river. When Block F was envisaged as a community focal building, this space had more resonance as a public square but this has been diluted to a semi private terrace. Whilst this certainly represents a loss of significant space by the river, it still has some positive characteristics in that it gives necessary relief to the waters edge and serves as an expressive function in terminating the route along the Foss with a change in scale of open space that signals a change in direction to the route beyond which is back out to St. John's Square.

4.48 Other footprints are similar to the 2004 masterplan. However a new inclusion of a narrowing of the carriageway of Stonebow resulting in wider footpaths and the offer of street trees is welcomed.

4.49 Section 66 of the 1990 Act requires that in determining planning applications for development which would affect a listed building or its setting, the LPA shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

4.50 The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset, the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 of the Act. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted. The current application must be judged on this basis.

4.51 In the NPPF listed buildings and conservation areas are classed as 'designated heritage assets'. When considering the impact of proposed development on such assets local authorities should give great weight to the asset's conservation. Any harm or loss should require clear and convincing justification (paragraph 132).

4.52 The site lies just outside the Central Historic Core Conservation Area as described at paragraph 1.2 The boundary extends along the south-western elevation of the Telephone Exchange and runs along the north western side of the Stonebow (the opposite side of the road to the application site). Rowntree Wharf, a Grade II listed building is sited opposite the development on the south bank of the river.

4.53 The proposed development will be perceived to be 3 to 7 storeys in height when viewed from ground level. The 2004 masterplan adopted a methodology for acceptable maximum height through the drawing of an imaginary "sloping line" from the ridge of Rowntree Wharf sloping down to the ridge of Peasholme (House).

4.54 This application seeks permission for buildings taller than the "sloping line" and the applicant has been required to demonstrate the appropriateness of such height increases through new analysis. It has been considered important to treat the site edges as points of key sensitivities with the potential for greater acceptance of height increases towards the centre. In assessing increases in height, it is noted that the architectural language of the 2004 masterplan generally included pitched roofs, whereas the current application tends to detail flat roof forms; this means absolute height alone is not accurate in measuring apparent height.

4.55 One of the proposed increases in the height of this scheme is in the middle of the development facing St John's Square from a generally 6 storey plus pitched roof to a generally 7 storey flat roof form. As detailed above, Officers consider this central part of the site to be less sensitive and whilst acknowledging that this will be a new type of public space in York, consider that it represents a positive element to

the scheme. This element of the scheme would cause no harm to the character and appearance of the conservation area.

4.56 In considering the 2004 masterplan, a significant area of debate related to the River Foss frontage of the scheme, and in particular the relationship to Rowntree Wharf, a Grade II listed building. The approach adopted, evidenced in Block E which is currently under construction, was to reflect the wharf-like characteristics across the river by including buildings of a similar but slightly lower height to Rowntree Wharf and creating a walkway along the river frontage together with a landscaped space adjacent to the community/focal building.

4.57 The Committee report at the time noted, *“it could be argued that Navigation Wharf should remain as the dominant landmark building within this locality and should therefore be surrounded by buildings much lower in height and a reduced scale. Equally however, it would be valid as is proposed to take the opportunity to balance the scale of development on both sides of the Foss to reflect the character of the still dominant listed building and provide an open space across the river to which Navigation Wharf would form a backdrop, allowing its scale and significance to be more readily appreciated from a public space”*.

4.58 In the context of the extant outline permission, an established fall back for the remaining phases of the scheme, it is considered that Block F, the remaining block to face the river (which also faces St. Johns Square) has responded positively to the sensitivity of the development site. Key parts of the building have been articulated in height with the taller elements on to St. Johns and on the corner facing Hungate with the height decreasing to six and part 5 storey to the River Foss side. This is considered to complement the adjacent Block E and would be sufficient to prevent any significant impact on the setting of the Grade II listed Rowntree Wharf building on the opposite side of the River through over dominance. Any harm to the setting of the listed building is assessed as minor but the statutory duty under s.66 gives rise to a strong presumption against planning permission being granted. Any harm must be given considerable importance and weight in the planning balance, even where it is minor.

4.59 This application proposes a general increase in height for the Stonebow elevation (Blocks G and H) from 4 and part 5 storey plus pitched roof blocks to 5 and part 6 storey flat roof blocks. It is by virtue of the combination of the width of these blocks to Stonebow and their height that Officers consider this element of the scheme to cause some harm to the setting of the conservation area. The affected context is considered to be Stonebow itself rather than longer views to and from designated historic assets, which are not considered to be significantly affected.

4.60 The harm to the setting of the Conservation Area, which is a heritage asset is assessed as minor but in these circumstances the NPPF requires great weight to be given to such harm in the planning balance, despite it being minor.

4.61 The principle of dramatic massing on Stonebow had been accepted in the 2004 masterplan albeit these blocks were a storey lower but with a pitched roof, and Officers are mindful of this in balancing the negative impact of the massing of the blocks along the Stonebow with other positive aspects of the proposal. In the context of the extant approval, Officers accept the proposal for the blocks to Stonebow on the basis that the submitted parameter plans represent the absolute maximum massing of the Stonebow elevation, that there will be no scope for upward movement of this at reserved matters stage. Any outline permission would be subject to condition accordingly.

4.62 Whilst harm to heritage assets is assessed as being minor, such harm has been afforded considerable importance and weight in the overall planning balance.

4.63 A second element of the scheme relating to massing that has given rise to concern, albeit not in relation to the impact on heritage assets, is the height of Block G in relation to the St. John's Central student building. The submitted scheme had detailed the Carmelite Street elevation of Block G to be 7 storey's in height, which whilst similar to the approved scheme, could result in Carmelite Street, as a result of the proportion of street width to height and an unfavourable orientation, being one of the least successful streets in the scheme. The applicant has addressed these concerns and has submitted an amended plan to indicate that a maximum of 50% of this elevation will be 7 storeys. This would give sufficient flexibility to address the impact of Block G upon Carmelite Street at reserved matters stage, and would be subject to appropriate conditions.

4.64 The flat roof forms, in conjunction with a more contemporary architectural language, are considered to look appropriate for this scale of building. In addition, there is a general approach to break up the top floor plate, which helps to provide some variety to the skyline. It is considered that the addition of green roofs will also soften the roofline of any views from above.

4.65 A detailed scheme has been provided with respects to Blocks D and F, the proposed design and materials of which are considered to make a positive contribution to the scheme.

#### Block D

4.66 The main elevation to St. Johns Square has a formal composition; it is symmetrical and unified with an overlaid wide grid form in brick setting up space for recessed balconies and is considered appropriate for its setting. Other elevations appear slightly quirkier and represent rhythmic slices of a giant terrace form, which help to break up the skyline. The predominant palette of brick with a different treatment of the top floor "pod" is supported.



## Block F

4.67 The elevation to St Johns Square articulates the ground floor communal use in an appropriately glazed form projecting out slightly from the brick elevation and leading to an external terrace. The rear elevation to the Foss is also considered to be successful. A roof top sculptural form of terrace dividers is considered to appropriately hint at industrial waterside lifting apparatus and makes visual references to similar devices in Blocks A, B and C. As with Block D, the predominant palette of brick is supported.

## LANDSCAPING

4.68 It is considered that the landscape masterplan successfully presents a clear sequence of outdoor events from improvements to Stonebow, to the treed enticement of Hungate, to St. John's square, which is given an ordered treatment incorporating grassed terraces, trees and seating. The paving design plays down the vehicular routes and junctions, resulting in a comfortable pedestrian realm.

4.69 Street trees are to be provided on Dundas Street and along the centre of Hungate (which would be pedestrian and cycle access only) which has the potential to provide a suitably attractive approach to the heart of the development and St. John's square, whilst acting as a small linear open space in itself.

4.70 St John's Square would act as an urban square and as public open space and its design provides a good balance between hard and soft landscape. It has been given a formality but with a slightly asymmetrical approach which the Council's Landscape Architect notes, gives it a "degree of simplicity and calm whilst keeping the eye engaged". Informal landscape features on the grass provide for informal play and seating and a paved space has been created at the junction with Palmer Lane. The higher quality material of York stone has been appropriately reserved for St. John's Square.

4.71 With reference to the detailed elements of the scheme, the rear courtyard of block D is suitably designed to provide semi-private space for the ground floor flats together with a lawned communal space with trees and the potential for seating and informal play in the centre.

4.72 The rear courtyard garden for Block F is relatively small compared to the other blocks within the Hungate scheme and given the proposed building height of this block; this will lead to a heavily shaded central space. However, the design of the courtyard manages to sufficiently accommodate pedestrian movement, informal play on a lawn, and significant tree planting; features that are also provided within the riverside space, which is more generous and intimate than the spaces adjacent to the river in front of block 2 (phase 2). On the southern elevation of Block F, terraces and balconies assist the relationship with the river and those apartments not facing

the river or St. John's square, are mostly dual aspect. Furthermore, ground floor apartments have a degree of private space, and upper floors have a small balcony. The sixth floor and roof plan incorporate a significant area of accessible green roof which is welcomed.

4.73 The green roofs on Blocks D and Block F (including the block F cycle store) are planted with a wide range of flowers and grasses and supplemented with small log piles, small bunds and insect boxes. This is the most valuable approach to planting a bio-diverse living roof, which is also low maintenance.

## ARCHAEOLOGY

4.74 The initial outline application for the Hungate site was accompanied by a set of detailed documentation including an Archaeological Scheme of Investigation (WSI) which detailed the archaeological mitigation measures. The applicant has subsequently implemented much of the on-site works detailed by the WSI and the post-excavation analysis and publication work is in progress. However, a significant amount of archaeological work contained within the WSI and covered by the original S106 Agreement has yet to be completed.

4.75 The archaeological work carried out since 2006 has produced substantial new environmental information in the form of archaeological data, which the revised Environmental Statement (ES) accompanying this hybrid application, has taken into consideration. The revised ES puts forward a revised assessment of significance and proposes a series of mitigation measures to deal with adverse impacts on these significances. The mitigation measures together with the uncompleted work from the original S106 that is not amended in the revised ES would be included in either the new Section 106 agreement or if acceptable be further secured by planning condition.

## HIGHWAY ISSUES

### Traffic Generation/Highway Impact

4.76 The level of traffic that could be expected to be generated by the proposed application has been calculated using the same trip rates and methodology applied to the original outline planning consent for the site which is still considered to be valid.

4.77 As the level of traffic generated by the current proposals is less than that previously considered and approved at the outline stage no further junction/highway analysis has been undertaken.

### Access (Vehicular)

4.78 Vehicular access to the development is to be restricted to be from two main points; Dundas Street and Garden Place. Measures will be introduced at the junctions of Dundas Street/Black Horse Lane, Black Horse Lane/Palmer Street, Peasholme Green/Hungate and Carmelite Street/Hungate to prevent vehicular access into/through the development.

4.79 The main central core area of the development (St Johns Square) is proposed to be pedestrianised, save for necessary servicing and emergency vehicle access. Vehicular access to/along Hungate will be prevented by design measures in order to provide a traffic free ped/cycle boulevard linking the site to Stonebow.

#### Access (Non Vehicular)

4.80 The site is bisected by and adjacent to two strategic cycle routes – The Way of the Roses which runs North/South from the city centre via Aldwark, Dundas Street and the new Foss Bridge and to the East of York, A CYC strategic cross city cycle route linking Blossom Street to Heworth.

4.81 Through the adjacent Hiscox application, the Way of the Roses route has been diverted from Dundas Street onto a 4m wide traffic free route adjacent to the Hiscox building. Cyclists travelling along this route will have a predominantly traffic free route from Navigation Road, along Palmer Street to Peasholme Green if heading to the Minster/North of the city centre. For cyclists heading to the South of the city centre a traffic free route is provided through the development from Palmer Street via St Johns Square and Hungate towards Stonebow.

#### Parking

4.82 Car parking is being provided in underground car parks beneath some of the residential blocks with a new Multi Story Car Park being included. Access into the undercroft car park areas will be designed as dropped vehicular crossings with priority retained for pedestrians.

4.83 The access into the Multi Storey Car Park is designed to be low key and operate as single flow on a priority system supplemented by a traffic light system. Forward visibility is in accordance with the relevant standards, speeds will be low and traffic patterns mean that the likelihood of opposing vehicles meeting will be very low.

4.84 A summary of the numbers of car parking and blocks that they serve are attached.

<b>Block</b>	<b>Access From</b>	<b>No.Spaces</b>
D	Black Horse Lane	91
F	New Multi Story Car Park	45
G	New Multi Story Car Park	74
H	Dundas Street	96

4.85 On-street parking for casual callers and servicing traffic will be provided within the highways around the development site. These will be managed through the provision of a package of Traffic Regulation Order`s (funded by the developer) which could take the form of a controlled parking zone.

4.86 Overall the level of car parking being provided is consistent with the ratios/level of provision approved through the original outline consent.

#### Cycle Parking

4.87 Cycle parking is to be provided in accordance with the CYC Annex E minimum standards. The detail of the actual design/provision of the cycle parking has yet to be agreed but will be covered by a suitably worded condition.

#### Highways Works/Street Improvements

4.88 The internal layout will be designed and constructed to CYC standards and offered for adoption as public highway. The design of the internal areas will include street lighting to the appropriate standards and the provision of CCTV.

4.89 A series of cross sectional drawings have been supplied and will be secured through the granting of planning consent which set out the basic design principles of highway design within the development.

- Dundas Street, Black Horse Lane and Garden Place will take the form of traditional (footway/carriageway) construction.
- Carmelite Street will be designed as a grade shared space with managed areas of on-street parking and street trees. Design features will ensure vehicle speeds are below 20mph.

## Peasholme Green

4.90 The development will improve the public realm along the Peasholme Green frontage. These works continue the principles and materials established through the recently completed Hiscox works and ensure a cohesive approach.

4.91 Works along the frontage will consist of widening of the current footway by reducing the carriageway width to approximately 6.5m with localised widening where appropriate. Trial runs undertaken as part of the Hiscox works have identified that two buses can pass within this width.

4.92 The increased width of public realm to the building frontage will enable enhanced pedestrian facilities to be provided to accommodate the additional footfall generated by the development, enable street trees to be provided and areas of managed on-street parking/servicing facilities.

## Stonebow/Peasholme Green

4.93 It is proposed to remove the mini roundabout at this junction. The works will broadly comprise of;

- a) Realignment of kerbs, signing and surface material changes in order to reinforce the Stonebow restricted access restriction
- b) Provision of a priority system/throttle in order to provide enhanced crossing and pedestrian facilities between the site and adjacent bus stops
- c) Provision of the appropriate technology to support the access restriction.

## Bus Stops

4.94 The existing bus stop that is currently located outside of the Marketing Suite on Peasholme Green will be reprovided through the public realm improvements along Peasholme Green. The bus stop works will be to CYC standard specifications.

4.95 Officers have also sought improvements to the existing inbound and outbound stops at Jewbury (outside of the Defra Kings Pool building) consisting of kassell kerbs, shelters, BLISS real time displays, lighting, seating where necessary/appropriate.

## SUSTAINABILITY

4.96 The site is in a sustainable location close to the city centre and other local facilities and is well served by a number of high frequency public transport routes. In order to promote and incentivise sustainable travel whilst also reducing dependence on the private car, first residents will be offered a choice of free bus pass or cycle/cycle accessories and membership and free drive time for the city car club

(secured through the S106). Car club vehicles will be located within the development

4.97 The sustainability strategy across the site will incorporate a number of measures to reduce energy usage across the site. The submitted sustainability statement covers core elements of Policy GP4a (Sustainability) and includes the use of code for Sustainable Homes as a benchmark, fabric first approach, community heating system, heat recovery via mechanical ventilation and the proposal for SuDs and Green Roofs.

## FLOOD RISK AND DRAINAGE

4.98 The site is allocated for development in the Draft Local Plan (2005) and a draft allocation in the emerging local plan and benefits from extant outline permission for the development of a mix of uses such that an argument may be put forward that it is not necessary to apply the Sequential Test, ordinarily required given the location of the site within Flood Zone 3a. Despite this, the applicants have given consideration to the potential to locate the development proposals within an area of lower flood risk.

4.99 Paragraph 101 of the NPPF sets out that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If, following application of the Sequential Test, it is not possible to locate development in Flood Zones with a lower probability of flooding, Paragraph 102 of the NPPF sets out the Exception Test which will be passed where a development provides wider sustainability benefits to the community that outweigh flood risk, providing that the development will be safe for its lifetime taking account of the vulnerability of its users, and without increasing flood risk elsewhere.

4.100 Both elements of the Exceptions Test must be passed for development to be allocated or permitted and only in cases where it can be demonstrated that the development is appropriately flood resilient and resistant and that residual flood risk can be safely managed (Paragraph 103).

4.101 In terms of whether there are alternative sites which could reasonably accommodate the type of development proposed, Environment Agency guidance advises that the geographic area of search over which the sequential test is to be applied will usually be the whole of the local planning authority area. Approximately 800 parcels of land have been considered through the Site Selection process following the Call for Sites process undertaken in 2012. These sites have all been assessed through the Site Selection Methodology and those that are considered suitable, available and deliverable, as required by NPPF, have been included as draft allocations within the emerging Local Plan.

4.102 In line with the spatial strategy of the Local Plan, areas of high flood risk (flood zone 3b and Greenfield land within zone 3a) have been excluded from consideration or the developable area reduced to exclude this area of land as part of the site selection criteria. Technical officer comments have also been gathered for all sites through the process including comments relating to flood risk and drainage.

4.103 Whilst there are other major development sites within York, for example York Central, which have a lower flood risk classification (zones 1 and 2) than this site, it is considered that there is insufficient land with a lower risk of flooding that also meets the other tests (i.e. suitable, available and deliverable) when assessed against the Site Selection methodology to meet the identified housing requirement for years 1-5 of the Plan. As detailed earlier in this report, the Council cannot at this point clearly demonstrate a five year housing land supply. Whilst there may be other sites that are at lower risk of flooding, there are not enough such sites to address the 5-year supply. The site at Hungate is required in order to meet that supply.

4.104 In terms of the Exception Test, the submitted Flood Risk Assessment (FRA) identifies a number of wider sustainability benefits to the community that outweigh flood risk including the efficient use of brownfield land; improving the quality of the built environment and the integration, and encouragement, of travel by non car means. The report also details the way in which the development would be appropriately flood resistant and resilient confirming that the finished floor levels of residential uses are located 300mm above the design flood level. Less vulnerable uses would be provided at lower floor level, but with flood defences up to this level and basement car park entrances would be protected to the same level through the use of flood barriers. Across the site, the FRA also describes how safe routes to lower flood risk area would be made available for site users to use in the event of a flood. Furthermore, the FRA confirms that surface water runoff from the Site can be managed sustainably to ensure that flood risk is decreased elsewhere. Taking into account the above considerations, Officers agree that the Exception Test is passed.

4.105 To comply with the requirement of the Environment Agency and the Council's Flood Risk Management Team that the surface water runoff be reduced by 30% from the existing rate, the submitted Drainage Plan detail measures to include the use of sustainable drainage systems including living roofs, mini swales and bio-retention basins, permeable paving and attenuation tanks. Foul sewage is proposed to be discharged to the existing mains drainage sewer and whilst foul drainage would increase from pre-development levels, given the likely reductions in surface water discharge, the combined foul and surface water discharges from the site into the public water sewers would be less than that of the previously developed site and can be accommodated.

4.106 The Environment Agency raises no objections to the proposal subject to a condition requiring compliance with the submitted FRA. Yorkshire Water and the Council's Flood Risk Management Team raise no objections subject to additional conditions to cover permitted surface water discharge rates and the details of the drainage proposals. As a result, the development is considered to be acceptable in planning terms, subject to conditions.

#### IMPACT ON THE AMENITY OF SURROUNDING OCCUPIERS

4.107 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. Local Plan policy GP1 (Design) requires that development proposals ensure that residents living nearby are not duly affected by noise, disturbance, overlooking, overshadowing, or from over-dominant structures.

4.108 A number of issues have been raised by some residents of Rowntree Wharf in respect of residential amenity, including a potential reduction in natural light, a loss of privacy resulting from increased overlooking and increased noise associated with the riverside walk, new public spaces and the proposed multi storey car park.

4.109 With respects to daylight and sunlight, the applicant has assessed the impact of the proposed development in the context of BRE Guidance - Site Layout Planning for Daylight and Sunlight (2011). The conclusions drawn are that the current proposals would have a comparable effect to the extant scheme on the natural light conditions experienced by residential occupants of Rowntree Wharf and are well below the BREs recommended standard. Due to the layout of the proposed development differing from the approved scheme in its southern building line, the relative daylight effects of the current proposal will vary in relation to different sections of accommodation within Rowntree Wharf and as such, certain units within Rowntree Wharf will be less affected by the current proposal compared to the earlier scheme whereas other units will be slightly more affected. This however is in the context of the findings that the proposed development will not cause a materially noticeable effect in terms of daylight experienced by residential accommodation within Rowntree Wharf overall.

4.110 The development would have no effect on the sunlight levels experienced within Rowntree Wharf given that Rowntree Wharf is to the south of the site, such that the elevation from which any light would be lost is north facing and for much of the day is in shadow.

4.111 In terms of issues relating to privacy, the general location of the residential blocks in relation to Rowntree Wharf was established by the 2004 Masterplan. As with daylight issues, the layout of the revised scheme varies from the extant approval such that part of the scheme lies closer to Rowntree Wharf and part is further away. Overall effects on privacy and overlooking however are considered to



be comparable to the approved scheme when taken as a whole. The distance between Rowntree Wharf and the previously approved Block F (at its nearest point to the river) was 38.9m. The proposed development is in excess of this at all points. Given the distances involved, it is considered that the proposals would not result in a significant loss of privacy for the existing residents.

4.112 The Environmental Impact Assessment has considered the noise impacts at Rowntree Wharf and concludes that noise effects associated with the development would be negligible at this location given the distance separation from the development.

4.113 The comments from the Safer York Partnership with respects to St. Johns Square and Friar's Quay and the potential for these public open spaces to generate crime and anti-social behaviour is noted. However, as the comments acknowledge, to design out these areas such that there would be no areas of public space within this scheme is not considered realistic. The areas will be directly overlooked by residents and CCTV will be provided across the site.

4.114 In terms of the impact on the residents of Peasholme Court (a three storey residential block located opposite Block H), it is acknowledged that the part of Block H opposite Peasholme Court would be six storey (with flat roof) in height. However in this city centre location and in the context of the extant outline approval, the Hiscox development and the measures to narrow the carriageway of Stonebow resulting in wider footpaths resulting in the distance between the facades measuring approximately 18 metres, it is not considered that the proposed development would be unduly detrimental to the residential amenities of these occupants.

## RESIDENTIAL AMENITY OF OCCUPANTS OF THE PROPOSED DWELLINGS

4.115 Considering the context, there are no objections on amenity grounds. Conditions are proposed to reasonably control activity which can cause noise and to mitigate the impact of the commercial unit on nearby residential units. The conditions would cover hours of operation and hours of delivery for the commercial unit, a scheme of noise insulation for the residential units adjoining the commercial unit, details of plant and machinery, the building envelope and extraction equipment.

## 5.0 CONCLUSION

5.1 This application comprises a part outline and part detailed scheme to include the erection of four apartment blocks alongside complementary commercial floorspace to accommodate flexible uses. The application is considered in the context of an extant outline permission which provides an established fall back position that could be implemented at any point up to 2022 subject to the granting of reserved matters.

5.2 The key difference between this proposal and the extant permission is the shift to a predominantly residential led scheme which would deliver up to an additional 305 dwellings (above the 720 units envisaged in 2006), a reduction of office and other commercial floorspace and a reduction in community floorspace.

