



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, 21 April 2016
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

Would Members please note that the mini-bus for the site visits for this meeting will depart Memorial Gardens at 10:00am on Tuesday 19th April 2016.

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 - 12)

To approve and sign the minutes of the meeting of the Planning Committee held on 17th March 2016.

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 20th April 2016**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

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

Filming or Recording Meetings

“Please note this meeting will be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

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

The Council’s protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/downloads/download/3130/protocol_for_webcasting_film_and_recording_of_council_meetings

4. **Plans List**

This item invites Members to determine the following planning applications:

a) **Land West of Hagg Wood, Broad Highway, Wheldrake, York (15/02439/OUTM)** (Pages 13 - 38)

A major outline application for the erection of an agricultural building for egg production. [Wheldrake Ward] [*Site Visit*].

b) Royal Masonic Benevolent Institute, Connaught Court, St Oswalds Road, York, YO10 4QA (13/03481/FULM) (Pages 39 - 80)

A major full application for the erection of 14 dwellings following demolition of existing bowling clubhouse and garage block. [Fulford & Heslington Ward] *[Site Visit]*.

c) Elvington Water Treatment Works, Kexby Lane, Elvington, York (15/02639/FULM) (Pages 81 - 122)

A major full application for the installation of solar photovoltaic array with associated infrastructure including kiosks, security fencing, cctv and internal access track. [Wheldrake Ward] *[Site Visit]*.

d) Former Grain Stores, Water Lane, York, (15/02856/FULM) (Pages 123 - 136)

A major full application for the erection of a food store with car park with access off Water Lane.[Rawcliffe & Clifton Without Ward] *[Site Visit]*.

e) Hudson House, Toft Green, York (15/01256/FULM) (Pages 137 - 156)

A major full application for the conversion of first, second and third floors of wings A and B and all floors of wing C from offices to 82 flats (use class C3) and external alterations. [Micklegate Ward] *[Site Visit]*.

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

Democracy Officer:

Name: Catherine Clarke & Louise Cook (Job Share)

Contact Details:

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louise.cook@york.gov.uk

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 جا سکتی ہیں۔ (Urdu)

 (01904) 551550

PLANNING COMMITTEE**SITE VISITS****Tuesday 19th April 2016**

TIME	SITE	ITEM
10:00	Coach leaves Memorial Gardens	
10:15	Former Grain Stores Site, Water Lane	4d
10:55	Elvington Water Treatment Works	4c
11:20	Land West of Hagg Wood, Broad Highway	4a
12:00	Connaught Court, Fulford	4b
13:00	Hudson House, Toft Green	4e

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City of York Council

Committee Minutes

Meeting	Planning Committee
Date	17 March 2016
Present	Councillors Reid (Chair), Derbyshire (Vice-Chair), S Barnes, Cannon (Substitute), Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Hunter (Substitute), Kramm (Substitute), Richardson, Shepherd and Warters
Apologies	Councillors Galvin, Ayre and Boyce

77. Site Visits

Application	Reason	In Attendance
Pavers Ltd, Northminster Business Park	To enable members to familiarise themselves with the site.	Councillors Cullwick, Cuthbertson, Dew, Hunter, Mercer, Reid
Cockey Hill Farm, Wheldrake Lane	To enable members to familiarise themselves with the site.	Councillors Cullwick, Cuthbertson, Dew, Hunter, Mercer, Reid
The Retreat, Heslington Road	To enable members to familiarise themselves with the site.	Councillors Cullwick, Cuthbertson, Dew, Hunter, Mercer, Reid

78. Declarations of Interest

At this point in the meeting, members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda.

Councillor Doughty declared a personal and prejudicial interest in agenda item 4b as his partner was a former Director of The Retreat.

79. Minutes

Resolved: That the minutes of the last meeting held on 18th February 2016 be approved and signed by the Chair as a correct record.

80. Public Participation

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

81. Plans List

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

81a *APPLICATION WITHDRAWN***Land at Grid Reference 458205 449925, West of Bradley Lane, Rufforth, York (15/02031/FULM)**

It was reported that this application had been withdrawn at the request of the applicant.

82. The Retreat, 107 Heslington Road, York (15/00421/FUL)

Consideration was given to a full application by Mr Robert Brownlow for the erection of a patient accommodation block and day care centre with associated landscaping following the demolition of the existing student accommodation building.

It was reported that there was a short update to the committee report, to require an additional condition to ensure demolition of the existing building prior to construction and the re-contouring of the land.

Emily Roberts spoke as the agent on behalf of the applicant. She advised that the application was part of wider plans for the site and it had been deferred from the January planning

committee in order to resolve the issues around the tree survey. As a result the building had been moved further north away from the root protection area of a beech tree. She stated that the design was simple and modern and would be subservient to the nearby listed buildings.

Members commented that following the site visit, they were pleased to see the positive difference made by the re-positioning of the proposed building by approximately 2.5m to the north.