5.3 The ambitions of the city to create high value jobs through providing Grade A office space are balanced against the needs to provide housing and decisions have to be made in the context of the developer's aspirations for this site. In the context of the NPPF which advises that the long term allocation of sites for employment uses should be avoided where there is no reasonable prospect of a site being used for that purpose and given that the Hiscox development has largely met the Council's 2004 aspirations for a major office development in this part of the city, this shift to a predominantly residential led scheme is accepted.

5.4 The application facilitates the use of brownfield land in a sustainable location within the settlement limit of York and with good access to public transport and local services. Officers therefore recognise that there is strong planning justification for accepting the principle of the increased number of residential units at the site, which is demonstrably in need in the city and on this basis; no objections are raised to the principle of the increase.

5.5 In terms of a community facility, although 240 sq.m of community space would be provided within Block F, this is significantly less than would have been provided within the focal building as detailed in the extant scheme. This however has been appropriately compensated for through the negotiation of an off-site commuted sum to the nearby Central Methodist Chapel on St. Saviourgate which would bring other benefits over and above one larger community space at Hungate

5.6 Following a detailed re-appraisal of the remaining phases of the scheme, a 17% proportion of affordable housing based on a 60:40 split between social rent and discount sale has been agreed. Officers consider this to be a reasonable offer which acknowledges the relatively high costs of site development and other contributions relating to education, sports / recreation and transport.

5.7 Vehicular access to the development would be restricted to be from two main points with the main central core of the development pedestrianised and vehicular access along Hungate prevented to provide a traffic free pedestrian /cycle boulevard linking the site to Stonebow. The landscape masterplan complements this by presenting a clear sequence of outdoor events from improvements to Stonebow, to the treed enticement of Hungate, to St. John's square, which is given an ordered treatment incorporating grassed terraces, trees and seating. The paving design plays down the vehicular routes and junctions, resulting in a comfortable pedestrian realm.

5.8 With respects to comparisons between the design / external appearance of this proposal and the extant permission, building footprints are largely similar (with the exception of Block F and the focal building), massing is generally slightly increased particularly towards the less sensitive centre of the scheme and architectural language is, on the whole, more contemporary.

5.9 Overall the scheme is considered to make a positive design contribution and whilst Officers consider the massing to the Stonebow elevation to cause some minor harm to the setting of the Conservation Area, the affected context is Stonebow itself rather than longer views to and from designated heritage assets. Whilst the harm is assessed as being minor, such harm has been afforded considerable importance and weight in the overall planning balance. Some minor and less than substantial harm to the setting of Rowntree Wharf has also been identified and afforded considerable weight in the planning assessment. The outcome of the assessment is that the benefits to the scheme as described above, including the provision of much needed additional dwellings in the City, outweigh the less than substantial harm identified.

5.10 The application has been accompanied by an Environmental Statement which demonstrates that would not have significant adverse impacts on the environment or other amenity considerations. The development would fulfil the roles of sustainable development outlined in the NPPF and would otherwise accord with national and local planning policy. Subject to conditions, as set out below, it is recommended that the application be approved. Any approval is subject to the signing of a Section 106 Agreement to secure the following:

Affordable Housing:

- Provision at 17% based on a 60:40 split between social rent and discount sale.

Open Space:

- Amenity Space £69,649
- Children's Play £171,844
- Sports - £218,325

Education:

- Financial contribution of £36,441 towards foundation stage provision at Fishergate Primary
- Financial contribution of £30,368 towards expansion and upgrade of kitchen and dining facilities Fulford Secondary School

Highways:

- Bus pass (or cycle) £264,800
- Stonebow/Hungate Highways / Street Improvement works £307,000
- Car Club £132,400

- CCTV £60,000
- Amendments to Traffic Regulation Orders £40,000

Community Facilities:

- £100k commuted payment towards provision of community facilities at Central Methodist Chapel on St. Saviourgate
- Transfer of completed on site community space to the Hungate Development Community Trust or an appropriate organisation as agreed by City of York Council

**6.0 RECOMMENDATION:**

(i) Defer pending satisfactory completion of a Section 106 Agreement to secure the following in accordance with paragraph 5.10 of the Report:

(a) Affordable Housing

(b) Open Space

(c) Highway Works and Sustainable Transport measures

(d) Community Facilities,

and if not otherwise secured by way condition, any required archaeological works and

(ii) On completion of the S106 Agreement delegated authority be given to the Acting Director of City and Environmental Services to GRANT permission subject to any necessary conditions including those set out below:

The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2. Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the following dates:

Block H: within 3 years of this planning permission

Block G: within 4 years of this planning permission

Development of each block shall commence within 2 years of the approval of the reserved matters.

Reason: To ensure compliance with Section 92 and 93 of the Town and Country Planning Act 1990 as amended.

3. The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

*To be reported at Committee*

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

4. Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, and the development shall be carried out in accordance with such details:

Details to be submitted: access, appearance, landscaping, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

5. Notwithstanding the reference to +/-1m deviation, the maximum roof parapet heights of Blocks G and H shall not exceed the references to the top levels on Dwg No: 00344\_MP-003 Rev A received 18.11.15 ( Parameter Plan -Building Heights)

Reason: To assist the development being integrated into the area.

6. In relation to Blocks G and H, a maximum of 375 residential units and a minimum of 1,265 sq.m of commercial floorspace to accommodate flexible use within use classes A1, A2, A3, A4, A5 or B1 or D2, shall be provided.

Reason: In the interests of the vitality of the scheme

7. Removal of PD rights for change of use

8. Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the relevant part of the development and the works shall be carried out in accordance with the approved details.

(i) Building sections and part (i.e. single bay) elevations through different key fenestration types. This should include sufficient information to understand the proposal so should include, for example: (windows) look-a-like glazing & window opener types; (cladding panels) types & joint positions; (sheet cladding) seam width & laying direction.

- (ii) Component details to include (windows) vertical and horizontal sections through window reveals, heads and sills; (soffits) underside treatments to overhanging roofs or tunnels; (balconies) plan, elevation & section to projecting or inset types.

Note: Brick window reveals should be at least 1½ brick deep in accordance with established site-wide design principles for Block E and punch-hole windows in cladding will be expected to be similar reveal depths.

- (iii) Detailed studies of the primary entranceways into the courtyards of Blocks E and F
- (iv) Car park vents (with particular reference to ground floor level)
- (v) Edge of building buffer zone treatment such as private external terraces including soft and hard landscape

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

9. Large scale workmanship sample panels shall be erected on site for:

- (i) Brickwork: 2m x 2m sample panel of brickwork (to be used on blocks D and F) shall be erected on site, and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of the development of each block. The panels shall be retained until a minimum of 2 square metres of wall of the approved block has been completed in accordance with the approved sample.
- (ii) Seamed cladding: 3 seams wide sample panel shall be provided prior to the construction of each block so as to understand the proposed jointing type and method

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works so as to achieve a visually cohesive appearance.

10. Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials at a sufficient size and presented in an appropriate combination to each other in the chosen finish, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of each block. 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.

11. Details of the lighting to the buildings including the roof shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of each block and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

12. Details of the location and type of any fixed equipment proposed for access and maintenance shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of each block and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

13. Details of ancillary protrusions above the roof plane required for servicing such as ducts, chimneys and access hatches except those less than 1m high and over 2m from the edge of the building shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of each block and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

14. Full details of the proposals relating to multi storey car park cladding shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of block F and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

15. The approved landscaping scheme as per Drawing's....., to include the substantial completion of St Johns Square, shall be implemented within a period of six months of the completion of Blocks D and F. 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: The landscape scheme is integral to the amenity of the development.

16. The phasing for the development shall be in accordance with the phasing plan detailed in the Design and Access Statement dated July 2015 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order that the impact of the phasing of the development can be properly assessed and to ensure appropriate infrastructure development.

17. Prior to the commencement of the development of each of Blocks G and H, a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs to be planted shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include details of tree pits and compatibility with utilities and shall be implemented within a period of six months of the completion of each of the blocks. 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.

18. Notwithstanding the submitted plans, prior to the first occupation of block F, an ecological scheme of enhancement to comprise of a minimum of (two per block) four habitat features for bats on site such as crevice bat boxes and/or integral bat bricks, and a minimum of four bird nest boxes, shall be installed/constructed in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To take account of and to enhance the habitat for a protected species.

19. Prior to each block of the development commencing, a 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 prior to development commencing. The statement shall include at least the following information;

- measures to prevent the egress of mud and other detritus onto the adjacent public highway



- a dilapidation survey jointly undertaken with the local highway authority
- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- a scheme for signing the promoted construction traffic routing
- where materials will be stored within the site

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.

20. Prior to first occupation of each block of development, the design and materials of roads, footpaths and other adoptable spaces, including street-lighting, to which it fronts, is adjacent to or gains access from, shall have been constructed in accordance with details which have been approved in writing by the Local Planning Authority.

Reason: To ensure appropriate access and egress to the properties, in the interests of highway safety and the convenience of future occupants.

21. The development hereby approved shall not be occupied until the areas for vehicle parking associated with the block that they serve have been constructed and laid out in accordance with the submitted drawing(s), or such plans which are subsequently submitted to and approved in writing by the Local Planning Authority. Such areas shall thereafter be retained in perpetuity for the sole purpose of parking vehicles.

The operation and management of the apartment block car parks shall be undertaken in accordance with car park management schemes which shall previously have been submitted to and agreed in writing with the Local Planning Authority for each phase of the development, and shall not be revised without the prior written approval of the LPA.

Reason: In order to ensure the efficient operation of these facilities, in the interests of the safety and convenience of highway users.

22. Prior to each block of development commencing, details of the secure cycle parking areas, including means of enclosure, position, design, materials and finishes thereof, shall be approved in writing by the Local Planning Authority. The building or buildings within that block shall not be occupied until the cycle parking areas and means of enclosure (including the public cycle parking areas within that block) have been provided in accordance with the approved details, and these areas shall not be used for any purpose other than the parking of cycles. Cycle parking shall be in accordance with the Residential Cycle Parking Schedule dated 12/11/2015.

Reason: To ensure adequate space for such storage, and to promote sustainable modes of transport in accordance with policies GP4a and T4 of the City of York Draft Local Plan and the National Planning Policy Framework.

23. Prior to the commencement of the use hereby approved in each block of development, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

24. No gate/door/window shall be fitted so as to open outwards over the adjacent public highway, or in the case of garage doors to protrude forward of the face of the garage.

Reason: In the interests of highway safety and to prevent inconvenience and obstruction to other highway users.

25. Full details of the proposed CCTV facilities within the site and lighting for car parking areas and cycle routes shall be submitted to and approved in writing by the LPA, prior to any part of the development being brought into use.

Reason: In the interests of safety and visual amenity.

26. The development shall make provision for the linkage of the Foss Walkway adjacent to the Shambles car park with the proposed pedestrian and cycle route within the site. Details of the treatment of the boundary at this south west corner of the site and site levels at the boundary shall be submitted to approved in writing by the Local Planning Authority prior to the commencement of Block F. Thereafter the agreed treatment shall be retained at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to safeguard the future provision of a continuous route along the north bank of the Foss at this point, in accordance with the objectives of the Foss Walkway Strategy.

27. Prior to the commencement of any block of the development hereby permitted a phased programme of works as set out in the Street Sections dated 25/11/2015 Revision ?, shall be submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same. These works shall be in accordance with the Street Section Drawings as set out below;

D0205\_008\_Street Section 1 of 6 rev *(to be updated at Committee)*  
D0205\_009\_Street Section 2 of 6 rev *(to be updated at Committee)*  
D0205\_010\_Street Section 3 of 6 rev *(to be updated at Committee)*  
D0205\_011\_Street Section 4 of 6 rev *(to be updated at Committee)*  
D0205\_012\_Street Section 5 of 6 rev *(to be updated at Committee)*  
D0205\_013\_Street Section 6 of 6 rev *(to be updated at Committee)*  
3236 SK001 14  
D0205\_001\_W

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

28.. A full 4 stage road safety audit carried out in accordance with guidance set out in the DMRB HD19/03 and guidance issued by the council, will be required for the works detailed within the hereby approved Street Sections dated 25/11/2015, or such plans which are subsequently submitted to and approved in writing by the Local Planning Authority. Stage 1 of said audit must be submitted to and confirmed in writing by the LPA prior to any of these works commencing on site.

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

29. No block of the development hereby approved shall be occupied until a Full Travel Plan has been submitted and approved in writing by the LPA. The travel plan should be developed and implemented in line with local and national guidelines and the submitted Travel Plan dated 22/07/2015. The block shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with local and national highways and planning guidance, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

30. The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels of 30 dB LAeq 8 hour (23:00-07:00) and 45 dB LA Max (23:00 - 07:00) in bedrooms and 35 dB LAeq 16 hour (07:00 - 23:00) in all other habitable rooms. These noise levels are with windows shut and other means of acoustic ventilation provided. A detailed scheme for each block shall be approved in writing by the local planning authority and fully implemented before the occupation of each respective block.

Reason: To protect the amenity of residents.

31. Details of all fixed machinery, plant and equipment to be installed in or located on any of the commercial uses hereby permitted, which is audible at any noise sensitive location, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of the locality.

32. During the development of the site, all demolition and construction 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 the locality

33. The hours of operation for the commercial units shall be approved in writing by the local planning authority. Once approved, the agreed hours shall be complied with at all times, unless agreed otherwise in writing by the local planning authority.

Reason: To protect the amenity of local residents.

34. The hours of delivery to and dispatch from the commercial units, to include Use Classes A1, A2, A3, A4, A5, B1 and D2, shall be confined to the following times, unless otherwise approved in writing by the local planning authority:

Monday - Friday	08:00 - 18:00
Saturday, Sunday & Bank Holidays	09:00 - 18:00

Reason: To protect the amenity of local residents.

35. Prior to any use of the commercial units, to include Use Classes A1, A2, A3, A4, A5, B1 and D2, a service delivery plan shall be submitted to and approved in writing by the Local Planning Authority. The service delivery plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise resulting from deliveries to commercial premises. Once approved, the service

delivery plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To protect the amenity of local residents.

36. Premises put to Class A1, A3, A4 or A5 use that adjoin a residential premises, shall be noise insulated in accordance with a scheme to be approved in writing by the local planning authority. The noise insulation scheme shall be fully implemented prior to occupation. No alterations to the external walls, facades, windows, doors, roof or any openings in the building(s) shall be undertaken (including the closing up or removal of openings) without the prior written approval of the local planning authority.

Reason: To protect the amenity of local residents.

37. There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Reason: To protect the amenity of the locality.

38.. Four electric vehicle recharge points shall be provided in relation to block D and eight electric vehicle recharge points shall be provided in relation to block F. Such recharge points should be installed prior to first occupation of the blocks. The location and specification of the recharge points shall be agreed in writing with the Local Planning Authority prior to installation. Also, to prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the Local Planning Authority. Prior to the first occupation of the accommodation, the applicant will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Plan that will detail the maintenance, servicing, access and bay management arrangements for each electric vehicle recharging point for a period of 10 years which will ensure the points are fit for the purpose of charging electric vehicles.

Reason: To promote the use of low emission vehicles on the site in accordance with the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 35 of the National Planning Policy Framework.

39. The applicant shall undertake further site specific nitrogen dioxide diffusion tube monitoring for a minimum period of 6 months. The monitoring strategy and locations shall be agreed in advance with the Local Planning Authority. This monitoring shall

be used to inform the need, if any, for residential premises facing The Stonebow/Peasholme Green to be fitted with fixed windows that cannot be opened and associated mechanical ventilation required for any habitable rooms (bedrooms / living areas etc) facing onto The Stonebow / Peasholme Green. Where shown to be necessary, residential premises facing onto the Stonebow / Peasholme Green shall not be provided with balconies or any other form of outdoor area. The residential premises to which this condition applies shall be agreed in writing with the local planning authority.

A mechanical ventilation strategy shall be prepared for those residential properties where the monitoring study has shown mechanical ventilation to be required and shall include details of the proposed mechanical ventilation and the location (away from the road) from which to draw clean air.. Any continuous mechanical supply and extract ventilation system shall incorporate heat recovery (MVHR), and shall be designed to meet current Building Regulations with respect to the provision of fresh air and the extraction of stale air. The mechanical ventilation strategy shall be agreed in writing with the Local Planning Authority.'

Reason: To allow the monitoring and assessment of local air quality, in the interests of the amenity of future occupants.

40. Prior to first occupation or use of Block D, the approved remediation scheme (entitled: Development Phases 2 & 3 Remediation Strategy, ref: EN6250-R-7.1.4-RA, dated: October 2007) 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.

41. In the event that previously unidentified contamination is found at any time when carrying out the development of block D, 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, which is subject to the approval 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.

42. Prior to the first occupation or use of Block F, the approved remediation scheme (ref: EN6250-R-17-1-4-NS and letter ref: EN6250-C-058-RT-BAO) must be completed in accordance with its terms and an additional verification report submitted that demonstrates the effectiveness of the remediation carried out, 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.

43. In the event that previously unidentified contamination is found at any time when carrying out the development of block F, 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, which is subject to the approval 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.

44. Prior to the commencement of development of block G, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must 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:
  - o human health,
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - o adjoining land,
  - o groundwaters and surface waters,

- o ecological systems,
- o archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must 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 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.

45. Prior to the commencement of the development of block G, 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) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

46. Prior to the first occupation or use of block G, 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.

47. In the event that previously unidentified contamination is found at any time when carrying out the development of block G, 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, which is subject to the approval 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.

48. Prior to the commencement of the development of block H, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of the potential for ground gas. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) Determination of the ground gas regime at the site;
- (ii) an assessment of the potential risks to:
  - o human health from ground gas;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must 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 ground gas to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

49. Prior to the commencement of the development of block H, 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) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

50. Prior to the first occupation or use of block H, 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.

51. In the event that previously unidentified contamination is found at any time when carrying out the development of block H, 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, which is subject to the approval 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.

52. 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 information is required to safeguard the amenity of local residents and covers all elements of the development at all stages of the development process.

53. Prior to each block of development commencing, details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

The agreed permitted discharge rates are as follows:

Block D - 26.4 l/sec unrestricted to phase 1 drainage and restricted to 6.2 l/sec to proposed drainage to River Foss outfall.

Block F - Restricted to 53.9 l/sec to proposed drainage to River Foss outfall.

Block G - Restricted to 28.4 l/sec to Yorkshire Water sewer in Carmelite Street.

Block H - Restricted to 38.2 l/sec to proposed drainage to River Foss outfall.

Please note that the maximum discharge to proposed River Foss outfall - 131.4

l/sec.

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.

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

54. Unless otherwise agreed in writing by the local planning authority, no construction of buildings or other structures shall take place until measures to divert or otherwise formally close the sewers and water mains that are laid within the site have been implemented in accordance with details that have been submitted to and approved by the Local Planning Authority.

Reason: In the interest of satisfactory and sustainable drainage and to maintain the public water supply.

55. Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

56. Surface water from vehicle parking and hard standing areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

Reason: In the interest of satisfactory drainage.

57. A scheme of works for the restoration of the Foss Riverbank/wall, excluding the Kings Pool site, shall be submitted and agreed with the Local Planning Authority prior to the occupation of block F.

Reason: In the interests of the visual amenities of locality, flood defence and ecology along the Foss corridor.

## **7.0 INFORMATIVES:**

Application Reference Number: 15/01709/OUTM

Item No: 4a

## Notes to Applicant

### 1.LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development.

### 2.STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

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

### 3. DRAINAGE

**EXISTING INFRASTRUCTURE** - On the Statutory Sewer Map, there are 300/450/600/450x500 Circular/470x610 Brick Egg/590x620 mm Brick Circular diameter public combined, 150/310 mm diameter public foul and 150/225 and 300 mm diameter public surface water sewers recorded to cross the site. The presence of the pipes may affect the layout of the site and as such may be a material consideration in the determination of the application.

A developer may, where it is reasonable to do so, require a sewerage undertaker to alter or remove a pipe where it is necessary to enable that person to carry out a proposed improvement of land. This provision is contained in section 185 of the Water Industry Act 1991 that also requires the developer to pay the full cost of carrying out the necessary works.

Owing to the repeal of Section 18 of the Building Act 1984, in this instance, Yorkshire Water feels that appropriate planning conditions are necessary to adequately protect the pipes from being built over or near to. It is perceived that this will also be in the interests of future occupiers who may otherwise be dissatisfied. In this instance:

With regards to the 150 mm diameter public foul and 150/225 mm diameter public surface water sewers, YWS would look for this matter to be controlled by Requirement H4 of the Building Regulations 2000.

A stand-off distance of 3 (three) metres is required at each side of the 300 mm surface water and combined sewer centre-lines.

A stand-off distance of 3.5 (three point five) metres is required at each side of the 450 mm combined sewer centre-line.

A stand-off distance of 4 (four) metres is required at each side of the 310x360 foul/ 450x500 and 590x620 mm combined sewer centre-lines.

A stand-off distance of 6 (six) metres is required at each side of the 470x610 and 600 mm combined sewer centre-lines.

Further, there are 310x360mm/ 470x610mm and 500x640mm Brick Egg abandoned sewers located within the site. The Applicant / Developer is advised to survey the site / area and thoroughly investigate the situation and take adequate precautionary measures prior to building-over and / or building in close proximity.

No new trees planting within 5 metres either side of company infrastructure.

Foul water domestic waste should discharge to the 600 mm diameter public combined water sewer crossing the site.

Foul water from kitchens and/or food preparation areas of any restaurants and/or canteens etc. Must pass through a fat and grease trap of adequate design before any discharge to the public sewer network.

SURFACE WATER - The Phase 2 Site Investigation and Environmental Risk Assessment (prepared by Waterman - Report EN6250/R/1.1.7/JR dated January 2008) confirms; Sub-soil conditions do not support the use of soakaways

The public sewer network is for domestic sewage purposes. Land and highway drainage have no right of connection to the public sewer network.

#### 4. HIGHWAY WORKS

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Adoption of highway - Section 38 – Michael Kitchen (01904) 551336

Works within public highway Section 278 – Michael Kitchen (01904) 551336

Permission for work in the highway – Section 171 – Stuart Partington(01904) 551361

#### 5. UTILITIES

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

Application Reference Number: 15/01709/OUTM

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## 6. MACHINERY, PLANT AND EQUIPMENT (Condition 27)

The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 0dB(A) below the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, this being the design criteria adopted by Public Protection, including any acoustic correction for noises which contain a distinguishable, discrete, continuous note (whine, hiss, screech, hum, etc.); noise which contain distinct impulses (bangs, clicks, clatters, or thumps); or noise which is irregular enough to attract attention.

## 7. TREATMENT AND EXTRACTION OF COOKING ODOURS (Condition 33)

It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

## 8. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (Condition 48)

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 it is anticipated 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 CEMP would be expected 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.

**Author:** Rachel Tyas Development Management Officer (Wed - Fri)  
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15/01709/OUTM

Hungate Development Site



Scale : 1:2545

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	
<b>Date</b>	01 December 2015
<b>SLA Number</b>	Not Set

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**PLANNING COMMITTEE REPORT**

**Date:** 10<sup>th</sup> December 2015    **Ward:** Wheldrake  
**Team:** Major and                      **Parish:** Naburn Parish Council  
Commercial Team

**Reference:** 15/01845/FULM  
**Application at:** Sewage Works Naburn Lane Naburn York  
**For:** Installation of solar photovoltaic (PV) array with associated infrastructure including solar panels and frames, inverter kiosk, security fencing, cameras and poles, new internal access track and temporary construction compound  
**By:** Kelda Energy Services Limited  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 25 November 2015  
**Recommendation:** Refuse

**1.0 PROPOSAL****THE SITE**

1.1 The application site comprises a field, currently used for the grazing of horses, adjacent and immediately to the south of the Naburn Sewage Treatment Works (STW). It is 3.5ha in size. It lies to the west of the B1222 running to the south of York, connecting the village of Naburn with the suburb of Fulford to the north.

1.2 The site is 'boot shaped', bounded by post and rail fencing on its eastern edge. A well-used off-road local cycle route connecting Naburn and the elevated cycle to Fulford and the city centre runs alongside the eastern boundary of the site. It connects by ramp with the elevated National Cycle Network (NCN) Route 65 which defines the south-west boundary of the site. . The local cycle route alongside the eastern boundary is separated from the road by a mixed deciduous hedgerow. The cycle route is outside the redline area being in the ownership of the Council. To the south-east corner, a gap in the hedgerow with pedestrian safety barrier allows users to cross the road onto the second cycle/pedestrian ramp up to the National cycle route or to carry along the B1222 to Naburn.

1.3 The south-western boundary of the site again is demarked by post and rail fencing. The land outside the site boundary rises approximately 3m upwards to the NCN Route 65 on the former railway embankment. The slope and top is wooded on either side of the track with deciduous trees (predominantly ash, poplar and willow) interspersed with conifers. The NCN Route 65 runs from Middlesbrough to Hornsea. This local section of the route connects the villages of Bishopthorpe and Naburn with York to the north and Selby to the south.

1.4 A series of pools associated with the sewage works define part of the western extent of the site and are only just visible from the site boundaries via a series of vertical blue columns extending from the pools and a steel palisade fence approximately 1.8m high. This steel fence continues along the north boundary of the site and then turns and continues north up the B1222, forming a boundary for the main STW.

1.5 The River Ouse is located approximately 115m west of the site at its nearest point. Approximately 50% of the site is within Flood Zone 3a (high probability of flooding) with a further 12% in Flood Zone 3b (functional floodplain) with the remainder in Flood Zone 2 (medium probability of flooding).

1.6 The River Ouse is a candidate Site of Importance for Nature Conservation (SINC) (ID 063) and the elevated NCN Route 65 cycle track to the south-east of the site is a SINC (ID 043) valued for its neutral grassland and scrub. Bishopthorpe Ings, on the opposite bank of the river, is also a SINC (ID 005) valued for its flood plain grassland. The site is located in the general extent of Grade 3 (good to moderate quality) agricultural land to the north of Naburn. The site has both been viewed in winter when much of the vegetation had died back and was muddy and water logged, and in summer when it was green with unmanaged grass, docks and thistles and red and white campion.

1.7 The site is located within the Green Belt and outside of the defined settlement limit of the village of Naburn. From the north, the B1222 dips below the railway embankment before continuing south past a cluster of dwellings and Naburn Marina before entering the village. To the north of the site, the B1222 passes the STW on its west with open countryside, fields and farms on the east and the wooded boundary of the Designer Outlet before joining the A19.

## **THE PROPOSAL**

1.8 The applicant is Kelda Energy Services Limited. The applicant does not own the STW, which is owned by Yorkshire Water. However they are both divisions of the overall Kelda Group, with separate land ownership interests, but working together to meet overall company objectives, including energy requirements of Yorkshire Water sites.

1.9 The applicant, is proposing to install a solar photovoltaic (PV) array in approximately 42 rows of solar panels known as strings, with associated infrastructure on the site (further reference as the 'solar farm'). . Each string of panels would be mounted on a rack comprising poles pile-driven to a depth of approximately 1.5m, without the need for excavation. The panels would be mounted at around 0.8m from the ground at the lowest point at the southern edge (being no more than 0.8m in height) rising to approximately 2.25m at the highest point, on the northern edge. The agent has since confirmed verbally that the panels would be no more than 2.5m in height. Each string of panels would be between 3m and 7m

apart. They would be tilted 22 to 35 degrees from the horizontal and orientated southwards.

1.10 An inverter kiosk measuring 6m in length by 2.44m in width and generally 2.59m in height, but no more than 4m in height is to be located in the centre of the site. Cables would be buried to connect the solar panels to the inverters and grid connection. Fifteen CCTV cameras would be mounted on 4m high poles and a perimeter deer fence of galvanised mesh fixed to wooden posts enclosing the site would be a maximum of 2m in height. A temporary construction compound would be located to the north of the site.

1.11 An existing access splay at the northern corner of the site would be retained. A new 3.5m wide internal access track would run within the eastern boundary before turning into the centre of the site and across to the western boundary.

1.12 Landscape enhancement measures are proposed, including a new hedgerow along the eastern boundary of approximately 1.25m in height. This hedge would include some new tree planting. There would also be additional trees in the southern corner of the site (although the landscape plan does not show trees that the photomontage illustrates along the south-west boundary). Ecological enhancements to the site are proposed through this new hedgerow and trees, with improved grassland beneath and between the arrays. Swales are also proposed to off-set the hardstanding areas and enable storage capacity and means of soakaways and infiltration.

1.13 The facility would have a capacity to generate approximately 1.4megawatts peak. This energy would be used to directly provide power to the adjacent STW and would offset approximately 20-30% of the existing annual on-site demand. This equates to powering approximately 400 homes per annum with a saving of over 800 tonnes of CO2 emissions a year.

1.14 The original Planning Statement and other documents submitted refer to the majority of the site as being located in Flood Zone 2 with just the western corner of the site being in Flood Zone 3. The original Flood Risk Assessment did not provide a map of the flood zones but commented that the site was in Flood Zone 2 and 3. As confirmed by the Environment Agency (EA) during consultation, Flood Zone 3 extends across a large proportion of the site. A revised Planning Statement and FRA with correct link to the EA on line map have since been received.

## **RELEVANT PLANNING HISTORY**

1.15 The applicant submitted an Environmental Impact Assessment screening opinion request for the proposed development in February 2015 (ref. 15/00303/EIASN).The screening opinion was carried out having regard to the relevant regulations (The Town and Country Planning (Environmental Impact Assessment) Regulations 2011) and the matters they require to be taken into

account in screening the proposal. . The development of 2.59ha of solar photovoltaic arrays and associated infrastructure, generating 1.17 megawatts peak electricity to help power the sewage treatment works, is not considered to be development of more than local importance. In terms of vulnerable locations, Church Ings Site of Special Scientific Interest is located close by, but the proposal will not have a significant impact on the designation as there are no comparable or connected habitats within the development site, the loss of which could have an indirect impact on the features for which the SSSI is designated. There are no non-statutory nature conservation sites on or immediately adjacent to the site. Finally the proposed solar photovoltaic development is not considered to be have unusually complex environmental effects. It was therefore determined an EIA was not required.

1.16 There have been numerous planning applications and permissions within the main sewage works boundary to the north of the site, but only the following two are considered of relevance r:

- 97/02171/FUL Planning application validated 23.10.1997 for the extension to site the area and boundary mound and fence and the provision of new sewage plant. This application was withdrawn.

1.17 The new sewage plant was proposed on the same land as the current application for the solar panels to the south of the existing STW. The proposals comprised the construction of eight new circular treatment tanks, 48m in diameter and 4m in height. A memorandum on the file notes that the Council requested an Environmental Impact Assessment for the application but 'because of the number of objectors and the fact that it lies within the Green Belt, the application was subsequently withdrawn.'

- 98/00746/FUL Planning application validated on 25.03.98 for the upgrade of existing works including provision of new secondary treatment units, modification of sludge handling and storage facilities, associated building and pipeworks, external works and landscaping.

1.18 This subsequent planning application was within the existing STW site to the north of the existing works (i.e. not within the current application site). As this application was within the existing STW it was to be recommended for approval by the case officer but the application was withdrawn before being determined. The reason(s) was not stated.

## **2.0 POLICY CONTEXT**

### **2.1 2005 Draft Development Plan Allocation:**

None

### **2.2 Policies (Also see Section4):**

#### **City of York Draft Local Plan incorporating the 4<sup>th</sup> set of changes (April 2005) (DCLP)**

CYSP2: The York Green Belt

CYSP3: Safeguarding the Historic Character and Setting of York

CYGP5: Renewable energy

CYGP15: Protection from flooding

CYNE2: Rivers and Stream Corridors, Ponds and Wetland Habitats

CYNE7: Habitat protection and creation

CYGB1: Development within the Green Belt

CYL4: Development adjacent to rivers

CYGP1: Design

#### **Emerging Local Plan Publication Draft (2014)**

Policy SS2: Green Belt

Policy CC1: Renewable and Low Carbon Energy Generation

Policy ENV4: Flood Risk

Policy ENV5 : Sustainable Drainage

Policy GB1: Development in the Green Belt

## **3.0 CONSULTATIONS**

### **INTERNAL**

#### **Planning and Environmental Management (Forward Planning)**

3.1 Forward Planning note that the presumption in favour of sustainable development established in the NPPF does not apply to this site as it is located within the general extent of the Green Belt and within a high flood risk area (Flood zones 3a and 3b). It states the development is in the Green Belt and should not be approved except in very special circumstances. The VSC presented include the need for co-location with the STW and the reduction in non-renewable energy consumption of 20-30% and these factors should be given some weight. Overall however the VSC need to be balanced against the site's location in the green wedge and impact on the historic character and setting of York and its visual impact on the

openness of the Green Belt within the context of the STW and any screening proposed.

3.2 The Publication Draft (2014) identifies at Policy CC1 potential locations for solar farms. The application site is not one of these locations. However the policy supports renewable energy generation within the context of sustainable development.

3.3 Regarding the evidence base to the Local Plan, The Renewable Energy Study (2014) identified that solar PV energy generation had the most potential out of the renewable energy generating options for York and that the emerging local plan should positively support such schemes.

3.4 The Historic Character and Setting evidence base identifies swathes of land across the city which are important for preserving York's historic character and setting. These areas help shape patterns of growth within the emerging Local Plan Spatial Strategy. The site is within an 'extended green wedge' (Area D4: Naburn and Bishopthorpe Ings) which are identified as being a characteristic feature of York. They help define local distinctiveness and provide an extended interface between the urban edge and surrounding countryside. Specifically Area D4 in which the site is located retains an open area of river valley east of Bishopthorpe and west of the Designer Outlet, and continues south to include Naburn and Acaster Malbis with the aim of continuing the 'open approach to the city along the river valley'. Forward Planning consider the openness of the site as being important for this designation as it contributes to the overall setting of York. The development will be visible from various locations within the immediate vicinity and possibly in long-range views. The development is distinctively different from the established countryside and village character and therefore comprises infill of an existing countryside gap between Naburn and the sewage works. The development will change the perception of the countryside and cause harm to the openness of the Green Belt for the duration of the development which in this case still represents a long-term effect despite a 'temporary' development of 25 years.

3.5 The Strategic Flood Risk Assessment (2013) identifies the site within Flood Zones 3a, 3b (high risk) and 2 (medium risk) of flooding. Wind turbines are identified as 'essential infrastructure' and using this proxy, solar farms will need to pass the exception test when located in Flood Zone 3.

3.6 The Biodiversity Action Plan identifies the site as within the River Ouse Regional Green Corridor which is identified for nature conservation and flood alleviation. It notes that it is of value not only for wildlife but recreation as well, including both the river and its extensive floodplain. This value includes wildlife, water borne and bankside recreation, transport, agriculture, culture, history, water supply and flood alleviation. The river is a SINC and various meadows adjacent to it are designated SSSI and SINC. However, despite the Green Corridor classification,



development should not be precluded if any effects can be mitigated and the location enhanced. The proposed biodiversity enhancements are supported.

The Agricultural Land Classification identifies the site as within an area of Grade 3 agricultural land which is 'good to moderate' in quality terms. The rating of the site reflects the high flood risk potential.

### **Planning and Environmental Management (Landscape)**

3.7 States the development's greatest and most significant visual impact would be from Naburn Lane B1222 and from the popular cycle route that follows the line of the disused railway from Selby to York. The Sustrans National Cycle Network Route 65 is used as a local and long distance recreational route available to walkers, cyclists, and equestrians, and a means of commuting by bicycle. Thus it has a high status as a public right of way.

3.8 The development would have a localised but significant impact on the open character of the green belt, of greatest concern being the substantial impact on significant section of the NCN Route 65 for cyclists and walkers alike, both as a recreational route and a means of sustainable travel. However, due to the relatively low height of the solar panels and the limited amount of infrastructure and lighting associated with the development, it is not significantly visible within the wider landscape.

#### *Landscape context and views*

3.9 The proposal would have an impact on the landscape context of the village, which, despite the presence of the sewage works between Naburn Lane and the river Ouse, is of open arable fields, interspersed with farmsteads to the north east and small woodlands to the south, with the river Ouse corridor running through it.

3.10 The context of the village is experienced by way of movement along the surrounding road and footpath network. To this end, the open field of the site provides separation between the sewage works and Naburn village. Due to the elevated nature of the NCN route 65, the site is also viewed in the context of far reaching views across arable fields, copses, farmsteads and as far afield as the Wolds.

3.11 The wider views of the site in the area of Howden Lane bridge include the central tower of York Minster within the same view. (This is not however identified as a key view of the Minster; the development would not interfere with the view of the Minster itself). The hedge alongside Naburn Lane would serve to screen much of the development (though less effective in the winter months), which in turn would be seen in the context of the sewage works as a backdrop from this perspective.

### *Landscape quality*

3.12 The landscape quality of the site alone is relatively poor, due to the unmanaged nature of the grassland and the poaching caused by horses and rutting by vehicles. Docks, nettles and thistles were all present (though so were Red campion and White campion). The sewage works are a detractor in the landscape; and often forms part of the immediate context in the views of the site. Nonetheless the application site's green openness is of value within the surrounding views.

### *Pedestrian users of B1222*

3.13 The existing footpath that runs along the eastern boundary of the site is comfortably separated from the road by a dense, mixed, native hedge. From here the openness of the site is fully appreciated. This allows views over the grassland, and in part, beyond the southern part of the sewage works, to the distinctive and attractive backdrop of trees. Large willow trees mark the course of the river Ouse. The mixed deciduous trees of the railway embankment and area of wetland form a continuation of these. The introduction of banks of solar panels would have a significant visual impact on the footpath.

3.14 The proposed maintenance access track would also be a significant construction within the views, although this could green over and dull with time; furthermore the proposed hedging on the inside of the proposed new fence would provide some additional screening. However this in turn would serve to hem the footpath in to a corridor of high fencing and hedging, thus significantly detracting from the existing open aspect.

### *Car users views from B1222*

3.15 The site is exposed to view at the point where the sewage works steps back from the road before the roadside hedge begins; however as a car driver the experience of the site would be fairly fleeting, since the existing hedge and proposed hedge would provide significant screening for much of the year.

### *Pedestrian/cycle/equestrian users of Sustrans route*

3.16 The cycle way runs along the western side of Bishopthorpe. There are filtered views of the site through the trees that adorn the railway embankment. The site's current character is largely appreciated as a green back cloth between the tracery of the branches. Views of the site will be markedly less obscured in the winter months. For users of the cycle way the site is most exposed at the tops of the slopes leading from the cycleway down to the B1222.

3.17 The site is generally most exposed at its southern tip. From this angle the solar panels would be viewed head on, i.e. with the greatest surface area. There is spacing of approximately 4m between the rows of panels. Thus the direct visual

impact of the panels will vary depending on the direction of travel, viewing height, and angle of view. Views of the site from the bridge over the Ouse are limited but will be more visible in the winter months.

### *Proposed planting*

3.18 The proposed landscape mitigation is fairly minimal but in keeping with the nature of the surrounding vegetation. The proposed planting, particularly in the southern tip of the site, would reduce the exposure of the development from some key points.

### *General comments*

3.19 Overall the development would have a localised but significant impact on the open character of the greenbelt, of greatest concern being the substantial impact on a significant section of the elevated NCN Route 65 for cyclists and walkers alike, both as a recreational route and a means of sustainable transport. The effects of the development on the wider landscape character would be very limited. Thus the degree of harm must be weighed up against other factors such as the benefits of renewable energy.

## **Planning and Environmental Management (Countryside and Ecology)**

3.20 It is not considered that the proposed development would impact on the several Sites of Importance for Nature Conservation (SINC) in proximity to the site including the River Ouse candidate SINC, Bishopthorpe Ings SINC and York to Selby Cycle Track SINC.

3.21 The site falls within Natural England's SSSI Risk Impact Zone for Church Ings which includes solar schemes with a footprint > 0.5ha. This highlights the need to consult with Natural England on the likely impacts of development. Church Ings is designated for its grassland habitat of unimproved alluvial flood meadows. It is considered that there are no comparable or connected habitats within the development site, the loss of which could have an indirect impact on the features for which the SSSI is designated.

3.22 The site is not recorded as containing Priority Habitats as defined in Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 and recorded by the National Priority Habitat Inventory.

3.23 The Local Plan supporting document 'Green Corridors' January 2011 locates the site within 'Regional Green Corridor No.1 The River Ouse'. It is a significant multifunctional corridor for both wildlife and recreation. Priorities for wildlife enhancement include; wet and flood meadow grasslands, riverine habitats (fens and marshes), wet woodland, ponds, tansy beetle, bats and otter.

## *Ecological Appraisal*

3.24 The main habitat on site which will be impacted by the proposals is improved grassland which has been heavily grazed by horses. This is considered to be of low ecological value.

3.25 Construction mitigation and post-construction enhancements have been proposed through a Biodiversity Management Plan, including the creation of habitat for tansy beetle, a rare and Local Biodiversity Action Plan species. If this application is approved these measures should be secured through a condition relating to the implementation of all ecological measures and works contained in the Biodiversity Management Plan produced by Arcus Consultancy Services Ltd.

## **Planning and Environmental Management (Archaeology)**

3.26 A desk based assessment has been submitted for this site. It revealed that development is only likely to directly affect archaeological remains surviving in the eastern section of the site. It is considered, given the stratigraphy on site, that archaeological mitigation consisting of strip, map and sample is adequate on the very eastern portion of the site. This combined with a watching brief on structural elements such as access tracks and other ancillary infrastructure over the rest of the development site, leading to preservation by record, is acceptable. Both of these measures will be subject to a review and appropriate curtailment in agreement with the Archaeologist for York City Council if certain areas of the site prove archaeologically sterile.

3.27 Should the application be recommended for approval, condition ARCH1 for groundworks within the eastern portion of the site and ARCH2 for the remaining works should be attached to any consent that is granted for this application.

## **Flood Risk Management (FRM)**

3.28 The proposed development is in medium and high risk Flood Zone 2, 3a and 3b (functional floodplain), and therefore a Flood Risk Assessment should be submitted for approval to the Environment Agency's (EA). FRM refer to the EA's response and support their approach in defining the proposed development as 'essential infrastructure' and agree with the EA that the solar farm is located in part in the functional floodplain.

3.29 FRM advise that the LPA should be clear that the information provided within the FRA has demonstrated that the sequential and exceptions tests have been passed.

3.30 Following submission of the revised sequential and exceptions tests, FRM comment that the Council's Strategic Flood Risk Assessment identifies the site is in Flood Zones 2, 3a and 3b (functional floodplain) and although not tabled as

Essential Infrastructure within table ES2, it has to remain operational in times of flood. The area of the site within Flood Zone 3a and 3b (approximately 60% of the site) may be under water or subject to damage by floating debris and therefore will not remain operational in times of flood.

3.31 Regarding the sequential test, for sites to be 'reasonably available' then sites do not need to be within the applicant's landownership. Land within the STW is within lower risk zones, in particular the land to the north east which is in flood zone 1, although according to submitted information it is used as a storage area and is identified as an area of possible expansion of the STW. As landownership cannot discount sites in lower flood risk, then there is also land around the site in flood zone 1 that could be negotiated with the relevant land owners and used for this 'essential infrastructure'.

3.32 The flood risk management team has no objections to the proposed surface water disposal from the development in principle. They recommend that a relevant condition is attached to any approval to agree surface water drainage works. An informative is also proposed relating to surface water drainage.

### **Public Protection (PP)**

3.33 Details have been submitted on noise generation during and post construction. The only noise generated by the development would be from the inverters with noise being no more than a low hum. This is highly unlikely to be audible outside the boundaries of the site as the inverters would be located in a kiosk in the middle of the site, buffered by the STW, and will only operate during daylight hours.

3.34 The proposed inverters will be located at a distance of c230m from the nearest residential properties to the south east, with a bridge in between, and 400m from properties on the west side of the River Ouse. Public Protection is therefore satisfied that over such a distance any noise is unlikely to result in loss of amenity.

3.35 Following concerns raised by PP during the EIA screening over the potential for glare from the reflection of sunlight on the photovoltaic cells which may cause loss of amenity, the applicant has submitted a glint and glare statement. This statement explains that the panels are designed to absorb maximum daylight and therefore have low levels of reflectivity and elsewhere glare has not arisen as a concern. As the site benefits from some screening PP are satisfied that glare is unlikely to result in loss of residential amenity.

3.36 PP states if planning permission were granted then it would be for the operator to ensure that any installation was suitable for an area of high flood risk and not pose a health and safety risk. If the installation is not suitable for such sites then it is expected that an alternative option is considered.

## Highways Network Management

3.37 Highways Network Management has responded requesting the application is deferred for further consideration of the following issues:

- Proposed boundary treatment – the mix of hawthorne and blackthorne on the eastern boundary adjacent to the local well used off-road cycle track raises concerns for potential punctures to bikes using the track, especially following maintenance. Alternative species should be examined and additional information on maintenance is requested.
- Site access and conflict between the off-road cycle track users and construction/maintenance vehicles. The entrance should be set back 10m and this could be conditioned.
- No turning areas are shown for vehicles. Plans should either be amended or a suitable condition attached.
- Construction – A Sustrans cycleway and local route run alongside the development and the applicant should demonstrate how during construction the free flow of traffic (including pedestrians and cyclists) will be retained and amenity protected. Sustrans should be consulted on the application.

3.38 Subject to the above, a condition is proposed to provide a detailed method of works statement for the programming of site clearance and construction.

## EXTERNAL

### Environment Agency (EA)

3.39 States whilst the applicant suggests otherwise, the development is likely to be located in functional floodplain (land which floods with an annual probability of 1 in 20 or greater every year) and the only development permitted in functional floodplain is 'essential infrastructure'. Whilst there is no official guidance stating that solar farms are to be considered 'essential infrastructure', their similarities to wind turbines would suggest that they should. The EA has no major concerns from a flooding perspective although they note that the inverter kiosk was in Flood Zone 3 (high risk). EA advise a sequential approach to the placement of development is taken, by locating all flood sensitive equipment in flood zone 1 (low risk). If, for operational reasons the structure has to be placed within the higher risk flood zone, the floor level should be raised a minimum of 600mm above existing ground level.

3.40 Following dialogue with the applicant's agent, who explained the proposed location of the inverter kiosk was to minimise visual impact, the EA confirmed they had no objections to the proposed location of the inverter.

## **Natural England (NE)**

3.41 NE raises no objections in relation to statutory nature conservation sites and has assessed the application using the Impact Risk Zones data (IRZs). The proposal, if undertaken in strict accordance with the details submitted, is unlikely to have a significant effect on the interest features for which Lower Derwent Valley SAC, Lower Derwent Valley Ramsar, Lower Derwent SPA and River Derwent SAC has been classified. Similarly it would not damage or destroy the interest features for which the Derwent Ings SSSI and River Derwent SSSI has been notified.

3.42 The proposed development is unlikely to lead to significant and irreversible long term loss of best and most versatile agricultural land, as a resource for future generations, because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur (provided the development is undertaken to high standards). Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas. NE raises no objections to the short-term loss of agricultural land considering economic and other benefits.

## **Yorkshire Wildlife Trust**

3.43 States the site proposed for the solar farm is within the Yorkshire Wildlife Trust Living Landscape for the Wharfe/ Ouse corridor and close to a number of areas which are important for wildlife. Although the Phase 1 survey was not done at an ideal time of year it is a thorough report and the Trust concurs that the site has very low botanical value. Mitigation measures could be beneficial for biodiversity.