Resolved: That the application be approved subject to the conditions outlined in the committee report and the following additional condition:

The existing student accommodation block shall be demolished and removed from the site before construction work begins on the replacement accommodation building hereby approved. Within six months following completion of the building hereby approved, the ground shall be re-profiled to match the contours of the surrounding land and laid to grass.

Reason: In the interests of preserving the openness and purposes of the York Green Belt, given that the application was only considered acceptable on the basis that it proposed a replacement building, and in the interests of preserving the setting of the grade II listed buildings on site and the character and appearance of The Retreat/Heslington Road Conservation Area.

Reason: The application proposes the construction of a replacement building of the same use and similar in its scale and mass to the existing vacant building. As such, the proposal constitutes development that is not inappropriate development according to Green Belt policy. It is officer's opinion that the proposed development would not cause harm

to the significance of the identified heritage assets, being the setting of the grade II listed buildings, the character and appearance of the conservation area or the scheduled ancient monument.

83. Crockey Hill Farm, Wheldrake Lane, Crockey Hill, York, YO19 4SN (15/02343/FULM)

Consideration was given to a major full application by Mr Gary Cooper for the siting of 6 holiday lodges, car park and wildlife pond together with landscaping works following the change of use of agricultural land (resubmission).

Following discussion, Members felt that having been on the site visit, the proposal would impact upon the openness of the green belt and would add to the sense of encroachment and felt that the proposals were unacceptable for the site.

Resolved: That the application be refused.

Reason: The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 88 of the NPPF, and by definition causes harm to the Green Belt. The proposed development would cause additional harm to the openness of the Green Belt and conflicts with one of the key purposes of including land within it. The definitional harm and other harm to the purposes and openness of the Green Belt must be afforded substantial weight when applying the NPPF policy test – namely, that very special circumstances will not exist unless the potential harm to Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

It is considered that the other considerations put forward by the applicant, when considered individually and collectively, are not compelling reasons sufficient to clearly outweigh the identified harm to the openness and purposes

of the Green Belt and that the very special circumstances necessary to justify the development do not exist.

84. Land on East Side of Appleton Road, Opposite Woodside Farm, Appleton Road, Bishopthorpe, York (15/02861/FUL)

Consideration was given to a full application by Ms Christine Pick for the construction of a new vehicular access and associated access road.

Mark Newby had registered to speak as the agent. He outlined the history of the application, in particular that a previous linked Class Q permitted development rights application had been refused in 2015 due to access issues at the site. This application was being made ahead of a new Class Q application being considered. He advised that as the proposed road was at ground level, impact upon the green belt would be minimal.

Following discussions, Members felt that the size of the proposed road across an open field would impact upon the openness of the Green Belt and they considered that the Officer recommendation was correct.

Resolved: That the application was refused.

Reason: The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 88 of the NPPF, and by definition causes harm to the Green Belt. The proposed development would cause additional harm to the openness of the Green Belt and conflict with one of the key purposes of the Green Belt. The definitional harm and other harm to openness and purposes of the Green Belt must be afforded substantial weight when applying the NPPF policy test - namely, that 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.

It is considered that there are no other considerations in support of the application that, when considered individually and collectively, are compelling reasons to clearly outweigh the identified harm to the openness and purposes of the Green Belt to justify inappropriate development on a site within the Green Belt.

85. Land at Grid reference 469030 444830, Church Lane, Wheldrake, York (15/02885/FUL)

Consideration was given to a full application by Derwent Valley Glamping for the erection of four seasonal tents utilising existing access, the creation of a footpath link and the incorporation of a habitat enhancement plan.

Chris Hobson spoke as the applicant in support of the application. He advised that the application was for four tents with internal showers and toilets and a small grassed area for parking. He confirmed that electric and drainage were already in place on the site and the tents would only be visible once the site is entered.

Members raised concerns regarding the openness of the green belt and also the potential impact upon the adjoining nature reserve.

Resolved: That the application be refused.

Reason: (i) 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 Development Control Local Plan (Approved 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. No 'very special circumstances' have been put forward by the

applicant that would clearly outweigh harm by reason of inappropriateness and any other harm, including harm to the purposes of Green Belt and openness, harm to the character and appearance of the area through visual impact and noise and disturbance, lack of information to assess the impact of development on the Lower Derwent Valley National Nature Reserve). 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) and Policy GB1 of the City of York Development Control Local Plan (April 2005).

(ii) The Lower Derwent Valley National Nature Reserve as a European protected site is afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). Under the Habitat Regulations the Council as the competent authority must make a judgement under Regulation 61 and 62 as to the 'likely significant effect', if any, of the scheme on the European designated sites before permission is granted. The project is not directly connected with or necessary to the management of any European site and therefore a Habitat Regulation Screening opinion needs to be made by the Local Planning Authority. The ecology report states that the proposed development has the potential to cause disturbance and displace wintering birds and breeding birds. The application does not include sufficient information to rule out the need for appropriate assessment under the Habitat Regulations. In the absence of sufficient information the application is considered to conflict with the requirements of the Conservation of Habitats and Species Regulations 2010 and advice in paragraphs 109, 118 and 119 of the National Planning Policy Framework which seek to conserve and

enhance biodiversity and confirms that the presumption in favour of development does not apply where development requiring an appropriate assessment under the Birds or Habitat Directives is being considered, planned or determined.