3.44 The Yorkshire Wildlife Trust suggested to the applicant that a monitoring scheme to examine the impacts of the solar farm and the effects of mitigation should be developed and this should be sought. A monitoring report on biodiversity would be useful.

## **Naburn Parish Council**

3.45 The Parish Council objects to the proposals as the site is within the Green Belt. Whilst the parish council is not averse to renewable energy development, it states the site is the last green field between Fulford Parish boundary and Naburn village on the approach along the B1222 and the river. The site is a very important 'open' buffer between the treatment works and the old railway cycle track. Use of the NCN Route 65 plays an important role in the well-being and economy of the village. Should the development proceed, this view will be transformed into an industrial landscape right up to the cycle track which, as it has an elevated position and runs south of the site, would not be mitigated by any landscape screening. This will cause the loss of an open, predominately rural aspect. Such loss of overall visual amenity

is important, and the proposal should be considered as inappropriate development within the Green Belt.

3.46 Whilst the applicant has confirmed the site will revert to a green field site, there is no guarantee that, as technology advances, more efficient solar gain infrastructure could be installed on the site which could be difficult and therefore the Green Belt site would be effectively lost to development over time.

3.47 Within the NPPF there is no automatic presumption in favour of renewable energy development within the Green Belt. There has to be exceptional circumstances clearly put forward. The applicant has described the proposal as being wholly to support the energy needs of the existing treatment works and therefore may be looked at as being for operational purposes rather than electricity generation for export. However, no consideration appears to have been given to install the solar farm on redundant areas within the existing complex which the parish council would prefer and would be in accordance with the NPPF. Whilst the applicant states that this land needs to be safeguarded for future operational needs, this application could well be considered in a similar vein.

**Site notice expired: 15.10.2015**

## **Neighbours**

3.48 A total of four neighbours have objected to the scheme; one individual has submitted two objections following additional information supplied by the applicant. The following issues have been raised:

- The development of a solar farm should be considered as inappropriate development in the Green Belt and by definition, it is harmful to the Green Belt and should not be approved except in very special circumstances. The then Minister of State for Energy & Climate Change, Gregory Barker MP explained in his letter to Local Authorities dated 22 April 2014 that "The need for renewable energy does not automatically override environmental protections."
- The proposals are contrary to the fundamental principles of Green Belt policy, of keeping land permanently open. Development of the Green Belt may set precedents.
- Loss of green buffer between Naburn and Fulford and the last gap in a ribbon of development along the B1222.
- The proposals are contrary to key principles in the NPPF including that planning "should take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it."



- This land forms part of the River Floodplain identified in the North Yorkshire and York Landscape Characterisation Project (NYYLCP); it carries an identified high sensitivity to change - high visual, high ecological, and high landscape and cultural sensitivity.
- The land was the subject of an earlier application by Yorkshire Water to expand its facilities and it was decided that, as the land was in Green Belt and forms a key buffer between Naburn village and the STW (STW) it was more appropriate to expand the works on land also owned by Yorkshire Water to the north.
- The development would not be a natural "rounding off" of the STW.
- Referencing the NPPF, the proposals will not enhance and improve the places in which people live their lives, as fundamentally it is an industrial installation.
- Whilst it is convenient and cheaper for Kelda to develop flat greenfield land in its ownership, the solar panels should be directed to brownfield land or above existing infrastructure including roof space (objector references the Minister of State for Energy & Climate Change, 22 April 2014).
- Solar PV proposals should be appropriately sited, giving proper weight to environmental considerations such as landscape and visual impact, heritage and local amenity, and provide opportunities for local communities to influence decisions that affect them.
- The applicant has not had any meaningful consultation with the local community.
- The proposals harm the setting of the cycle path which is enjoyed by thousands of visitors and local people each year. The raised nature of the path means that these people would have a direct view into the solar farm which would have an unacceptable visual impact upon the enjoyment of this local public right of way.
- York Marina represents an asset to the local economy as well as an enjoyable facility for boat-owners and villagers alike. The addition of a solar farm in close proximity to the Marina will not encourage further growth in visitor numbers or enhance the setting of this valuable leisure amenity.
- Solar farms are unsightly.
- Solar farms do not generate as much electricity as other renewable energy sources.

3.49 Two individuals have provided comments in support of the application stating in summary that the proposals for renewable energy should be supported and that the site is not particularly scenic and has no agricultural value. The solar farm is not considered to have any negative impact on the local area. Views from the cycle track consist of the STW. The village suffers from flooding, and any proposals that would seek to minimise climate change through the production of renewable energy should be supported. The proposed belt of indigenous woodland would benefit the ambiance of the area and might help screen some of the bad smells from the sewage works.

## **4.0 APPRAISAL**

### **KEY ISSUES**

4.1 The key issues are considered to be:

- Principle of renewable energy development
- Green Belt
- Flooding and drainage
- Visual amenity
- Landscape
- Glint and glare
- Ecology
- Archaeology
- Transport

### **PLANNING POLICY CONTEXT**

#### **National Planning Policy Framework**

4.2 The National Planning Policy Framework sets a presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan (paragraph 14). Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or if specific policies in the NPPF indicate development should be restricted. Foot note 9 reference to paragraph 14 indicates restrictions to include Green Belt locations and flood risk.

4.3 There are three mutually dependent dimensions to sustainable development: economic, social and environmental. The NPPF at paragraph 9 explains that pursuing sustainable development, amongst other objectives, involves seeking positive improvements in the quality of the built, natural and historic environment in addition to people's quality of life.

4.4 Twelve core planning principles are set out at paragraph 17 for both plan-making and decision-taking. These include that planning should take account of the different roles and character of areas, promoting the vitality of urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Planning should support the transition to a low carbon future in a changing climate, including encouraging the use of renewable resources (including the development of renewable energy). Planning should contribute to conserving and enhancing the

natural environment and reducing pollution. Planning should encourage the reuse of previously development land. Heritage assets should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations.

4.5 Within section 8 'Promoting healthy communities', the NPPF explains that planning has an important role in facilitating social interaction and creating healthy, inclusive communities. Paragraph 75 states that planning should protect public rights of way and access, and seek opportunities to provide better facilities for users. Paragraph 109 states that the planning should protect and enhance valued landscapes.

4.6 Section 9 on 'Protecting Green Belt Land' explains that the Government attaches great importance to Green Belts. 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 their permanence. Included in the five purposes of the Green Belt is to check the unrestricted sprawl of urban areas and to assist in safeguarding the countryside from encroachment. Paragraph 87 continues stating that 'inappropriate development' is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and '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.

4.7 The construction of new buildings is considered inappropriate development in the Green Belt. Paragraph 91 states that elements of many renewable energy projects in the Green Belt will comprise inappropriate development. Developers will need to demonstrate very special circumstances if projects are to proceed, and these may include the wider environmental benefits associated with increased production of energy from renewable sources.

4.8 Section 10 on climate change and flooding explains planning has a key role in shaping places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, which includes the delivery of renewable energy. This is central to the three dimensions of sustainable development. All communities have responsibility to contribute to energy generation from renewable or low carbon sources. When determining applications, local planning authorities should approve the application, unless material considerations indicate otherwise, if its impacts are (or can be made) acceptable.

4.9 Regarding flooding, inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. The aim of the Sequential Test is to steer new development to areas

with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If the development cannot be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed it must be demonstrated that the development provides wider sustainability benefits that outweigh flood risk and a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere. Both elements of the test will have to be passed (paragraphs 100-102).

4.10 When determining planning applications, flood risk should not be increased elsewhere. Development is only appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that within the site the most vulnerable development is located in areas of lowest flood risk unless there are over-riding reasons to prefer a different location. Development must be appropriately flood resilient and resistant. Priority should be given to the use of sustainable drainage systems (paragraph 103).

4.11 Section 11 states that valued landscapes should be protected and enhanced, recognising the wider benefits of ecosystem services and providing net gains in biodiversity where possible (paragraph 109). Local authorities should take account of the economic and other benefits of the best and most versatile agricultural land. Poorer quality land should be used in preference to that of a higher quality.

## **Planning Practice Guidance**

### ***Flood Risk and Coastal Change (updated 15.04.2015)***

4.12 Planning practice guidance elaborates on policies within the NPPF. Of particular note in this PPG, is the guidance on sequential testing. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The Test does not need to be applied for individual developments on sites which have been allocated in development plans through the Sequential Test, or for applications for minor development or change of use. However, for individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. The developer should justify with evidence to the local planning authority what area of search has been used when making the application.

4.13 A pragmatic approach on the availability of alternatives should be taken. It is for local planning authorities to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case.

4.14 Where there are no reasonably available sites in Flood Zone 1, the flood risk vulnerability of land uses should be taken into account and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, again taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

4.15 The Exception Test should only be applied following application of the Sequential Test. An applicant will need to show that both elements of the Test can be satisfied. The PPG at Table 3: Flood risk vulnerability and flood zone 'compatibility' identifies essential infrastructure proposed in Flood Zones 3a and 3b as needing to pass the Exception Test. The Exception Test, as set out in paragraph 102 of the Framework, is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. It must be shown that the development will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

4.16 In Flood Zone 3a essential infrastructure should be designed and constructed to remain operational and safe in times of flood. In Flood Zone 3b (functional floodplain) essential infrastructure that has to be there and has passed the Exception Test, and water-compatible uses, should be designed and constructed to:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows and not increase flood risk elsewhere.

### ***Renewable and low carbon energy (updated 18.06.2015)***

4.17 The PPG sets out the Government's commitment to increasing the amount of energy from renewable and low carbon technologies. It explains that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.

4.18 Paragraph 10 explains that renewable energy developments should be acceptable for their proposed location. However, the PPG states that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. It sets out guidance for a LPA in considering large-scale solar farms including:

- focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;
- where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays;
- that solar farms are normally temporary structures which can be limited in duration by condition and land subsequently restored;
- assessing visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;
- the need for, and impact of, security measures such as lights and fencing;
- conserving heritage assets;
- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges (with effective screening, the visual impact of solar farms could be zero; and
- the energy generating potential.

4.19 Cumulative landscape impacts and cumulative visual impacts are best considered separately. The cumulative landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape; it is concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape. However, cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views (or sequences of views), and the impact this has upon the people experiencing those views.

### **Saved policies from the Regional Spatial Strategy**

4.20 The development plan for York comprises 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 are YH9(C) and Y1(C1 and C2), which relate to York's Green Belt and the key diagram on page 69 insofar as it illustrates the general extent of the Green Belt (figure 6.2). The policies protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas. The application site falls within the general extent of the Green Belt as shown on the Key Diagram of the RSS.

### **Draft Local Plan adopted for Development Control Purposes (2005)**

4.21 The City of York Draft Local Plan incorporating the 4th set of changes, April 2005, (DCLP) has been adopted for development control purposes. Its policies carry some weight where they accord with the NPPF.

4.22 Policy SP2 explains that the primary purpose of the York Green Belt is to safeguard the setting and historic character of the city. Policy SP3 relates to safeguarding the historic character and setting of York. It notes the Minster's dominance at a distance on the York skyline. It seeks to protect landscape features which enhance the historic character and setting of the city which includes the river corridors, and areas of open countryside that provide the setting for the historic city. The proposals map shows the site within the Green Belt. Policy GB1 states that within the Green Belt, planning permission for development will only be granted where the scale, location and design of such development would not detract from the open character of the Green Belt; and it would not conflict with the purposes of the Green Belt and it would not prejudice the setting and special character of York, and providing it is for a range of uses (which does not include renewable energy production). All other forms of development are considered inappropriate and very special circumstances need to be demonstrated to justify the presumption against development.

4.23 Policy GP5 encourages renewable energy development providing that there is no significant adverse impact on the existing landscape, air quality, biodiversity, water resources, grades 1, 2 or 3a agricultural land or sites of archaeological or historic importance. Proposals within the Green Belt will need to show very special circumstances why they should be located here rather than elsewhere in the city.

4.24 Policy GP15a on development and flood risk has generally been superseded by policies in the NPPF which require the sequential and exception testing of sites. However policy GP15a also explains that there will be a presumption against built development (except for essential infrastructure) within the functional floodplain outside existing settlement limits and this still applies. Proposals for new built development on greenfield sites outside settlement limits will only be granted where it can be demonstrated that the development will not result in the net loss of floodplain storage capacity, not impede water flows and not increase flood risk elsewhere. An FRA is required for development in flood zones 2 and 3.

4.25 Policy NE2 seeks to protect river and stream corridors, development should be resisted that would have an adverse impact on their landscape character. The policy continues further stating that river corridors and wetland habitats' environmental and amenity value should be conserved and enhanced. The design of structures and engineering works should be appropriate in form and scale to their setting. Policy NE7 encourages the establishment of new habitats.

4.26 For development proposals adjacent to rivers, planning permission will only be granted where there would be no loss to established and thriving recreation interests. Proposals should complement the existing character of the area. Existing walkways and cycleways along the river banks should be enhanced where possible (Policy L4). Supporting text explains that river corridors are important for amenity and recreation uses.

## Emerging Local Plan - Publication Draft (2014)

4.27 Following the motion agreed at Full Council in October 2014, the Publication Draft of the York Local Plan is currently not progressing through its statutory consultation pending further consideration of the Council's housing requirements and how it should meet those requirements. The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is a material consideration in the determination of the planning application.

4.28 The site is shown to be wholly within the Green Belt on the Proposals Map South. Policy SS2 :The role of York's Green Belt states that the primary purpose of the Green Belt is to preserve the setting and the special character of York. Policy GB1 continues stating within the Green Belt, planning permission for development will only be granted where the scale, location and design of development would not detract from the openness of the Green Belt; it would not conflict with the purposes of including land within the Green Belt; and it would not prejudice harm those elements which contribute to the special character and setting of York AND it is for one of the following purposes, which includes renewable energy schemes, where it can be proved that the location is necessary for technical reasons and wider environmental benefits can be demonstrated. All other forms of development within the Green Belt are considered inappropriate. Very special circumstances will be required to justify instances where this presumption against development should not apply. (It is considered that this policy is not strictly in accordance with the NPPF which continues to identify renewable energy generation as inappropriate development within the Green Belt for which 'very special circumstances' need to be demonstrated and any other harm considered).

4.29 Policy CC1 Renewable and low carbon energy generation supports and encourages such development. Significant weight will be given to the wider environmental, economic and social benefits arising from renewable energy schemes together with their effects on, amongst others, the scale of the proposals, the visual impact on York's historic character and setting, the sensitivity of the surrounding landscape and proximity to air fields and other sensitive land use; nature conservation sites and features, the road network and other land based activities.

4.30 Policy ENV4 Flood risk states that new development shall not be subject to unacceptable flood risk and where flood risk is present, development will only be permitted the local planning authority is satisfied that any flood risk within the catchment will be successfully managed.



## **Background documents to the emerging Local Plan**

### ***Heritage Topic Paper Update (June 2013)***

4.31 The paper explains that the historic environment of the City of York is internationally, nationally, regionally and locally significant. It recognises the special position of the city in a vale, low lying landscape in which views of York, and the Minster in particular, can be seen from particular vantage points.

4.32 The paper sets out six principle characteristics which defines the special character and setting of York, one of which is 'landscape and setting'. It includes a range of features of natural, historical, and cultural significance that contribute to the special qualities of the local landscape. The landscape provides the city and its outlying villages with a rural setting and direct access to the countryside, and thus has a value/status that reaches beyond the relative quality of the aesthetic landscape.

4.33 At paragraph 6.30, a table analysing 'landscape and setting' is presented, which under the subheading of character elements 'open countryside and Green Belt', the York to Selby disused railway line is identified as an example where these elements can be specifically appreciated.

### ***Naburn Village Design Statement***

4.34 A Village Design Statement (VDS) is currently being prepared in Naburn, and has undergone local consultation to inform the content of the document. A draft has been prepared but has not been to subject to statutory consultation yet ahead of adoption. It therefore carries limited material weight. It sets the community's aspirations for the development of the village.

4.35 The Draft VDS identifies the village as being set in a largely rural landscape surrounded by open country and highly fertile arable land. It states the Sustrans national cycle route 65 on the former railway embankment "has become a much loved and much used leisure facility for walkers and cyclists" (page 6). Any intrusion anywhere in the Parish into the green belt should be resisted with a passion" (page 8). The document recognises the tourism and recreational assets of the village provided by the marina and national cycle route.

## **BRE Planning guidance for the development of large scale ground mounted solar PV systems**

4.36 The report supports the NPPF principles and continues stating that ground mounted solar PV projects, be directed to previously developed land, brownfield land, contaminated land, industrial land or agricultural land preferably of classification 3b, 4, and 5 (avoiding the use of "Best and Most Versatile" cropland where possible). Land selected should aim to avoid affecting the visual aspect of

landscapes, maintain their natural beauty and should be predominantly flat, well screened by hedges, tree lines, etc and not cause undue impact to nearby domestic properties or roads.

4.37 The development of a large scale solar array will require a temporary construction compound for the delivery of and storage of construction materials, plant, machinery and office/ welfare accommodation. Topsoil and subsoil should be stripped from such areas and stored on site for replacement following the completion of construction works. Excavation of soils will be necessary for access roads and cabling also. Any planning application should contain a methodology for soil stripping, storage and replacement and this methodology should subsequently be adhered to during site development.

4.38 Applicants will be expected to direct considerable effort towards minimising the landscape/visual impact of solar PV arrays and associated infrastructure, fencing, lighting and CCTV and any other security measures.

4.39 To minimise ground disturbance enable land to be returned to agricultural use and to minimise noise impacts during construction, pile or screw driven foundations is preferred over concrete trenches and foundations.

4.40 The landscape / visual impact of a solar PV farm is likely to be one of the most significant impacts of such development and developers are usually attracted to south facing sites. Existing hedges and established vegetation, including mature trees, should be retained wherever possible and be protected during construction. Any buildings required in order to house electrical switchgear, inverters etc should be designed and constructed in order to minimise their landscape and visual impact and construction materials should be selected to reflect the local landscape context.

4.41 Regarding ecological impacts, solar PV arrays could have implications for habitat loss, fragmentation and modification and for displacement of species but may also create habitats through undisturbed grassland for many years, wildflower meadows, taller hedges and woodland etc. Security lighting may affect bats. Pile driving may affect any badgers nearby; this will need to be informed by a badger survey and a licence may be necessary. It is advised that large buffer strips (at least 4-5m) are left between perimeter fencing and hedges. The fencing must allow badgers, reptiles and other fauna access into the site.

4.42 Solar farms can generate both glint and glare. Glint may be produced as a direct reflection of the sun in the surface of the solar PV panel. It may be the source of the visual issues regarding viewer distraction. Glare is a continuous source of brightness, relative to diffused lighting. This is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint. Solar PV panels are designed to absorb, not reflect, irradiation. However the sensitivities associated with glint and glare and impact on the landscape is a consideration. Frames and supports can also have impact on glint and glare.

## CONSIDERATION

### Principle of Renewable Energy Development

4.43 Whilst 'sustainable development' may be considered to include renewable energy generation sustainable development as defined by the NPPF comprises three mutually dependent dimensions; economic, social and environmental. Sustainable development, amongst other objectives, involves seeking positive improvements in the quality of the built, natural and historic environment, and to people's quality of life. Simply because the proposal generates energy from renewable sources (solar) does not mean it is automatically 'sustainable' development and the wider impacts (including harm) and benefits (including enhancements) need to be considered.

4.44 There is a presumption in favour of renewable energy development in the NPPF and accompanying PPG unless material factors indicate otherwise. The application raises a number of other considerations, which are material factors, which are assessed in this report. However, the presumption in favour of granting planning permission for renewable energy development does not apply in this case as the site lies within the Green Belt and is therefore subject to restrictive NPPF policies that require very special circumstances to be evidenced. Further the site is at risk of flooding and again restrictive NPPF policies apply that require sequential and exception tests to be passed.

4.45 The PPG on renewable and low carbon energy, further supported by BRE guidance, advises that solar farms should be focussed on previously developed and non-agricultural land; should development on green field sites be necessary, poorer quality land should be used in preference to higher quality land and where possible continued agricultural use of the site, or biodiversity enhancements should be sought.

4.46 Reference to Natural England's Yorkshire and The Humber Region, 1:250 000 Series Agricultural Land Classification map (2010) shows the general area of the site as being Grade 2 Agricultural Land (very good). However this classification has been updated at a local level by the Council to reduce the classification to Grade 3 (good to moderate quality). Specifically in relation to this site, Natural England have advised that the proposed development is unlikely however to lead to significant and irreversible long term loss of best and most versatile agricultural land, as a resource for future generations due to the nature of the development and its temporary and reversible nature.

4.47 The applicant has advised that the solar panels would provide approximately 20-30% of the existing annual on-site energy demand, providing renewable energy of 1.4MWp, equivalent to powering approximately 400 homes with a saving of 800 tonnes of CO2 emissions per year. Appropriate weight must be given to the

ambitions of the company to turn to renewable energy and reduce CO2 emissions and the impact of climate change. However, this weight must be balanced with other material considerations. It should also be noted that the applicant has not provided evidence that they have sought and employed measures to reduce energy requirements in the first instance. Further, the renewable energy produced will be for the STW rather than to provide power to the local community. Therefore the environmental benefits are indirect and focussed on the overall reduction in carbon emissions.

4.48 The submitted Planning Statement sets out a summary of their site selection process explaining only land in Kelda Group's landownership was considered to offset Yorkshire Water's energy demand. The solar farm and STW needed to be co-located. During the site search, those sites that were within national or European designated sites, that had an agricultural land classification of Grade 1 or 2, were of a minimum 1.87ha and on north-facing slopes were discounted. Further work then assessed other criteria including flood risk, topography, planning designations and visual receptors. These assessments did not lead to the application site being discounted.

4.49 Following advice from Natural England, no objections can therefore be raised on the specific use of the agricultural land but it is not considered to be the first preference as in the first instance, the solar farm should have been directed to previously development land. Desk-top review of aerial photographs indicates that there are areas of brownfield land within the STW site particularly to the north-east which are reserved for possible future expansion of the works. This may provide a more suitable location for the solar farm.

4.50 As such the proposals are found to be contrary to the core principles of the NPPF which directs development to previously developed site when they are not of high environmental value (paragraph 17) and the guidance within the PPG on renewable energy at paragraph 13.

## **Green Belt**

### ***Inappropriate development***

4.51 Saved policies from the RSS, together with the proposals map from the DCLP (2005), confirm that the site is located within the Green Belt. Renewable energy development does not fall within the 'exception' definitions of inappropriate development within the Green Belt and the NPPF at paragraph 91 states elements of renewable energy projects will comprise inappropriate development. Reference to applications for solar farms in other authorities confirms that local planning authorities have started with the assumption that solar farms comprise 'inappropriate development' in the Green Belt and this is the approach adopted here.

4.52 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 their permanence. The purpose of the Green Belt is to check the unrestricted sprawl or urban areas and to safeguard the countryside from encroachment. Paragraph 87 of the NPPF continues stating that 'inappropriate development' is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and '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

***Purposes of the Green Belt: Harm to openness and permanence***

4.53 Openness is generally defined as the absence of built form and does not depend on visibility. The site is considered to form an open buffer of countryside between the linear sewage works to the north and Naburn village to the south. The site is open in aspect, devoid of buildings and surrounded in the southern part of the site by natural features including the river and wooded bank to the west and the open countryside beyond, the green embankment and line of trees and shrubs along the cycleway to the south and open countryside to the east. It is acknowledged that the sewage works are to the north and extend along the west boundary but in this location they comprise pools at ground level with steel poles extending vertically 3m in height, and a palisade fence 1.8m in height, over which the mature willows lining the river bank provide a green back drop. The site is therefore assessed as being open and any development would be considered to encroach into the countryside by clearly rendering the site less open and therefore is harmful to the Green Belt.

4.54 The applicant has argued that the site is enclosed by the STW to the north, the river and Bishopthorpe to the west, the former railway embankment to the south and a hedgerow and the road to the east. Bishopthorpe village is at a distance of 400m at its nearest point beyond the river. The embankment does provide a visual screen, it is not considered to sufficiently 'enclose' the site such that the proposals comprise 'infill' or have no impact on openness as a key purpose of Green Belt policy. The low pools to the west of the site do not enclose the site and the hedgerow is a natural feature. We do not agree therefore that the site is 'enclosed' nor the development comprises infill or a 'natural rounding off' of the STW.

4.55 The NPPF states that the construction of new buildings is considered inappropriate. The proposed inverter kiosk is 6.1m in length, 2.6m in height and 2.4m deep. Arguably it is a rectangular structure rather than a building as it is for electrical infrastructure but in itself it would impact on openness. The proposed strings of solar arrays cover the majority of the red line application site, albeit in parallel lines between 4m and 7m apart. They range from 0.8m above ground in the south of the site to 2.5m in height in the north. The panels are static and set at a 22 to 35 degree angle from horizontal, orientated south. When viewed end on, at set specific locations around the site, the parallel banks of panels would allow very

restricted views between panels to the countryside at the end. In places, the countryside and trees lining the river would be viewed above the panels. The development is enclosed by a 2m high deer fence and fifteen 4m high poles with CCTV cameras. A 3.5m wide access track runs through the centre of the site. However, overall the solar farm will appear as solid manmade infrastructure to a height of a single storey building at 2.5m. Clearly, the development including the solar panels and associated infrastructure has an impact on openness and it does not safeguard the countryside from encroaching development.

4.56 The applicant has argued that the proposals would not impact on the setting of York. Viewed from the elevated cycle track and ramps to the immediate south of the site and also from the south east, by the old station cafe and towards Howden Bridge, the development would be visible in the foreground of views over and across open countryside, and including the central tower of the Minster. Such views are not specifically referenced in policy but the open countryside aspect is noted as an example of where the 'setting of York' can be appreciated in the background documents for the emerging Local Plan (Heritage Topic Paper Update (June 2013)) and within an 'extended green wedge' which has been identified as contributing towards the open approach to the city along the river valley (Historic character and setting evidence base) which do carry some material weight. Therefore the proposals are considered to cause harm, in this specific elevated location, to the landscape setting of York.

4.57 Regarding the applicants' argument presented that the development is for a temporary period of 25 years, we have considered whether this is materially considered to be temporary in terms of Green Belt policy and aims. 25 years is a substantial length of time. Moreover, should the development be permitted, the principle of development of the site for renewable energy (assuming very special circumstances are accepted on this basis) would be set. It is therefore considered that the development would be established for a length of time to be considered to have a permanent impact on the Green Belt due to the length of any permission and the strong precedent it would set for continued use of the site for renewable energy generation.

### ***Any other harm***

4.58 The site is positioned on three sides by publically accessible recreational routes being the Sustrans NCN Route 65 on the elevated embankment, the off-road local cycle route alongside the eastern boundary and the river at a distance of 115m (itself used by boats for recreation). From the B1222 the tops of the panels will be seen above the hedge in the north of the site, from the vehicle access point in the northern corner, and from the popular cycle routes. The elevated portion of the cycle track particularly affords vantage points above and over the full site at the site boundary. At its nearest points, the panels will be positioned at a distance of c20m from the ramp to the south of the site and c25m from the elevated cycle track, and c10m from the local route to Fulford. Viewed from these publically accessible

vantage points and well used recreational routes, the development will be industrial in appearance, have a significant impact on openness and encroach the countryside.

4.59 It is this nearness, and full visibility of the site from key points that make the development particularly harmful to the Green Belt, significantly impacting on openness and the purpose of protecting the countryside from encroachment. The current view of the site is of a green field within an open countryside setting with long distance views experienced across the open countryside, interspersed with farmhouses, copses, fields and hedgerows as far as the Wolds. The STW is experienced as a cluster of buildings and works in the middle distance. The proposed development will bring significant industrial structures and development into the foreground and immediate proximity. In other locations, the harm to the Green Belt could be diminished by being set, for example two fields distance away from public vantage points, bringing it into the middle ground. In a flat landscape, the visual zone of influence could be minimal or even zero. In such situations, the harm to the Green Belt could be outweighed by very special circumstances and outweighed by other positive considerations.

### ***Other Considerations and Very Special Circumstances***

4.60 Having established that the development causes significant harm to the Green Belt and that it is inappropriate through its impact on openness and permanence, and to the purposes of the Green Belt, significant weight is attached to the harm to the Green Belt, very special circumstances' would need to be demonstrated to clearly outweigh this harm and any other harm identified if the application were to be considered acceptable.

4.61 The considerations presented by the applicant as amounting to very special circumstances focus on renewable energy generation which would offset 20-30% of the STW energy requirements, resulting in a reduction of carbon emissions of over 800 tonnes per year. This reduces the STW reliance on non-renewable energy and provide a more reliable energy source less subject to price fluctuations. The STW provides essential infrastructure to the residents of York. The co-location of the solar array with the STW is essential for the proposal to be viable. The applicant refers to a range of solar farms from around the country that are located within the Green Belt. . Additional positive benefits of the proposal include enhancements for biodiversity (which is discussed further below). The applicant also considers the proposals to be in broad compliance with the purposes of the Green Belt.

4.62 It should be noted that the renewable energy generation is for the STW use only, which is a public utility, rather than for the national grid or to provide power for the local community. It is recognised that the STW provides essential infrastructure for York and that it is energy intensive. In principle, the generation of renewable energy is, and should be, strongly supported in line with Government advice, but

whether this comprises 'very special circumstances' to outweigh the harm to the Green Belt, requires the application of planning judgment..

4.63 The applicant in presenting additional information in support of the application has referenced a number of applications for solar farms which have been granted permission in the Green Belt. Reference has been made to examples (Burton Farm near Stratford upon Avon, land at the former colliery, Campsall Road and Land at Rowles Farm, Bletchington) and in each case, the solar farms have been identified as inappropriate development in the Green Belt due to their impact on openness, but in the balancing exercise, which is of course specific to each site, the overall harm was outweighed by the generation of significant renewable energy to power between 973 and 1,850 homes following consideration of all other issues. Discussion was presented in the consideration of the application notably on visual impact and prominence and generally these three applications were not visually prominent in the landscape, and where public rights of way passed close to the sites, they were not well used. Positive weight was given however to the temporary and reversible nature of the solar farms.

### ***Green Belt conclusion***

4.64 In summary, substantial weight should be given to any harm to the Green Belt and '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. From the above analysis there is considered to be substantial harm to the Green Belt from the proposals by reason of inappropriate development within the Green Belt and on the purposes of the Green Belt, specifically to check the unrestricted sprawl of urban areas and in safeguarding the countryside from encroachment. The proposals are considered inappropriate development when assessed against NPPF principles.

4.65 The proposals are also found to be contrary to DCLP Policy SP2 which explains the primary purpose of York's Green Belt is to safeguard the setting of the city, including river corridors and open countryside and Policy GB1 states development should not detract from the open character of the Green Belt. The Heritage Topic Paper (2013) and 'historic character and setting' documents (evidence base for the emerging Local Plan and therefore carries some material but limited weight) specifically refers to the York to Selby disused railway line (i.e. elevated NCN Route 65) as an example where the open countryside and Green Belt surrounding York can be appreciated and for its contribution to an 'extended green wedge' which are characteristic features in the city and are defined for their open character. The visual prominence of the development would be particularly harmful to these objectives.



4.66 In this instance, it is not considered that the level of wider benefits of renewable energy generation and the reduction in carbon emissions would clearly outweigh the inappropriate development and specific harm to the Green Belt and therefore do not amount to very special circumstances. The proposals are therefore contrary to the NPPF core principles and guidance in Section 9 and DCLP policies SP2 and GB1.

### **Flooding and drainage**

4.67 The applicant originally submitted a Flood Risk Assessment in support of the application, with a brief Sequential Test at section 10.1 and Exception Test at 10.2 which was not deemed to have met the requirements of the NPPF and accompanying PPG and more comprehensive, robust Tests were requested. It should also be noted that a revised FRA was also requested following the original submission documents, which identified only a small part of the western edge of the site in Flood Zone 3. EA mapping showed a much larger extent in Flood Zone 3 and a revised Planning Statement and FRA was submitted recognising the error and confirming that this had been known when preparing the proposals.

4.68 The applicant submitted a revised Sequential and Exception Test on 13th November 2015. These assessments should have been undertaken and reviewed before any site specific Flood Risk Assessment was considered. The EA approval of the FRA is only on the basis that the Sequential Test and Exception Tests have already been applied.

### ***Sequential Test***

4.69 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A pragmatic approach on the availability of alternatives should be taken.

4.70 The applicant, in accordance with the Council's advice, with no adopted plan in place which has been subject to the allocation of sites for renewable energy generation, has taken the local authority area as the area of search. However, taking a pragmatic approach, as the development is to provide electricity for the STW, and therefore needs to be co-located, the three sites identified in the Publication Draft (2014) version of the emerging Local Plan have been quickly discounted as not being reasonably available for the development as they are between 5.5km and 12km from the proposed site in Naburn.

4.71 Analysis has been presented on land within Yorkshire Water's ownership to the north of the application site. Land immediately to the north of the application site, within the STW is within Flood Zone 2 but contains plan and structures associated with sewage treatment so is not available for development. Land on the Naburn

Lane frontage, whilst in Flood Zones 1 and 2, contains buildings, plant and structures associated with sewage treatment so is not available. Other land within the sewage treatment plan adjacent to the river is in Flood Zone 3 so is not sequentially preferable.

4.72 Finally land in the north east part of the STW, adjacent to Naburn Lane is in Flood Zone 1. However part of the land is used for storage purposes associated with the STW, provides land for further expansion of the sewage works associated with the growing population of York and legislative requirements and contains underground tanks and former reed beds that were used by the STW. It also provides a buffer from the STW to the residential properties to the north and the applicant advises it is less enclosed than the application site with a greater impact on the openness of the Green Belt.

4.73 However, given this limited analysis of the land in the north east, within the STW, it is considered that sufficient robust evidence has not been provided to be confident that this area of land can be discounted. An area of land of similar size to the application site is within Flood Zone 1. Whilst also in the Green Belt, should the principle of the generation of renewable energy for use by the public utility be determined to be 'very special circumstances' balanced with any other harm, this could be a sequentially preferable site. Whilst only a brief desk top review, aerial photos appear to show quite substantial areas of previously developed land within this part of the site. The land is available now, and whilst the applicant may wish to safeguard it for future development of the sewage facility, the solar panels are it is argued for a temporary period of time (25 years) and the impact reversible. There is also no guarantee that the planning permission would be granted for the expansion of the STW in this location. The impact and analysis on the Green Belt by the Council has not been undertaken for this area of land, but it should be noted that it may be more effectively screened and be less visible from well-used public rights of way than the proposed site.

4.74 Moreover, such analysis of aerial photography shows that there are a number of substantial buildings within the STW and it is widely accepted that solar panels can be located on such roofs and could provide a source of energy generation. This may however be more costly and would need to be combined with land based panels to generate the same amount of electricity.

4.75 Regarding the analysis of sites outside the application site and STW, discounting of sites because they are outside of the applicant's landownership is not accepted in relation to the sequential test. They cannot therefore be simply discounted as 'not reasonably available' as they could potentially be bought by the applicant.

4.76 Reference is made to parcels of land to the west of the B1222 up to the A64. There is also a large tract of land to the east of the B1222 Naburn Lane and immediately south of the Designer Outlet, running most of the full length of the STW in Flood Zone 1. Similarly full analysis of the sites and by the Council have not been undertaken and the onus is on the applicant to undertake such analysis. The greater impact on the Green Belt is noted in each case as well as proximity of dwellings and rights of way.

4.77 Generally, the Council's view is that in considering the application, the impact on the openness and permanence of the Green Belt, and its contribution to other Green Belt objectives must be given significant weight but could be balanced with the environmental benefits of renewable energy generation in addition to any other identified harm. In other respects, these sites, further from an elevated National Cycle Route and public rights of way, may be more appropriate and certainly easier to screen to protect visual amenity from well used public rights of way. With the proximity of the Designer Outlet to some of these areas of land, they could arguably have a reduced impact on openness by the proximity of quite substantial development on one side.

4.78 The Council does not consider that the sequential test has been passed.

### ***Exception Test***

4.79 As noted above, it would appear there are reasonably available sites in Flood Zone 1 very close to and even within the STW.

4.80 For the Exception Test to be passed it must be demonstrated firstly that the development provides wider sustainability benefits that outweigh flood risk and secondly a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere. Both elements of the test will have to be passed.

4.81 The wider sustainable benefits of the proposal are identified as being the contribution to the need for renewable energy to assist in combating climate change and reducing carbon emissions. Reducing the impact of climate change actually reduces flood risk. This analysis is supported although the argument could be stronger if the applicant had demonstrated measures to reduce energy requirements which have/or not been possible to implement. They also explain that the energy generated from renewable sources is more secure and avoids price fluctuation but these are not considered key arguments for sustainable development but an economic driver for the company. Nevertheless this contribution to renewable energy together with landscape and ecological enhancements enables the first part of the exception test to be passed.

4.82 The submitted revised FRA has raised no objections from the Environment Agency nor initially the Flood Risk Management Team. However, further response from the latter raised some concerns. As noted in the PPG, in Flood Zone 3a essential infrastructure should be designed and constructed to remain operational and safe in times of flood. In Flood Zone 3b (functional floodplain) essential infrastructure that has to be there and has passed the Exception Test, and water-compatible uses, should be designed and constructed to:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows and not increase flood risk elsewhere.

4.83 The Council's Flood Risk Management officer has commented that the Council's SFRA (evidence based document) identifies the site is in flood zones 2, 3a and 3b (functional floodplain) and although not tabled as Essential Infrastructure within table ES2, the development has to remain operational in times of flood. The area of the site within Flood Zone 3a and 3b (approximately 60% of the site) may be under water or subject to damage by floating debris therefore will not remain operational in times of flood. Further the development should not impede water flows. The southern part of the site containing strings of panels is within the functional flood plan (12% of the site). It is also where the panels are positioned closest to the ground being just a maximum of 0.8m in height in this location. The panels in this location in particular, but potentially across 60% of the site would therefore not remain operational when submerged under water and potentially damaged by floating debris, including possibly displaced when only pile driven into water logged ground, and again not be operational. The panels, when submerged would also impede water flows. This part of the test has not been passed.

4.84 Overall therefore, the Council considers that the information submitted does not enable the Sequential Test to be passed, which must be passed in any instance. The Exception Test has not been passed either. Therefore the proposals are found to be contrary to paragraphs 100-103 of the NPPF and sections 11 to 14 of PPG on Flood Risk and Coastal Change (2015).

### **Impact on Visual Amenity and Landscape**

4.85 A detailed Landscape and Visual Appraisal (LVA) has been submitted by the applicant. It highlights how there is an important difference between the impacts upon landscape character (e.g. features of the landscape such as trees and hedges and features such as tree clumps, church towers or wooded skylines) and visual amenity which is the quality of views of the landscape experienced by people.

4.86 The Council's Landscape Architect has assessed the LVA and broadly supports the approach undertaken and analysis. The LVA follows a recognised methodology and clearly sets out the criteria for the assessment. The LVA makes a

fair assessment of the impact of the development on visual amenity and landscape character, which also recognises that in certain locations the magnitude of change would be 'high' to highly sensitive users of the cycle route and footpath on the southern and eastern boundaries of the site. Whilst the appraisal notes this does not necessarily mean that the development causes harm, the officers' overall assessment is that it does cause significant harm to visual amenity in specific locations.

### ***Visual Amenity***

4.87 The applicant's appraisal recognises the 'high' sensitivity of residents, and the high sensitivity of the users of the National Cycle Route No. 65 and users of the path along the eastern boundary of the site. 'Views of the landscape are likely intrinsic to their enjoyment of the activity be that walking or cycling'. The sensitivity of motorists on the B1222 and Howden lane is identified as 'medium'. This assessment is agreed.

4.88 The appraisal recognises that the magnitude of change would be medium. The effect on visual amenity for users of the raised cycleway would be substantial albeit over a limited stretch of approximately 220m. 'There will be substantial effects on the local cycle path to Fulford that runs parallel with the eastern boundary of the Development site'. The overall effect for motorists on the B1222 would not be substantial. Motorists using 'B' class roads are identified as more likely to be residents of the area (as opposed to users of 'A' roads) and use the roads frequently, therefore generally having a medium visual sensitivity.

4.89 Views are from elevated locations, which increases exposure of the site but also allows views over the site to the rural landscape beyond to the east and north. From the elevated cycle route, the site is thus viewed in the foreground and in far reaching panoramic views across arable fields, copses and farmsteads to the Wolds, although it does not disrupt these views. Close to Howden Bridge, views include the central tower of the Minster. The impact on this view would be very limited due to the intervening presence of hedges and the STW, and the site is not within the actual line of sight of The Minster.

4.90 From the National Cycle Route No. 65, eastbound users will first experience views of the solar farm east of Naburn Bridge but these will be heavily filtered and glimpsed until opposite the southern boundary to the development. Along a 150m section to the junctions with the local cycle path, the development will be a noticeable new feature, the magnitude of change will be medium and the effects substantial. Further east of this junction with the local path, there is less screening vegetation and the magnitude of change will be high and the effect substantial along a 70m section of route. Westbound users will have a similar impact of change. Photomontages have been submitted providing evidence that the magnitude of change will be high and the overall effect substantial at year one. Mitigating planting

proposed at year 5 will not have changed this assessment with the magnitude of change remaining high and the effect substantial.

4.91 From the cycle path to Fulford, the sensitivity of the receptor is high with the rear of the solar panels visible as an ordered array. The panels do not break the skyline and the route of the cycle track is visible on the skyline. The deer fence, CCTV cameras, access track, inverter cabin are all visible. The magnitude of change is considered to be medium and the effect substantial.

4.92 The open field provides separation between the Naburn STW and Naburn village. The installation of the solar panels will bring industrial style development to the forefront of views and therefore undermine the appreciation of the countryside and these panoramic views by users of this popular cycle track. Whilst at particular locations this will be 'head-on' presenting apparently continuous panelling dark in hue, this will not be 'natural' in appearance, clearly altering the natural backcloth through the trees lining sections of the route. It is this immediate presence of the panels, industrial in appearance and just 25m from the elevated cycle track, 15m from the ramp and 10m from the cycle track to Fulford that is particularly relevant, significant and sensitive in this location as compared to other locations for solar farms.

4.93 As the panels are all orientated southwards, they will be viewed 'head on' from a short stretch of elevated footpath at the very southern tip of the site and when travelling in a northwards direction along the local cycle track to Fulford. Elsewhere, including particularly when travelling southwards along this track and from the western ends of the elevated cycle track, the rear and sides of the panels will be presented which are clearly industrial in appearance and more visually harmful. Deer fencing of 2m in height, 4m tall CCTV poles (fifteen in number are shown on the plans), the access track and the inverter station will also all be visible.

4.94 There will be no views of the development from the PRow on the west bank of the river and landform, mature hedges and hedge trees will prevent views of the development from residents on Acaster Lane in Bishopthorpe. From Howden Lane, hedges along the B1222 and other boundaries will screen the majority of the development from view. The tops of panels may be viewed at a distance of 350m thus the magnitude of change is considered negligible and the effect not substantial.

4.95 The sensitivity of the site itself is deemed to be 'medium'. The development would affect the openness of the field and change its appearance. There would be a degree of association with the adjacent STW. The magnitude of change at the actual development site is considered to be high and the overall effects substantial in the localised area within the development site boundary.

4.96 Regarding the receptors, the elevated cycle route is well used by longer distance recreational and leisure users for cycling, walking (including dog walking) and horse riding, in addition to its use as a local route for the villagers of Naburn

and Bishopthorpe and people in the residential suburbs in the south of the city. From Bishopthorpe, the cycle route passes from the edge of the village, through the arable landscape up and over the River Ouse. Attractive, long distance views along the river and river banks and Naburn Marina present a unique and valued landscape which those moving at this walking/cycling speed stop to appreciate. Continuing east, the cycleway in the summer, is curtailed on both sides by mature tree belts, through which glimpsed views of wetlands, middle range views of the arable landscape and green back cloth are appreciated. In the middle distance the Naburn STW are noted, but they do not detract from the views from the elevated position. The views then open out to full panoramic views of the Wolds. The special character and location of the panorama is recognised in the Heritage Topic Paper Update (June 2013) which identifies the elevated cycle path as a location to appreciate the landscape setting and Green Belt surrounding York. As mentioned this document is material but has limited weight.

4.97 The NPPF recognises and seeks to protect the intrinsic beauty of the countryside. This is clearly one such location where this beautiful aspect of the countryside can and is appreciated by tourists, visitors, and local residents as a recreational and amenity resource. It is a unique location in York where the landscape can be appreciated from a height. The development will negatively impact on this valued landscape.

4.98 Whilst the proposed solar panels are for a 'temporary period of time' of 25 years this also equates to a generation and thus whilst it is recognised as being localised harm to visual amenity it is for a relatively long period of time for existing residents and users of the tracks. This harm must be balanced with other considerations.

4.99 The harm caused to visual amenity for the specific sensitive users of the NCN Route 65 on the elevated route and at ground level along the local cycle track are found to be contrary to core principles in the NPPF at paragraph 17 which seek to enhance the natural environment, and recognise the intrinsic character and beauty of the countryside and at paragraph 109 which states planning should protect and enhance valued landscapes. Similarly the harm to visual amenity is contrary to policy SP3 of the DCLP which protects landscape features which enhance the character and setting of the city including river corridors and open countryside and Policy L4 which seeks enhancements to existing walkways and cycleways within river corridors which are important for amenity and recreation.

### ***Landscape Impact***

4.100 The LVA states that the development will have limited potential to affect landscape character. The site is within a unit of River Floodplain Landscape Character Type (LCT) which is a linear area following the River Ouse Valley and extending from the south of York to Selby and Goole. The site is also within the Plantation Woodland and Heathland LCT which covers a wide area and the River

Ouse Floodplain LCT and adjacent to the Low Lying Arable Plain LCT. Notable features in the landscape immediately adjacent to the site include the Naburn STW which is large scale and semi-industrial feature giving the landscape an urban fringe quality, the River Ouse and its floodplain is a key natural linear feature and the Sustrans National Cycle Route (Route 65) running parallel to the southern boundary. Otherwise, the landscape of the development site and surrounding area is fairly typical of the landscape character areas.

4.101 The open nature of the site allows the landscape to be read, with views across the field to the river and the attractive backdrop of trees with large willows on the river bank and the mixed deciduous trees on the embankment of the elevated cycle track. The site's green openness is therefore of value within surrounding views.

4.102 The appraisal therefore recognises that the landscape character type within which the site sits is transitional. The appraisal references the 'urban fringe character' of the surrounding area which is valid (although the appraisal maybe overplays a little the 'muddy' quality of the field). The influence of this is somewhat reduced by the long views and context of the open, rural, agricultural landscape to the east of the site, and northwards beyond the STW.

4.103 Landscape enhancement measures are proposed as there will be gaps between the panels and around the edge of the site. These gaps present opportunity for improving the grassland sward, diversifying habitats and providing foraging and shelter for birds, small mammals and invertebrates. New deciduous mixed hedge, 340 m in length and managed at 1.25m in height with tree planting including alder and oak. Additional tree planting is also proposed in the southern corner to include oak, holly and dog rose.

4.104 During construction, site access is via the existing entrance, there will be minimal earthworks as the panels will be driven into the ground. Existing trees will be protected. The effects on landscape will therefore be very limited. During operation, the landscape effects will be to change the site from pasture land to pasture land with habitat enhancement, solar panels and ancillary development. It will have an effect on aesthetic and perceptual aspects of landscape character where visible from the surrounding landscape.

4.105 Within the development site boundary the majority of the field will be changed to an ordered and uniform linear arrangement of panels mounted on metal alloy frames. The top of the inverter cabin will be visible above the panels and CCTV cameras will be noticeable. The magnitude of change is considered to be high and the overall effects substantial in the localised area within the development site boundary. The new and existing hedge planting and trees will reduce the amount of development visible although the tops of the solar panels will be visible.



4.106 Overall the development is not considered to have a significant impact specifically on landscape character and the proposed landscaping and screening fit within the established elements of the river floodplain and low lying arable plain character areas. The proposals are therefore in accordance with relevant principles in the NPPF.

### **Glint and Glare**

4.107 The applicants have submitted a Glint and Glare Statement to support the application. It explains that glint and glare is the effect of sunlight reflecting off a solar PV panel or set of panels to cause harm or discomfort to a sensitive receptor. A glint is momentary receipt of a bright light and glare is the receipt of a bright light over an extended or continuous period of time.

4.108 As solar panels are tilted at an angle of approximately 30 degrees from the sunlight, any glint or glare is redirected upwards. Reflections at ground level only become possible during the mornings and evenings of late Spring, summer and early Autumn the report states. As the panels accumulate particles and the condition of the panels decrease, so does the ability to reflect light. Glint and glare is described as similar to that appreciated from glass or water. Solar panels are however designed to absorb light rather than reflect it. The report states that in this location, on average, direct sunshine which may cause glint or glare, would be approximately 17% of the time.

4.109 Dealing with glint and glare is described as an everyday occurrence with solar panels having been located close to airports and residential properties.

### **Consideration**

4.110 Public Protection have not expressed any concerns about the impact of any glint and glare on occupants of nearby residential properties, which is their area of concern and this is accepted.

4.111 However, the report does acknowledge that at certain times of the day and within the year, there may be some impact from glint and glare for sensitive receptors at ground level, depending on weather conditions. Presumably these will be the recreational and leisure users of the cycle paths. Whilst this is not considered likely to have an impact on safety of the users (noting the example of locating the solar panels by road sides and runways), it is considered reasonable that glint and glare would have an impact on amenity and pleasure of the users of these footpaths/cycleways. Further, it would presumably have a greater impact on those using the elevated National cycle path as the panels are orientated southwards, at an angle towards where the best location is of a panoramic view across the landscape. This would negatively impact on such a view and draw attention to the development itself. Further, this potential for glint and glare would be maximised in terms of duration as the panels are south facing.

4.112 The applicant has not presented any analysis of the impact on the users of the elevated cycle path and this was highlighted to them. No further information has been presented. It is therefore concluded that glint and glare may be increasingly appreciated by the sensitive users of the track at height with panels directly orientated to the location with the best panoramic view. Whilst this in itself would not warrant refusal, it is considered to be additionally harmful to visual amenity as discussed above.

## Ecology

4.113 The applicant has submitted an ecological appraisal and biodiversity management plan in support of their application. The site was identified as comprising a horse paddock in which the dominant habitat was improved grassland which was heavily disturbed at the site visit by the horses. A partially wet ditch runs along the southern boundary. The embankments of the railway were dominated by ash plantation woodland with understorey. Broad-leaved plantation woodland runs along the western boundary of the site.

4.114 It was considered that the ditch was ephemeral and very unlikely to support breeding populations of amphibians. There are no records of great crested newt within 2km of the site. No badger setts or evidence of badger were recorded during the survey although there were two records of badger within 2km of the site. The report stated that the railway embankment, broadleaved woodland and land within the Naburn STW had potential however to support badgers if they were present in the area and that they may forage in the site and surrounding hedgerows. There was no evidence of water vole and one historical record 700m from the site. There was similarly no evidence of otter and only two historical records (1996). The ditch was unlikely to support otter.

4.115 The site has no potential to support either roosting or hibernating bats. There were 10 bat records within 2km of the site, but no records of roosts. The habitats within the site have negligible potential to support roosting birds although it then continued stating once the grassland sward had developed there would be potential for species such as skylark, grey partridge, lapwing and oystercatcher and foraging habitat for wading birds of conservation concern such as lapwing, oyster catcher and little ringed plover. There was evidence of barn owl at the STW 80m from the site. There was evidence of rabbits and moles within the site but they do not present constraints to development.

4.116 The report concludes that the development is entirely within heavily degraded improved grassland habitat which has limited ecological value. Potential impacts on ecology have therefore been avoided. The development will not directly or indirectly impact any nearby designated sites. It is extremely unlikely that the development will have any adverse effects on bird population of statutory designated sites.

4.117 The development will result in the permanent loss of a small amount of improved grassland. However the majority of the grassland beneath the panels will be retained. It is likely that the composition of the grassland will slowly change due to the altered microclimate and cessation of grazing resulting in greater species variety and value to wildlife. No other habitats will be directly affected and no hedgerows removed. Overall there will be net gain in ecological value of the site. Nonetheless construction mitigation measures and post-construction enhancements are set out in the Biodiversity Management Plan.

4.118 Fence underpasses or small openings will be installed in the perimeter fence to enable badger and other mammals to access the site and retain current use of the site, if they are at present. There is a low risk of the development harming or disturbing badger. Deep excavations will be securely covered or fenced at night where possible and will be checked by the workforce before work recommences.

4.119 To minimise impact on bats, night time lighting should be limited and directed into the works area. The improved grassland will provide improved foraging resource for bats. Grassland seed should be applied to the site.

4.120 There is no scientific evidence of fatality risks to birds associated with solar PV development. However they may result in the displacement of some species and thus a loss in the grassland as a foraging or breeding resource. However improved grassland is relatively common in the surrounding landscape so the development is unlikely to have a detrimental impact overall on birds. A more diverse grassland will provide more valuable habitat. Any vegetation clearance/construction works should be undertaken outside bird breeding season (March to August). It is unlikely that barn owls forage within the site due to its degraded nature and suitable other sites within the STW. The owls may however be disturbed during construction activities and thus again construction is advised outside core barn owl nesting season. All construction work should be preceded by a nesting bird survey.

4.121 The submitted Biodiversity Management Plan seeks to ensure that biodiversity resources are protected during construction and that adequate enhancement measures are implemented at the beginning of the operational phase.

4.122 It was confirmed during the EIA scoping exercise that an EIA was not required on ecological grounds. The Council's Countryside and Ecology Officer, Natural England and the Yorkshire Wildlife Trust do not raise any objections or concerns relating to the proposed development on ecological grounds. The Council's officer has recommended the Biodiversity Management Plan is conditioned to ensure proposed ecological enhancements are implemented and this would be recommended, should the application be approved.

4.123 Due to the enhancements proposed and lack of objection from specialist sources, the ecological improvements can be seen to mitigate some of the other

harm and issues raised by the development. However, as it does not specifically seek to enhance or create habitats for rare and endangered species, the ecological enhancements can be given only low to moderate weight overall.

## **Archaeology**

4.124 A historic environment desk-based assessment has been undertaken by the agent to provide information on any potential cultural heritage and archaeological effects of the development.

4.125 The report identifies that within the wider study area there is substantial evidence for later prehistoric activity. There is evidence of a high level of late prehistoric Romano-British occupation in the local area. Overall there is potential for archaeological remains to be found within the site from the prehistoric to most medieval period.

4.126 As flood deposits cover much of the site, some archaeological remains will have been lost. However, in the eastern part of the site, some remains have been found and that these may still be present within 0.5m of the ground surface. Overall there is moderate potential for unknown buried archaeological remains to survive in truncated form across the site. Archaeological mitigation consisting of strip, map and sample is adequate on the eastern portion of the site with a watching brief on structural elements of the development, supported by preservation by record.

4.127 Regarding heritage assets, the proposed development will not affect their setting.

4.128 The above analysis and recommendations can be supported. Should the application be approved, two conditions are recommended which should be attached to any permission. Reference should be made to the applicant's submitted Archaeological and Cultural Heritage Desk-Based Assessment.

## **Transport**

4.129 The proposed solar farm would generate low numbers of vehicle movements and is therefore unlikely to have a significant effect on the existing road network at construction and operational stages that would require mitigation.

4.130 Construction of the development would occur over a period of two months. As well as the development's components being delivered to site quarry material would also be imported to form unbound surfaces within the site including a 3.5m wide track.

4.131 Trip generation for HGV would average two 2-way trips per day, with most intense period of HGV movement will be eight 2-way trips per day. LGVs or cars used to transport operatives would not exceed twelve 2-way trips per day with

sufficient parking on site. These movements would not affect the operation of existing roads, amenity or general road safety.

4.132 Operationally, it is anticipated that there would be inspections, monitoring and general up-keep of the site amounting to between 10 and 20 trips per year. Overall therefore the operation of the development and construction period will have negligible impact on the highway network.

4.133 Highways have requested amendments to plans to address concerns raised about proposed thorny hedgerow species as boundary treatment alongside cycle routes, conflict with site access and cycle users, the lack of turning areas for vehicles and impact of site clearance and construction works on the local highway network and cycle routes. As the application is recommended for refusal, amendments to plans have not been sought and other issues could be secured by condition in the event that Members are minded to approve the application.

## **5.0 CONCLUSION**

5.1 It is considered that there are a number of strategic and significant issues with the chosen site. The key consideration is whether the production of renewable energy overrides other material issues and the degree of weight, and level of harm, attached to each, balanced against other benefits of the proposals.

5.2 The applicant has not submitted a sufficiently robust and detailed argument that land to the north east of the STW, in Flood Zone 1, nor land to the east of the B1222, albeit not in their landownership, but also in Flood Zone 1 is not sequentially preferable to the application site. The sequential test has therefore not been passed. Whilst the exception test's flood risk assessment has been accepted by the Environment Agency, the local planning authority does not accept that the requirement that the 'essential infrastructure' remains operational in Flood Zone 3b will be passed with the solar panels under water and potentially dislodged by the moving water and debris in times of flood. Therefore neither the Sequential or Exception Tests have been passed and this is the first reason for refusal.

5.3 In assessing the significant harm to the Green Belt by reason of inappropriate development and other harm, including harming the purposes of the Green Belt in this location further harm has also been identified. This has included the harm to visual amenity and for the appreciation of the open countryside setting to York from the elevated NCN Route 65 and ground level off-road cycle route on the eastern boundary as recreational routes and means of sustainable transport at key positions where far-reaching panoramas to the Wolds and towards the city of York are valued. The solar farm would have a significant harmful impact on visual amenity by bringing industrial development to the foreground of these panoramas and open vistas across the countryside. These impacts would be felt for a generation, despite the 'temporary' nature of the proposal as the permission would run for 25 years.

5.4 The proposed solar farm would be located on green field land and on Grade 3 (good to moderate quality) agricultural land. Existing and proposed screening would not reduce the visual impact to zero for specific local users of the cycle tracks although it is accepted that the visual impact will not be significant for vehicles using the B1222 nor from the properties in Bishopthorpe and Naburn villages themselves. However these users are less sensitive to the proposed development than pedestrians, cyclists, equestrians and tourists.

5.5 The applicant has highlighted the contribution to reducing carbon emissions through the generation of renewable energy and the ecological enhancements proposed to the site. However the renewable energy produced will be for the STW rather than to provide power to the local community. Therefore the environmental benefits are indirect. Furthermore, as 60% of the solar farm is within Flood Zone 3, the flooding potential means that the development will not remain operable at times of flood. . Therefore it cannot provide a reliable source of energy and it is profit driven for the STW who charge for customers for the service rather than being solely funded by Government.

5.6 In presenting their case, the applicant has not sufficiently demonstrated that alternative land within the STW is not preferable. Some criteria are presented for the discounting of alternative sites but they do not seem to follow planning principles and appear economically driven. In considering alternative sites, which is a valid consideration for development deemed to be inappropriate in the Green Belt, there appears to be preferable sites available within the STW.

5.7 In conclusion, in balancing the totality of harm and giving significant weight to the specific harm to the Green Belt in this location, the development is considered to be inappropriate development in the Green Belt, for which 'very special circumstances' for the inappropriate development have not been demonstrated.

5.8 Notwithstanding the above, should Members be minded to approve the application, officers would recommend deferral to formulate appropriately worded conditions, and to negotiate improvements to the scheme in terms landscaping and siting of the panels. In addition, because of the potentially significant impact on the openness of the Green Belt the application would also need to be referred to the Secretary to State before an approval could be granted.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Refuse**

1 Policies YH9 and Y1 of the Yorkshire and Humber Plan Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre. The application site, south of the sewage treatment works in Naburn is located within the general extent of the York Green Belt. The site is also within the Green Belt as identified in the City of York

Draft Development Control Local Plan (April 2005). It is considered that the proposed development consisting of a solar photovoltaic (PV) array with associated infrastructure constitutes inappropriate development in the Green Belt as set out in Section 9 of the National Planning Policy Framework and particularly paragraph 91. As such, the proposal results in harm to the Green Belt, by definition, and by reason of any other harm, including the impact on the openness of the Green Belt and conflict with the purposes of including land within it. Whilst 'very special circumstances' have been put forward by the applicant being the generation of renewable energy, this does not clearly outweigh this harm. The proposal is, therefore, considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt land' and City of York Draft Development Control Local Plan policies SP2 and GB1.

2 Circa 62% of the application site is located within the Environment Agency's Flood Zone 3 (12% of the total is within Flood Zone 3b and 50% in Flood Zone 3a) and the remainder within Flood Zone 2. Paragraphs 100-103 of the National Planning Policy Framework supported by Planning Policy Guidance on Flood Risk and Coastal Change are clear that development should be directed away from areas at highest risk. A Sequential Test should be applied for applications on sites that have not been allocated in the Local Plan and been subject to the sequential test. For essential infrastructure in Flood Zone 3, the Exception Test must also be passed. The Environment Agency has advised the LPA to consider the solar farm as 'essential infrastructure'.

The applicant has submitted a revised sequential and exception test and it has been deemed that neither test has been satisfied. There is insufficient robust evidence to show that alternative sequentially preferable sites were not reasonably available. Further, the essential infrastructure in flood zone 3 a and 3b would potentially be underwater and therefore would not remain operational in times of flood and subject to damage by floating debris, and so the exception test has not been met.

Therefore the proposals are found to be contrary to Section 10 of the NPPF, particularly paragraphs 100-103 and to guidance in Planning Practice Guidance Flood Risk and Coastal Change.

3 The harm caused to visual amenity for the specific sensitive users of the popular National Cycle Network Route 65 on the elevated route and the off-road local cycle route at ground level along the eastern boundary is found to be contrary to core principles in the NPPF at paragraph 17 which seek to enhance the natural environment, and recognise the intrinsic character and beauty of the countryside and at paragraph 109 which states planning should protect and enhance valued landscapes. Similarly the harm to visual amenity is contrary to policy SP3 of the City of York Draft Development Control Local Plan (April 2005) which protects landscape features which enhance the character and setting of the city including river corridors and open countryside and Policy L4 which seeks enhancements to existing walkways and cycleways within river corridors which are important for amenity and

recreation.

The specific and localised visual impact of the solar farm from the popular National Cycle Network Route 65 on the elevated embankment to the south of the site and the local cycle route to the east are particularly sensitive to the substantial magnitude of change. The proposals therefore neither enhance the local environment from a visual perspective, protect the intrinsic beauty of the panoramic far-reaching views nor respect and enhance local views of the site. The proposals are therefore contrary to the above policies and harmful to visual amenity.

4 Sufficient evidence has not been supplied by the applicant that the solar farm could not be directed to previously developed land of lesser value and which may be available for the temporary construction of the solar farm. Particularly it appears that land within the north-east of the STW, identified as being for the future potential expansion of the STW, is a reasonable alternative location for the solar farm in addition to potential options of locating the panels above existing structures and buildings. Operating for a time period of 25 years, and reversible in nature, it would not conflict with medium and long-term requirements to expand the STW (assuming planning permission was granted).

These should have been considered and presented as unviable options considering the overall harm caused by the proposed development. As such the proposals are contrary to the core principles of the NPPF which directs development to previously developed site when they are not of high environmental value (paragraph 17) and the guidance within the PPG on renewable energy at paragraph 13.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

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

- Highlighted the errors in the initial submitted reports regarding the alleged Flood Zoning and that in fact c62% of the site was in Flood Zone 3 and the remainder in Flood Zone 2, confirming with the applicant they wished to continue with determination of the application. Amended reports were duly submitted.



- Requested more sequential and exception testing in line with national planning policy and guidance on flooding.

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

It should be noted, that should the planning application have been recommended for approval, revisions and amendments to plans would have been sought to address flood risk and landscaping proposals.

**Contact details:**

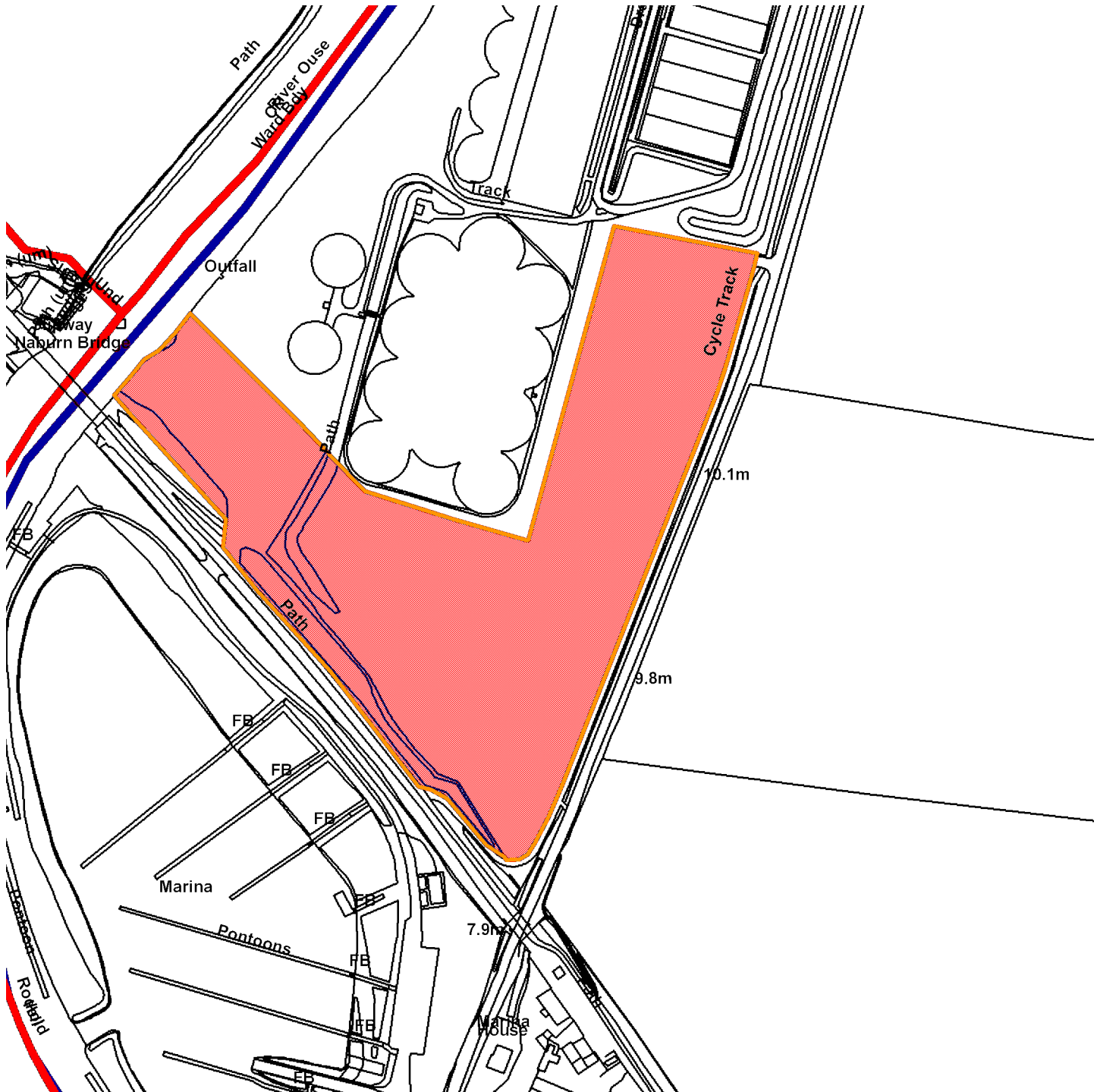
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# 15/01845/FULM

## Sewage Works, Naburn Lane



Scale : 1:3054

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	
<b>Date</b>	01 December 2015
<b>SLA Number</b>	Not Set

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## PLANNING HISTORY

1.6 The following planning applications are relevant to the site area:-

- Planning permission was refused in 1974 for the erection of residential development on the site. The refusal concluded that the development would not accord with the requirements of the development plan and the development would not constitute meaningful rounding off. Development was also resisted because the land protected the identity and character of Knapton.
- In 2005 permission was granted for the removal of an ash tree covered by a Tree Preservation Order.

1.7 A Tree Preservation Order has recently been served on trees within the rear of the site. The order is subject to objection and has not yet been formally confirmed (the trees are protected under a provisional order)

1.8 A separate Tree Preservation Order covers trees to the frontage of Knapton Lane under Tree Preservation Order no.CYC205. This order has been in place since 2005.

## 2.0 POLICY CONTEXT

Policies:

2.1 City of York Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005). Relevant policies applicable to this application include:

- SP2: The York Green Belt
- SP7a: The sequential approach to development
- GB1: Development in the Green Belt
- GB6: Housing Development Outside Settlement Limits
- GP1: Design
- GP4A: Sustainability
- GP9: Landscaping
- HE10: Archaeology
- NE1: Trees Woodlands and Hedgerows
- NE8: Green Corridors

2.2 Emerging Local Plan : See paragraphs 4.17 – 4.19 below.

### 3.0 CONSULTATIONS

#### INTERNAL

3.1 HIGHWAY NETWORK MANAGEMENT - Improvements to the nearest bus stops are sought through a section 106 agreement and incentives offered to first occupiers to choose sustainable modes of transport. The proposed access arrangements are unacceptable. The crossing points at the access do not have sufficient pedestrian visibility. The path should extend from the access point along the site frontage to join with the existing path on Knapton Lane.

3.2 PLANNING AND ENVIRONMENTAL MANAGEMENT (ECOLOGY) - The proposals will result in the loss of the majority of habitat on site, save some of the mature trees at the front of the site (south-eastern corner). Whilst the new screening belt on the western boundary could provide mitigation, it would take a long time for these to reach a similar maturity as the willow coppice stools that will be lost.

3.3 PLANNING AND ENVIRONMENTAL MANAGEMENT (LANDSCAPE) - Significant objections to the scheme based on the loss of tree cover within the site (including loss of trees covered by a Tree Preservation Order) and the loss of landscape setting of the entrance to the city and reduction in the space between Knapton and the City.

3.4 PUBLIC PROTECTION - No objections to the principle of the development subject to conditions to ensure residents are protected during the construction phase, contamination and protection of air quality.

3.5 FLOOD RISK MANAGEMENT TEAM - No objections in principle subject to conditions which seek to control the discharge of surface water from the site.

#### EXTERNAL

3.6 RUFFORTH WITH KNAPTON PARISH COUNCIL - fully supports local residents in Knapton Lane, Knapton and the surrounding area in their objections to this application. Objects for the following planning reasons:

1. The land has always been part of the "Green Belt" which protects Knapton from being coalesced. On previous occasions this site has been refused permission for development on these and other grounds.
2. The description of the site as waste ground is incorrect.
3. The access to the site is on an already dangerous bend on Knapton Lane. A large refuse vehicle turning left from the site looks as if it would have problems per drawing 3295/SK001/003 on a difficult bend in the road. This would apply also to site traffic during development.

4. The Rufforth with Knapton Neighbourhood Plan questionnaire put the importance of protecting Green Belt very high and comments are around supporting open spaces and a rural village feel.
5. The ecological appraisal refers to foraging habitat for bats but says there is no roosting, residents say they are there.
6. The access point from the site needs more thought as it is on a difficult and dangerous bend. There are also concerns about the additional volumes of traffic through Knapton Village from the site.

3.7 AINSTY INTERNAL DRAINAGE BOARD – States the site is in an area where drainage problems exist and development should not be allowed until the Authority is satisfied that surface water drainage has been satisfactorily provided for.

3.8 YORKSHIRE WATER AUTHORITY - States the submitted drainage information is not satisfactory as it does not clarify whether soakaways can be used. The public sewer does not have enough capacity to take the surface water from the site.

3.9 YORK NATURAL ENVIRONMENT TRUST - States there are two copses within the application site one dominated by Ash and the other dominated by willow. The ash saplings are important in the search for strains resistant to ash dieback disease. Young trees can now be protected by TPO and this is recommended. The copse enhances views of the city edge and the value of the views out of Knapton village are recognised in their village plan. The site acts as flood storage for water and the site has a large amphibian population, the presence of Greater Crested Newts should not be discounted. Loss of the site to development would add to the burden of land drainage which is already overburdened and damage habitats. The site is within the Green Belt; it is not surrounded by houses. Overall the site plays a key part as an interface and connection between countryside and the Acomb Green Corridor. Approval of green sites inevitably deter development on brownfield land.

3.10 OTHER REPRESENTATIONS - There are 81 letters of objection to the application including a communal objection (which is a substantial comprehensive document) on behalf of the friends of Knapton Lane woodland, a 55 signature petition from the Knapton Lane residents association as well as a planning consultant's response sent on behalf of the residents association and other residents in the area. The objections cover the following points:-

- The site is in Green Belt; the development is inappropriate development and should not be approved except in 'very special circumstances' - no 'very special circumstances' exist.
- The Inspector's report into the 1994 North Yorkshire Green Belt Local plan Inquiry considered that the land performed several important Green Belt functions.
- All maps in the last 20 years have shown the site to be in Green Belt.



- Letter to residents in 2011 from planning committee member advised that the site would be considered as Green Belt.
- The map accompanying the document 'have your say on York's Local Plan' shows the site in Green Belt
- The site makes a significant contribution to all the recognised Green Belt purposes
- The site has considerable environmental and ecological value
- The TPO on the rear part of the site is completely ignored by the developer
- Environmental damage will be caused by the development which can not be mitigated by a 17 metre wide landscape buffer
- Access is on a dangerous bend
- Site currently serves as a natural and free soak away to the surrounding area. Existing tree cover is important. Flooding has occurred on the land and this is not acknowledged by the developer
- Important visible feature of the local landscape
- Loss of recreational amenity to residents and visitors to York. Knapton Lane through to Knapton village is a well used walking route with a relatively safe crossing over the A1237.
- Density of development is insensitive to the character of the area.
- There will be damage to road surfaces, traffic jams, and general pollution and disruption caused by heavy construction traffic and building work
- The application is reliant upon the fact that there is no clear plan for development in York
- Brownfield site should be developed first
- York suffers from an absence of woodland, woodland is important to retain where it exists.
- Insufficient information has been submitted to assess the application.
- The proposal does not represent infill development as has been suggested.
- Development could affect the privacy of properties on Lochrin Place especially if development is three storeys high.
- With the amount of major development proposed within the vicinity of this site local roads will struggle to cope.
- Site provides separation between settlements and prevents encroachment into the countryside.
- Allocation of the site has been rejected
- The developer's view that the Green Belt has no status is incorrect; the Green Belt has status because the policies in the Regional Spatial Strategy relating to York's Green Belt have not been revoked.
- Erection of 14 dwellings is over development of this site.
- Knapton Lane/Ten Thorne Lane are high amenity areas as it is a popular pedestrian and cycle route. The levels of traffic on the road would be detrimental to the amenity of the area.

## 4.0 APPRAISAL

### 4.1 Key Issues:-

- Planning policy
- Green Belt
- Character and appearance of the site
- Site layout
- Access
- Ecology
- Tree preservation order
- Drainage

## PLANNING POLICY

### National Planning Policy Framework

4.2 Paragraph 14 of the National Planning Policy Framework (NPPF) says that at the heart of the NPPF is a presumption in favour of sustainable development for decision taking this means that where the development plan is absent, silent or relevant policies are out-of-date granting planning permission unless specific policies in the framework indicate development should be restricted. Foot note 9 reference to paragraph 14 indicates restrictions include Green Belt locations.

4.3 The core planning principles at paragraph 17 include the expectation that planning should not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives; always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings; take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

4.4 Paragraph 50 of the NPPF supports the delivery of a wide choice of high quality homes to create a sustainable, inclusive and mixed community. Local Authorities are therefore required to plan for a mix of housing based upon current and future demographic needs of different groups in the community and which reflects local demand. Paragraph 7 (sustainable development principles) defines the 3 dimensions to sustainable development which includes the supply of housing to meet the needs of the present and future generations in accessible locations. Paragraph 34 states that developments should be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

Paragraph 152 (Strategic priorities within the Local Plan Area) states that Local Planning Authorities should seek to achieve the three dimensions of sustainable development, avoid adverse impacts and pursue alternative options which would reduce or eliminate such impacts.

4.5 Section 7 of the NPPF requires good design. Paragraph 56 says good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment (Para 61).

4.6 Section 9 'Protecting Green Belt Land' says that the essential characteristics of Green Belts are their permanence and openness (paragraph 79). Paragraph 88 says 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 says that the construction of new buildings is inappropriate subject to a number of exceptions. Only dwellings which are for agricultural or forestry purposes or form part of a rural exception site (affordable housing) are exceptions.

4.7 Section 11 of the NPPF aims to conserve and enhance the natural environment and requires the planning system to contribute by 'minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures' (Para 109). In preparing plans, Paragraphs 110 and 113 are required to minimise effects on the environment and set criteria based policies which protect biodiversity to enable commensurate protection to their status as well as the contribution they make to wider ecological networks. Paragraph 118 requires that in considering planning applications the aim should be to conserve and enhance biodiversity.

4.8 The NPPF says at Annex 1, paragraph 216, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the Framework policies, the greater the weight that may be given). Weight may also be given to relevant policies in emerging plans according to the stage of preparation (the more advanced, the greater the weight that may be given), the extent to which there are unresolved objections (the less significant, the greater the weight) and the degree of

consistency of the relevant emerging plan policies to the Framework policies (the closer they are, the greater the weight).

#### National Planning Practice Guide (NPPG)

4.9 In general, the NPPG supports the priorities set out in the NPPF with regards to the delivery of a suitable mix and type of housing / accommodation as well supporting the requirements to meet the health and well-being of residents through suitable infrastructure delivery.

4.10 The NPPG also supports policies set out in the NPPF in relation to conserving and enhancing the environment, including identification of local ecological networks.

4.11 The NPPG advises that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the 'Very special circumstances' justifying inappropriate development on a site within the Green Belt.

#### Development Plan

4.12 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. The development plan for York comprises the retained policies of the Yorkshire and Humber Regional Spatial Strategy (RSS). These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies require the inner and the rest of the outer boundaries are 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.

#### Local Plan

4.13 The City of York Council does not have a formally adopted Local Plan. Nevertheless the City of York Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) (DCLP) was approved for Development Management purposes.

4.14 The 2005 DCLP does not form part of the statutory development plan for the purposes of S38 of the 1990 Act. Its policies are however 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.

4.15 The site is shown as being located within Green Belt on the proposals map in the plan.

4.16 Policy GB6: 'Housing Development Outside Settlement Limits' is relevant given that this site sits outside of the settlement limit for the main urban area as well as Knapton Village as shown on the proposals map for the Local Plan Fourth Set of Changes (2005). This policy states:

'Housing development (other than replacement dwellings) outside defined settlement limits in the Green Belt and open countryside will only be permitted where:

- a) it is essential for agriculture or forestry in that area; or
- b) it is for affordable housing development on small 'exception' sites that comply with the criteria outlined in policy GB9'

## EMERGING LOCAL PLAN

4.17 The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is a material consideration in the determination of the planning application.

4.18 Policy H3: Balancing the Housing Market sets York's local requirement for a mix of types of housing which reflects the diverse mix of need across the city as defined by the most up-to-date Strategic Housing Market Assessment. It states that 'Proposals will be supported that are suitable for the intended occupiers in relation to the quality and type of facilities, and the provision of support and /or care.'

4.19 The site is shown within the Green Belt on the latest version of the Local Plan Proposals Maps (Publication draft, 2014).

## LOCAL PLAN EVIDENCE BASE

4.20 The Site Selection paper prepared for the Preferred Options stage of the emerging local plan included this site for consideration having received it as part of the Call for Sites 2012. The site was incorporated into amalgamated site 326 in the Site Selection Paper. Following consultation on the Preferred Options, the Council undertook a Further Sites Consultation (FSC) in 2014 to consult on new sites submitted and changes to draft allocations previously included. Further evidence in relation to this site was received to analyse the site boundary for this parcel of land separately to the amalgamated parcel. The site was not put forward for allocation primarily because of ecology, landscape and viability concerns. The conclusion of the technical officer report for the site states:

'Development of this site would be severely limited due to the buffering required to maintain the ecological corridor. It is also considered that development of the site would change the setting and approach into the city as currently categorised by housing to the front with long gardens behind, The cumulative effects of landscape/ecology/setting and viability would reduce the site size significantly and likely make the site unviable.' The Publication draft Local Plan (October 2014) therefore did not include this site as an allocation.

4.21 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the National Planning Policy Framework (NPPF). It is against this Framework that the application proposal should principally be addressed.

## GREEN BELT

4.22 The site is located within the general extent of the Green Belt as described in the RSS. The policies in the RSS have been retained in order to establish long term development limits that safeguard the special character and setting of the historic city. The site is shown as being within Green Belt on the proposals map in the DCLP and is retained within the Green Belt in the emerging Local Plan.

4.23 Although paragraph 14 of the NPPF sets out a presumption in favour of sustainable development, in accordance with the footnote referenced within paragraph 14 the presumption in favour of sustainable development does not apply in Green Belt locations.

4.24 Paragraph 89 of the NPPF establishes that the construction of new buildings, with a number of exceptions, is inappropriate in the Green Belt. The submitted information with this application does not argue that any of the exceptions set out in paragraph 89 apply to the site.

4.25 Similar to Paragraph 89 GB1 of the DCLP is permissive of certain development in the Green Belt. The proposal is not for any of the purposes listed and confirms the position within paragraph 89 of the NPPF that all other forms of development within the Green Belt are considered inappropriate. The NPPF confirms at paragraph 87 that inappropriate development is by definition harmful to the Green Belt. Paragraph 88 says substantial weight would need to be given to harm by reason of inappropriateness and any other harm. Very special circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

## OPENNESS AND PURPOSES OF GREEN BELT

4.26 To the east of the site is 41 Knapton Lane a semi detached property fronting Knapton Lane with long rear garden running the full length of the eastern site boundary. This pattern of long rear gardens continues down the north side of Knapton Lane. Three houses accessed from Lochrin Place abut the northern end of the site; Knapton Lane runs along the southern side with semi-detached houses beyond. These are set back from the road and separated from it by substantial front gardens with hedged and walled front boundaries. The western side of the site is open to the fields. The proposed development, which consists of in depth development in a new landscape structure, will introduce new development into an area that is currently undeveloped. Paragraph 79 of the NPPF indicates that openness and permanence are essential characteristics of Green Belt. In introducing development on to an undeveloped site, the proposal would result in a loss of openness. Officers would attach significant harm to the loss of openness on this pivotal site between Knapton and Acomb.

4.27 Paragraph 80 of the NPPF sets out the purposes of Green Belt; These are 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. As has been discussed within the call for sites procedure the application area is considered important in maintaining the division between York's urban area and the rural settlement beyond. The land is considered to contribute to openness and the setting of the city and assists in safeguarding the countryside from encroachment. This helps to achieve urban regeneration by encouraging the recycling of derelict land and other urban land rather than green field sites. The existing built edge of the settlement is well defined by trees and hedging and through its site characteristics restricts sprawl of the urban area creating an appropriate stop to the urban edge. Furthermore the site is part of a relatively narrow area of land which separates Knapton village from the urban area of York. The land is important to the rural setting of Knapton and thus the land has a role to play in preventing coalescence. In Officers' opinion the proposal would have an adverse effect on all of the purposes of including land in the Green Belt.

4.28 In summary, the proposal would be inappropriate development. According to the NPPF, paragraph 87, inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would also cause harm to openness and Green Belt purposes.

## CHARACTER AND APPEARANCE

4.29 The Landscape Architect has, through her consultation response, set out an assessment of the landscape character of the area. The wider landscape character to the west of Acomb/Knapton, and beyond the ring road, is informed by intense arable farming practices, with a resulting relatively large field pattern, interrupted by Harewood Whin and Rufforth airfield. Woodlands are sparse. Some smaller fields and pasture survive around the margins of Knapton village.

4.30 The small scale of the enclosed parcel of land is suited to the edge of settlement location and introduces interest into the landscape setting. From the western approach the vegetation on the application site provides an attractive foil for the arable land, and a softening of the built edge, whilst reinforcing the division between Knapton and Chapelfields, and providing a loose but distinct bookend to the urban edge.

4.31 The site and adjacent garden areas have been identified as a local green infrastructure corridor (see paragraph 4.43 below) making a significant link between the built up area and the open countryside beyond.

4.32 The entrance to the city from Knapton is distinctive; the road is narrow, with hedges and grassed verges, bending as it enters Acomb. The group of trees in the southeast corner of the site are also present on the historic maps, the existing mature trees are subject to Tree Preservation Order CYC 205; these act as a natural gateway feature to Knapton Lane. The site with its tree covered frontage, informal tree layout and open grass land obscures views into the urban area and is a significant element of the visual quality of the Lane.

4.33 The application proposes a woodland belt along the site's outer western edge. This would be relatively narrow and conspicuous in its regular width and would project in to the western open field. The position of the tree belt, its regularity and its separation from the garden areas on Knapton Lane would not provide an adequate replacement for the existing informal nature of the landscape. The loss of the site and the section of the adjoining open agricultural field to development and new landscaping would significantly reduce the limited separation between Knapton village and the City. Knapton Village Design Statement identifies the open views from the village as one of its most valued assets, including views along Ten Thorn Lane stretching to the boundary with the City of York. Design guideline no.5 states 'In accordance with Local Plan policies the green and open land between Knapton and York should be preserved to maintain the rural character and open vistas of the village and avoid merging with the edge of neighbouring settlements.'



4.34 The proposal to introduce an estate form of development within a lane that is characterised by frontage development with long rear gardens is at odds with the prevailing character and appearance of the area.

4.35 Overall it is considered that the erection of 14 dwellings as part of an in depth development served from Knapton Lane with landscaped western boundary would not be compatible with the prevailing character of the area, detracting from the open rural setting of Knapton village and the rural setting of the city and would cause significant harm to the character and appearance of the area. This is contrary to the core planning principle of the NPPF of recognising the intrinsic character and beauty of the countryside and GP1 of the DCLP which similarly expects proposals to respect or enhance the local environment.

## SITE LAYOUT

4.36 All matters related to the site layout apart from the entrance from Knapton Lane have been reserved however an illustrative layout shows the site being developed as an estate development providing for 14 houses.

4.37 The density requirements in the DCLP are for 40 dwellings per hectare in urban areas and 30 dwellings per hectare elsewhere. The emerging local plan seeks densities higher than this in urban areas at 50 dwellings per hectare and 35 dwellings per hectare in rural areas. Policies require that consideration is given to the overriding character of the area when designing a layout and the appropriate density and acknowledge that compatibility with a site's surroundings will be important.

4.38 For the reasons discussed in the character and appearance section of this report it is considered that the proposed estate form of development is not appropriate to the prevailing character of Knapton Lane which consists of frontage development within large garden plots. Development on a consistent or similar line with existing houses on Knapton Lane would not be achievable because of the tree preservation order along the site frontage.

4.39 Commenting on the submitted layout, Environmental Management (Landscape) raises concerns that the proximity between rear garden areas in the proposed layout and the new tree belt will be too close and would be likely to lead to requests for works to trees once the tree belt matures. It is considered that a detailed scheme providing an acceptable relationship between rear garden areas and proposed trees could be achieved if the principle of the form of development were found to be acceptable.

4.40 As submitted the layout of the scheme is considered inappropriate to the prevailing character of development along Knapton Lane.

## ACCESS

4.41 The application includes details of access arrangements. The scheme shows a new access into the site from the west side of the site frontage. The access point is designed with a typical estate entrance detail of 5.5 metre carriageway with two 2 metre footpaths. The access point shows a visibility splay of 2.4 by 45 metres eastwards and 2.4 by 48 metres westwards. Uncontrolled crossing points are proposed at either side of the entrance to allow pedestrians to cross to the south side of Knapton Lane. Highway Network Management (HNM) is not satisfied with the proposed access detail. There are concerns that the pedestrian crossing points do not have sufficient visibility. The solution suggested by HNM is to extend the footpath along the site frontage to join the existing footpath to the east of the site. There would then be no need for crossing points. The applicant has sent in an amended plan which shows the amended footpath arrangements suggested by HNM. Whilst the technical solution proposed by HNM is the best option from a pedestrian safety perspective, the extension of the footpath would reduce the grass verge along the site frontage and would necessitate works to the trees which overhang the verge and are covered by a Tree Preservation Order. The hard surface may also impinge on the roots of the trees. Officers are not satisfied that a form of access has been provided that ensures the safety of highway users and protects the trees within, and the visual amenity of, the site and its surroundings.

## ECOLOGY

4.42 The application area is identified as being within a Local Green Infrastructure Corridor (13 Acomb Corridor) in the evidence base to the emerging Local Plan (Open Space and Green Infrastructure - September 2014). Through the Local Biodiversity Action Plan these have been identified across York with the aim to link together habitat to create an overall structural network for wildlife. The Acomb Corridor is important for a series of grassland sites (many designated as SINCs) and extensive aligned gardens linked to create a network of corridors through the area. Priorities for wildlife enhancement of this corridor include neutral/acid grassland, garden habitat, fens and marshes, and ponds.

4.43 Environmental Management (Ecology) is satisfied that the ecology report submitted provides a fair representation of the site. The site is an interesting mosaic of habitats providing structural variation in the vegetation. The bluebells and lords and ladies recorded in the broad-leaved woodland area to the front of the site can indicate that woodland has been present in an area for a long time and indeed the 1853 OS Map shows trees in this area. Where this woodland meets the area of grassland and ash saplings there is a small, notably wetter area where there is one stand of yellow iris, and marsh woundwort is frequent. At the rear of the site is an area of willow (possibly old coppice stools) where the ground flora is sparser. The site appears to have regular disturbance through public access, although the density of the vegetation naturally restricts this access.

4.44 Together, the site with the gardens of Knapton and Beckfield Lane form a sizeable piece of semi-natural habitat. This area will currently be unlit adding to its value for wildlife such as hedgehogs which are a species 'of principal importance for the purpose of conserving biodiversity' covered under section 41 (England) of the Natural Environment and Rural Communities (NERC) Act (2006) and protected species such as bats. Whilst the development is unlikely to significantly impact on these species it will erode the habitat available to them. Environmental Management concurs with the ecology report that the site is unlikely to support roosting bats but is likely to be used for foraging. The site also presents good nesting habitat for common bird species.

4.45 The applicant's ecology report concludes that 'the vegetation to be cleared has a low ecological significance in the local area' (paragraph 7.1.3). The Countryside Officer disagrees with this conclusion. The habitats on site can be assessed as being of local importance as wooded areas within the local context are uncommon.

4.46 The Chartered Institute of Ecology and Environmental Management's (CIEEM) Guidelines for Ecological Impact Assessment defines a significant ecological impact as 'an impact on the integrity of a defined site or ecosystem and/or the conservation status of habitats or species within a given geographical area, including cumulative impacts.'

4.47 Policy NE8 of the DCLP 'Green Corridors' states that planning permission will not be granted for development, which would destroy or impair the integrity of green corridors and stepping stones (e.g. river corridors, roads, railway lines, cycleways, pockets of open space and natural or semi-natural vegetation etc). Conversely, development that ensures the continuation and enhancement of green corridors for wildlife will be favoured.

4.48 Officers consider that in the medium term the development would have a negative impact on the integrity of the Acomb Green Corridor through the loss of habitats on site. Environmental Management say that the proposals will result in the loss of the majority of habitat on site, save some of the mature trees at the front (south-eastern corner). Whilst the new screening belt on the western boundary could provide mitigation, it would take a long time for these to reach a similar maturity as the willow coppice stools that will be lost. If designed properly, the proposed tree belt could eventually replace the existing biodiversity to be lost at the site.

4.49 The NPPF says that in determining applications authorities should aim to conserve and enhance biodiversity. If significant harm resulting from development cannot be avoided through adequate mitigation or as a last resort, compensated for, then planning permission should be refused. The scheme will result in the loss of trees and areas of habitat at the rear of the site as well as disruption to the habitat

along the site frontage through the introduction of the proposed access. It would change the sites importance to the Local Green Infrastructure Corridor. As a site for 14 houses the contribution of the site to York's wider housing need is relatively limited. The new compensatory landscaping is located partially within the adjacent agricultural field and would separate the proposed landscape from the wider landscape benefits provided by the existing areas connection to the Knapton Lane gardens. Loss of the biodiversity of the site is considered to be harmful to the green corridor and contrary to the advice in NPPF paragraph 118 and NE8 of the DCLP.

## TREE PRESERVATION ORDER

4.50 Trees along the frontage of the site are covered by Tree Preservation Order (TPO) no. CYC205. This order has been in place since 2005 and covers the area of land to the site frontage including the area where the access road is positioned. In 2015 a further TPO was placed on trees to the rear of the site. This is a woodland order covering willows within the site (order number CYC341). This order is currently provisional but may have been confirmed by the time the application is considered at committee; Members will be updated at committee on this matter.

4.51 The Town and Country Planning Act 1990 and subsequent acts and regulations allow the protection of trees for amenity reasons. Policy NE 1 of the DCLP says that development should be refused that would result in the loss or damage of trees and woodland.

4.52 The Arboricultural report by JCA Ltd. was carried out in March 2015. The arboriculturalist carried out a TPO check on 2nd February 2015 at which time the latest TPO had not been served , though the survey does recommend that a further check is carried out prior to any works being undertaken (para.3.3).

4.53 The TPO'd Willows making up the woodland in the northern half of the site are identified as G10 within the Arboricultural Report. There are a significant number of trees within this group, but overall the condition of the trees is considered to be 'Good' (out of good, fair, or poor). Life expectancy is estimated at approximately 20-40 years (out of less than 10, 10-20 yrs, 20-40 yrs, or more than 40). Thus the trees are of moderate quality with a significant life expectancy. However the survey states the amenity value of group 10 to be 'low'. According to the arboriculture survey, this places them in retention category 'C' (out of A, B, C and U) rather than B.

4.54 The Willow woodland is visible from the eastern end of Knapton village and along Ten Thorne Lane as one approaches Knapton Lane. It is a distinct soft feature in the landscape, and provides a suitable attractive buffer between the edge of the city and the countryside beyond.

4.55 There are other landscape features that have a more immediate presence and thereby act as a distraction from the presence of the woodland, which is lower in

height than other mature trees in the vicinity, i.e. the standard Oak trees within the hedgerows to the north of Ten Thorne Lane, the larger protected trees fronting Knapton Lane (subject to TPO CYC 205), and the mature, street trees along Knapton Lane. The hedge along Ten Thorne Lane is also a prominent visual feature.

4.56 The proposed development will mean the loss of the majority of the trees subject of the provisional order. The trees as part of the landscape character of the area and are a well-recognised natural asset that make a valuable contribution to the character and appearance of the area. Their loss will be detrimental to the area's character and appearance and contrary to policy NE1 of the DCLP.

4.57 The creation of the site access would result in a reduction in the existing, continuous line of vegetation along the frontage with Knapton Lane, and the potential to perpetuate an uninterrupted group of trees (some of which are covered by the group TPO order) that naturally mark the transition from the built edge to the open countryside. This is an important consideration and is a concern which is addressed in the character and appearance section above. The trees and vegetation that would be affected by the site access is smaller than the large mature trees at the eastern edge of the frontage. The loss of the trees to provide the access is over a limited area, and it is considered that their loss in arboricultural terms could be compensated for within the proposed shelter belt.

## DRAINAGE

4.58 The site falls within Flood Zone 1, low risk and should not suffer from river flooding. Objectors raise significant concerns about drainage. Objectors consider that the site and the trees within it provides a natural and free soak away to the surrounding area; the land is frequently flooded.

4.59 The application is supported by a drainage strategy; the Water Authority, the Internal Drainage Board and the Flood Risk Management Team do not object to the principle of development but do require clarification of how surface water from the site will be attenuated. Officers are satisfied that were the principle of development to be acceptable a means of disposal of surface water could be achieved through the use of a Sustainable Urban Drainage System and that drainage requirements could be secured through planning conditions.

## OTHER CONSIDERATIONS - VERY SPECIAL CIRCUMSTANCES

4.60 The applicant takes the view that the site is not located within the Green Belt because the inner boundary has not yet been defined in any adopted plan and in their view the site does not serve any of the purposes of Green Belt. However the planning statement sets out the issues considered to amount to very special circumstances to outweigh harm by reason of inappropriateness and any other

harm. This is submitted because the applicant has been advised through pre-application that Officers consider the site to be within the Green Belt.

4.61 The applicant says that the very special circumstances are:

- The site has built development on three sides and the proposal represents rounding off.
- The proposed landscape buffer will form a more defensible boundary for any future adopted Green Belt boundary.
- whilst significant weight can not be given to the unmet need for housing the lack of a five year housing land supply can contribute to part of an overall balance and can be afforded modest weight
- creation of jobs in the construction industry and spin off benefits in terms of local spend in the area

## HOUSING LAND SUPPLY

4.62 It has been acknowledged in recent appeals/applications that we do not have an NPPF compliant 5 year housing land supply. There are a number of sites to the west of York that have been identified through the call for site and there are also a number of development schemes which are advancing within the urban area in this area. The contribution of 14 dwellings to the unmet housing need is only considered to be of limited weight. Furthermore the NPPG advises that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the 'very special circumstances' justifying inappropriate development on a site within the Green Belt.

## 5.0 CONCLUSION

5.1 The site is located within the general extent of the Green Belt as described in the RSS. The policies in the RSS have been retained in order to establish long term development limits that safeguard the special character and setting of the historic city. The site is shown as being within Green Belt on the proposals map in the DCLP and is retained within the Green Belt in the emerging Local Plan.

5.2 The erection of residential development on this area of undeveloped land on the edge of York is considered to be inappropriate development in the context of section 9 of the NPPF.

5.3 The NPPF confirms at paragraph 87 that inappropriate development is by definition harmful to the Green Belt. Paragraph 88 says substantial weight would need to be given to harm by reason of inappropriateness and any other harm. Very special circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

5.4 In officers' opinion the very special circumstances put forward by the applicant; that the development is rounding off of the settlement, that the proposed landscape buffer will provide a more defensible Green Belt boundary, lack of a five year housing land supply and the creation of jobs are not sufficient other considerations to clearly outweigh the definitional harm and other harm (that is harm to the character and appearance of the area, harm to the purposes of Green Belt and openness, harm arising from ecology, the proposed access arrangements and loss of trees covered by a Tree Preservation order) identified in this report. As advised by paragraph 87 and 88 of the NPPF development that is harmful to the Green Belt for which there are no very special circumstance should not be approved.

5.4 The scheme will result in the loss of trees and areas of habitat at the rear of the site as well as disruption to the habit along the site frontage through the introduction of the proposed access. It would change the sites importance to the Local Green Infrastructure Corridor. As a site for 14 houses the contribution of the site to York's wider housing need is limited. The new compensatory landscaping is located partially within the adjacent agricultural field and would separate the proposed landscape from the wider landscape benefits provided by the existing areas connection to the Knapton Lane gardens. Loss of the biodiversity of the site is considered to be harmful to the green corridor and contrary to the advice in NPPF paragraph 118 and NE8 of the DCLP.

5.5 The proposed development will mean the loss of the majority of the trees subject of the provisional TPO CYC 341. The trees as part of the landscape character of the area are a well-recognised natural asset that make a valuable contribution to the character and appearance of the area. Their loss will be detrimental to the area's character and appearance and contrary to policy NE1 of the DCLP.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Refuse**

1 Policy YH9 and Y1 of the Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre . The site is identified as Green Belt in the City of York Draft Local Plan Fourth Set of Changes ( April 2005). It is considered that the proposed development constitutes inappropriate development in the Green Belt as set out in section 9 of the National Planning Policy Framework which is by definition harmful to the Green Belt. The considerations put forward by the applicant (namely contribution to unmet housing need; creation of jobs in construction; built development on three sides of the site; provision of robust landscape buffer) do not clearly outweigh harm by reason of inappropriateness and any other harm,( such other harm being the impact on the openness of the Green

Belt and conflict with the purposes of including land within Green Belt, character and appearance of the area, loss of trees covered by a tree preservation order, ecology and access arrangement), and therefore do not amount to very special circumstances. The proposal is therefore considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt land', guidance within National Planning Practice Guidance (March 2014), in particular the section 'Housing and Economic Land Availability Assessment', and Policy GB6 of the City of York Draft Local Plan Fourth Set of Changes (April 2005).

2 It is considered that the introduction of an estate form of development along a lane that is characterised by frontage development; the replacement of the existing informal landscape with a narrow regular woodland belt and loss of land which together with adjacent agricultural fields provides an open rural setting for Knapton village and the City would cause significant harm to the character and appearance of the area. This would be contrary to the core planning principle of the National Planning Policy Framework of recognising the intrinsic character and beauty of the countryside and GP1 of the City of York Draft Local Plan Fourth Set of Changes (April 2005) which similarly expects proposals to respect or enhance the local environment.

3 The site is located within a Local Green Infrastructure Corridor (13 Acomb Corridor) in the evidence base to the emerging local plan - AMEC Open Space and Green Infrastructure Report, September 2014. Through the Local Biodiversity Action Plan these have been identified across York to link together habitats to create an overall structural network for wildlife. The Acomb Corridor is important for a series of grassland sites (many designated as SINCs) and extensive aligned gardens linked to create a network of corridors through the area. It is considered that the scheme which will result in the loss of significant areas of habitat at the rear of the site as well as disruption to the habitat along the site frontage will be detrimental to the sites importance as a 'stepping stone' in the Local Green Infrastructure Corridor. The new compensatory landscaping is located partially within the adjacent agricultural field and would be separated from the wider landscape benefits that are provided by the existing areas connection to the Knapton Lane gardens. It is considered that the loss of the site's biodiversity would be contrary to the advice in National Planning Policy Framework, paragraphs 109 and 118, which seeks to conserve and enhance biodiversity and NE8 of the City of York Draft Local Plan (April 2005) which seeks to resist development which impairs the integrity of green corridors

4 The Town and Country Planning Act 1990 and subsequent Acts and regulations allow for the protection of trees for amenity reasons. The proposed development will result in the loss of the majority of the trees subject of Tree Preservation Order (order number CYC341). It is considered that the loss of valued trees (covered by a Tree Preservation Order) would be contrary to the advice in National Planning Policy Framework, paragraphs 109. The trees are a natural



asset that make a valuable contribution to the landscape character of the area. Their loss will be detrimental to the area's character and appearance and contrary to Policy NE1 of the City of York Draft Local Plan (April 2005) .

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15/01711/OUTM

Land Lying to the West of 41 Knapton Lane



GIS by ESRI (UK)



Scale : 1:2545

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	
<b>Date</b>	01 December 2015
<b>SLA Number</b>	Not Set

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**COMMITTEE UPDATE – Hungate Development Site**

**Reference:** 15/01709/OUTM

**Application at:** Hungate Development Site Hungate York

**For:** Outline application for erection of two buildings (Block G and Block H) to comprise either residential units (use class C3), residential institution/elderly accommodation (use class C2), or a mixture of the two and flexible commercial uses (within use classes A1, A2, A3, A4, A5, B1 or D2) and associated infrastructure works.

Full application for erection of part 5/part 6/part 7 storey building (Block D) comprising 186 residential units; erection of part 5/part 6/part 7 storey building (Block F) comprising 101 residential units, community centre (use class D1) and multi-storey car park; development of new public spaces (St John's Square and Friar's Quay) and riverside walk and associated infrastructure works

**By:** Mr Colin Murphy

**Application Type:** Major Outline Application (13 weeks)

**Target Date:** 29 January 2016

**Recommendation:** Approve subject to Section 106 Agreement

## **1. Policy Update provided by City Development**

At the Local Plan Preferred Options stage (2013) and in the Publication Draft (2014), Hungate was included as an employment allocation (E1) providing 12,000 sqm of B1a floorspace. The evidence base behind the employment allocation of the site is a material consideration in the determination of this application.

The draft proposals maps for both the Preferred Options and the Publication draft Local Plans identify the boundary of Hungate and include the new Hiscox development within it. The Hiscox development has provided 6272 sqm of B1a floorspace. In addition, a mixed use application proposing up to 4248sqm of B1a floorspace for a site on Dundas Street was granted consent in 2013. These figures accord with the applicant's statement that up to 10,400 sqm of B1a office space could be provided in this part of the city.

Given that the now built Hiscox development and the extant consent are within the allocated boundary as identified on the draft proposals maps for the Preferred Options and Publication draft Local Plan, the consented floorspace can be deducted from the proposed allocation total. It is therefore concluded that whilst this application does not address the outstanding requirement for 1,600 sqm of floorspace on site for B1a office use, the majority of the floorspace is met by the completed and extant development consents. Whilst the comments made by the Economy and Place Team are noted and their aspirations are supported, it difficult to raise a policy objection to this application given the context set out above unless further site specific grounds for consideration are presented.

## **2. Safer York Partnership**

The applicant has confirmed that a meeting was held this week with the Architectural Liaison Officer. A response to all the specific queries raised by Safer York Partnership has been produced with the only remaining issue relating to the principle of having the public open spaces of St. Johns Square and Friars Quay within the development.

## **3. Bus Stop Improvements**

Paragraph 4.95 of the Officers report should refer to improvements to the bus stops at Peasholme Green rather than Jewbury.

## **4. Community Facilities (Revisions to text):**

- £100k commuted payment towards the development of integrated and jointly managed community facilities at Central Methodist Chapel on St. Saviourgate and the on-site community space
- Transfer of completed on site community space to an appropriate management organisation as agreed by City of York Council in consultation with the Hungate Development Community Trust and the Central Methodist Chapel

## **5. Public Art**

As part of the Hungate/ Stonebow street improvement works and new St. John's Square public realm, the developer will be asked to look at developing an integrated arts project, as well as new waymarking initiatives, in discussion with CYC Officers and the local community.

Works deriving from the archaeology of the site should be considered, as this is one

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way of achieving a living engagement with history. It should not be confined to one area or one audience, and should be used to enhance where people live and work, as well as spend their leisure time.

The developers should look to local and further based public artists to design elements of the scheme such as lighting, pavements, street decorations/ details and seating, and use local suppliers and materials as far as possible.

## **6. Revisions to Conditions (indicated in bold)**

Officers request that if Members are minded to approve the application that delegated authority is given to the Assistant Director for minor amendments to the wording of conditions to take account of potential phasing issues.

## **CONDITIONS**

**1. The detailed scheme as defined by Dwg No: 00344\_MP-014 (Hybrid Planning Application Boundary)** shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2. Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the following dates:

Block **G**: within 3 years of this planning permission

Block **H**: within 4 years of this planning permission

Development of each block shall commence within 2 years of the approval of the reserved matters.

Reason: To ensure compliance with Section 92 and 93 of the Town and Country Planning Act 1990 as amended.

3. The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

**Received 6.8.15;**

**Site Location (Red Line) Plan 00344\_MP-013**

**Hybrid Planning Application Boundary 00344\_MP-014**

**Block D**

**First Floor Plan 00344\_BD\_01 Rev P01 Rev P01**

**Typical Floor Plan 00344\_BD\_02 Rev P01**

**Fifth Floor Plan 00344\_BD\_05 Rev P01**

**Sixth Floor Plan 00344\_BD\_06 Rev P01**

**North East elevation 00344\_BD\_NE Rev P01**

**South East elevation 00344\_BD\_SE Rev P01**

**South West elevation 00344\_BD\_SW Rev P01**

**North West elevation 00344\_BD\_NW Rev P01**

**Courtyard Elevations 00344\_BD\_C Rev P01**

**Landscape Block D Roof Plan Softworks D0248\_009**

**Block F**

**First Floor Plan SK 051 Rev A10**

**Second Floor Plan SK 052 Rev A10**

**Third Floor Plan SK 053 Rev A10**

**Fourth Floor Plan SK 054 Rev A10**

**Fifth Floor Plan SK 054 Rev A10**

**Sixth Floor Plan SK 056 Rev A10**

**Roof Plan SK 057 Rev A06**

**Section AA SK070 Rev A06**

**Section BB SK071 Rev A05**



**Section CC SK072 Rev A03**

**North Elevation 080 Rev A04**

**East Elevation 081 Rev A04**

**South Elevation 082 Rev A05**

**West Elevation 083 Rev A04**

**Courtyard Elevations 084 Rev A03**

**Landscape Block F Sections D0248\_008**

**St.John's Square Sections D0248\_012**

**Received 13.10.15**

**Landscape Block F Roof Plan Softworks D0248\_013\_ B**

**Received 18.11.15;**

**Maximum Heights 00344\_MP-003 Rev A**

**Received 19.11.15;**

**Block D**

**Basement Floor Plan 00344\_BD\_-01 Rev P02**

**Ground Floor Plan 00344\_BD\_-00 Rev P03**

**Landscape Block D Hardworks D0248\_001\_A**

**Landscape Block D Softworks D0248\_002\_A**

**Block D Sections D0248\_004**

**Block F**

**Ground Floor Plan SK 050 Rev A11**

**Residential Cycle Parking Schedule**

**Site Access Arrangements Block F 3236/SK001/009**

**Landscape Block F Hardworks D0248\_005\_C**

**Landscape Block F Softworks D0248\_006\_C**

**Landscape St.John's Square Hard & Softworks D0248\_010\_C**

**Received 7.12.15**

**D0205\_008\_A Street Section 1 of 6**

**D0205\_009\_A Street Section 2 of 6**

**D0205\_010\_A Street Section 3 of 6**

**D0205\_011\_A Street Section 4 of 6**

**D0205\_012\_A Street Section 5 of 6**

**D0205\_013\_A Street Section 6 of 6**

**3236/SK001/14A Site Access Arrangements Stonebow/Garden Place**

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

4. Fully detailed **drawings relating to the outline elements as defined by Dwg No: 00344\_MP-014 (Hybrid Planning Application Boundary)** illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of **those parts of the development permitted in outline**, and the development shall be carried out in accordance with such details:

Details to be submitted: access, appearance, landscaping, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

**Condition 7 relating to the removal of Permitted Development rights for change of use to be deleted (covered by Condition 6)**

**8. Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the relevant part of the development** for each of blocks D and F and the works shall be carried out in accordance with the approved details.

- (i) Building sections and part (i.e. single bay) elevations through different key fenestration types. This should include sufficient information to understand the proposal so should include, for example: (windows) look-a-like glazing & window opener types; (cladding panels) types & joint positions; (sheet cladding) seam width & laying direction.
- (ii) Component details to include (windows) vertical and horizontal sections through window reveals, heads and sills; (soffits) underside treatments to overhanging roofs or tunnels; (balconies) plan, elevation & section to projecting or inset types.

Note: Brick window reveals **should be typically 150mm to 215mm (reveal from window frame to building face)** in accordance with established site-wide design principles for Block E and punch-hole windows in cladding will be expected to be similar reveal depths.

- (iii) Detailed studies of the primary entranceways into the courtyards of Blocks **D** and **F**
- (iv) Car park vents **for Block D** (with particular reference to ground floor level)
- (v) Edge of building buffer zone treatment such as private external terraces including soft and hard landscape
- (vi) RSL Kiosks interactive way finding totem – height, width, design, specification and location.**

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

**9. Prior to the construction of the external walls for each block, large scale workmanship sample panels shall be erected on site for:**

- (i) Brickwork: 2m x 2m sample panel of brickwork (to be used on blocks D and F)

shall be erected on site, and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used.

- (ii) Seamed cladding: 3 seams wide sample panels shall be erected on site so as to understand the proposed jointing type and method.

**The panels shall be approved in writing by the Local Planning Authority** and shall be retained until a minimum of 2 square metres of wall of the approved block has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works so as to achieve a visually cohesive appearance.

10. Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials, **to include material relating to hard surfacing /paving**, at a sufficient size and presented in an appropriate combination to each other in the chosen finish, shall be submitted to and approved in writing by the Local Planning Authority **prior to the commencement of the relevant part of the development**. 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.

11. Details of the lighting to the buildings including the roof shall be submitted to and approved in writing by the Local Planning **Authority in advance of the lighting installation for each block** and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

14. Full details of the proposals relating to multi storey car park cladding shall be submitted to and approved in writing by the Local Planning Authority prior to the

commencement of **the construction of the multi storey car park** and the works shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details in the interests of the satisfactory appearance of the development.

**15. The approved landscape softworks and hardworks shall be implemented within a period of six months of the completion of the phase** of development or block to which they relate. 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. These works shall be in accordance with the landscape drawings as set out below;

**Received 19.11.15;**

**Landscape Block D Hardworks D0248\_001\_A**

**Landscape Block D Softworks D0248\_002\_A**

**Block D Sections D0248\_004**

**Landscape Block F Hardworks D0248\_005\_C**

**Landscape Block F Softworks D0248\_006\_C**

**Landscape Block F Roof Plan Softworks D0248\_013\_B**

**Landscape Block F Sections D0248\_008**

**Landscape Block D Roof Plan Softworks D0248\_009**

Reason: The landscape scheme is integral to the amenity of the development.

**Condition 16 relating to phasing deleted**

**Additional Condition / New Condition 16 - interim landscaping scheme**

**16. An interim landscaping scheme in relation to St.Johns Square, shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented prior to the occupation of Blocks D and F whichever is the latter. 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.

**Additional Condition**

The approved landscaping scheme in relation to St. Johns Square, as detailed on Drawing No's D0248\_010\_C and D0248\_012, shall be implemented within a period of six months of the completion of blocks G and H whoever is the latter. 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: The landscape scheme is integral to the amenity of the development.

**Additional Condition**

Prior to the commencement of the construction of any of the blocks hereby approved, details of tree planting including preparation of tree pits, root cells, means of watering, and support shall be submitted and approved in writing by the Local Planning Authority.

Reasons: To ensure appropriate details are implemented to support the successful establishment and growth of trees that are integral to the quality of the development.

18. Notwithstanding the submitted plans, prior to the first occupation of block F, an ecological scheme of enhancement to comprise of a minimum of **delete - (two per block)** four habitat features for bats on site such as crevice bat boxes and/or integral bat bricks, and a minimum of four bird nest boxes, shall be installed/constructed in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.

Reason: To take account of and to enhance the habitat for a protected species.

**Delete Condition 26 relating to Foss Walkway (potential for linkage is shown on the drawings and therefore condition considered unnecessary).**

27. Prior to the commencement of any block of the development hereby permitted a phased programme of works as set out in the Street Sections dated **07/12/15**, shall be submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same. These works shall be in accordance with the Street Section Drawings **and in general accordance with the illustrative landscape plan** as set out below;

D0205\_008\_A Street Section 1 of 6

D0205\_009\_A Street Section 2 of 6

D0205\_010\_A Street Section 3 of 6

D0205\_011\_A Street Section 4 of 6

D0205\_012\_A Street Section 5 of 6

D0205\_013\_A Street Section 6 of 6

**3236/SK001/14A Site Access Arrangements Stonebow/Garden Place**

**D0205\_002\_X Illustrative Landscape Plan**

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

28. A full 4 stage road safety audit carried out in accordance with guidance set out in the DMRB HD19/03 and guidance issued by the council, will be required for the works detailed within the hereby approved Street Sections dated **07/12/15**, or such plans which are subsequently submitted to and approved in writing by the Local Planning Authority. Stage 1 of said audit must be submitted to and confirmed in writing by the LPA prior to any of these works commencing on site.

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

52. Prior to the commencement **of the development of each of the blocks hereby permitted**, 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 information is required to safeguard the amenity of local residents and covers all elements of the development at all stages of the development process.

### **Additional Condition**

#### **Bus Stop Works**

Prior to the commencement of any block of the development hereby permitted a phased programme of Bus Stop Improvement works, shall be submitted to and approved in writing by the Local Planning Authority. The Bus Stop Improvement works shall consist of the following works;

- Upgrading of the existing inbound/outbound bus stops on Jewbury consisting of BLISS real time display, Kassel kerbs, shelters, seating and lighting
- Provision of an inbound bus stop along the frontage of Block G, exact location to be agreed, consisting of BLISS real time display, Kassel kerbs, shelters, seating and lighting

The Bus Stop Improvement works shall then be implemented in accordance with the approved phasing plan unless otherwise agreed in writing by the Local Planning Authority.

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

### **Additional Condition**

#### **Sustainability**

Prior to the commencement of each of blocks G and H, a Sustainability Statement shall be submitted for the approval of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

**Reason;** To ensure that the development of blocks G and H comply with the principles of sustainable development and are in accordance with Policy GP4a of the City of York Draft Local Plan (2005).

**Author:** Rachel Tyas : Development Management Officer





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Further Update (to supplement circulated update)

- With reference to P47 of the agenda, the text “Stonebow / Hungate Highways Street Improvement works £307,000” should be deleted. These works are not being secured by the S106 agreement but would be secured through Condition 27 and would be delivered at the developers expense through a S278 Highways agreement.
- Officers would like to amend the text of Condition 27 to include reference to the provision of public art.
- On page 47 of the agenda, under heading of Highways, it should state “bus pass to be provided to each occupier” rather than a commuted sum payment. The £264,000 is an overall cost to inform the viability appraisal.
- Archaeology is to be dealt with through the S106 rather than through a condition.

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**COMMITTEE UPDATE FOR AGENDA ITEM NO.4c  
RESIDENTIAL DEVELOPMENT ON LAND TO THE WEST OF 41  
KNAPTON LANE, ACOMB YORK.  
APPLICATION REFERENCE 15/01711/OUTM.**

**HIGHWAY NETWORK MANAGEMENT** - following the receipt of an amended plan which introduces a footpath along the site frontage, Highway Network Management do not raise objections to the application subject to appropriate planning conditions and to ensuring sustainable transport measures are sought through a section 106 agreement (improvements to bus stops, money towards bus passes for first occupiers of the site)

**HOUSING STRATEGY AND DEVELOPMENT** - The housing team object to the lack of affordable housing proposed within the scheme. They state that the scheme 'fails to meet the council's affordable housing interim planning guidance. No affordable housing is proposed by the developer.

On the basis of the development area proposed a somewhat higher number of homes would be expected, within the envelope of a medium/low density suburban scheme, which would necessitate on site affordable housing provision in accordance with the council's current interim targets of 15 or more dwellings.'

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