86. Pavers Ltd, Catherine House, Northminster Business Park, Harwood Road, Upper Poppleton, York (15/02721/FULM)

Consideration was given to a major full application by Mr Jim Young for the extension to a warehouse and an extended car park.

It was reported that there was no update to the committee report.

Members commented that due to the size of the business, there was no other location in York suitable for the applicant to move to and although the application may appear large, it was noted on the site visit that the site is well screened.

Resolved: That the application be approved after referral to the secretary of state, subject to conditions outlined in the committee report.

Reason: It is considered that cumulatively the considerations put forward by the applicant: the economic benefits and job creation, the successful business already established on the site, and the significant screening as well as the containment of development within the perceived boundary of the existing Business Park are considered to be very special circumstances that are sufficient to clearly outweigh the identified harms to of the Green Belt even when substantial weight is given to any harm to the Green Belt. Approval subject to the following conditions is recommended.

requires that proposals that constitute inappropriate development within the Green Belt, and are recommended for approval, are referred to the Secretary of State for consideration.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 5.20 pm].

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COMMITTEE REPORT

Date: 21 April 2016 **Ward:** Wheldrake
Team: Major and **Parish:** Wheldrake Parish
 Commercial Team Council

Reference: 15/02439/OUTM
Application at: Land West Of Hagg Wood Broad Highway Wheldrake York
For: Erection of an agricultural building for egg production
By: Mr Christopher Hobson
Application Type: Major Outline Application (13 weeks)
Target Date: 26 February 2016
Recommendation: Approve

1.0 PROPOSAL**SITE**

1.1 The application site is located approximately 1km north of Wheldrake village. It is currently arable farm land and sits adjacent to the western edge of Hagg Wood. Hagg Wood is ancient woodland. A drainage ditch runs between the application site and the wood. The application site does not contain any existing farm houses or buildings. The nearest residential garden to the proposed buildings is around 340m away with homes a minimum of around 400m away.

PLANNING HISTORY

1.2 There is no relevant planning history on the site.

PROPOSED SCHEME

1.3 This is an outline application to erect an egg laying unit to house 32,000 hens. As an outline application, matters may be reserved for later submission. In this case matters reserved are access, appearance and landscaping details. It is the case, however, that illustrative details have been submitted showing the proposed access to the site. Drawings have also been submitted to indicate the likely appearance of the proposed buildings.

1.4 The elements submitted for approval are layout and scale. Layout includes buildings, routes and open spaces within the development. Scale includes information on the size of the development including height and footprint.

1.5 The buildings proposed on site include a large unit to house the birds and pack and store eggs, two feed bins and a trailer canopy. The submitted plans indicate the maximum height of buildings/structures on site would be 6.8m. The main building (the egg laying unit) is proposed to be 131m long by 23m wide. The longest elevation would run parallel with Hagg Wood. The building would have a ridge height of 6.8m and eaves height of 3.8m. The building is functional in design and would be clad with colour coated sheeting (typically green).

1.6 The buildings would be reached via Broad Highway. Broad Highway is around 530m from the application site. To create a suitable access for vehicles it is proposed to hard surface and widen the existing track that runs alongside the northern edge of Hagg Wood and through the field immediately to the west of Broad Highway. A small cluster of residential properties are located to the south of the access off Broad Highway.

2.0 POLICY CONTEXT

2.1 Draft Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

2.2 Policies:

City of York Draft Local Plan adopted for Development Control purposes (2005) (DCLP). Relevant policies:

CYGP15 - Protection from flooding

CYGB1 - Development within the Green Belt

CYGP1 - Design

CYGP4 - Environmental sustainability

CYGP9 - Landscaping

CYNE1 - Trees, woodlands, hedgerows

CYNE5A - Local Nature Conservation Sites

CYNE6 - Species protected by law

City of York Council Emerging Local Plan Publication Draft (2014)

3.0 CONSULTATIONS

3.1 INTERNAL

Public Protection

3.2 No objections. The impact of noise, odour, dust, flies and lighting has been considered. The proposals are in accordance with the Defra Code of Good Agricultural Practice for Farmers, Growers and Land Managers: Protecting our water, soil and air', and the Environment Agency document 'Environmental Permitting regulations Intensive Farming: How to comply'.

3.3 Satisfied with separation distances to the nearest residential properties. Should the unit change in system or the existing system fail to be maintained to the extent that there are issues regarding noise, odour, dust, and lighting, there are powers to deal with this as statutory nuisance under the Environmental Protection Act 1990.

Rights of Way Officer

3.4 The track linking Broad Highway to the proposed facility is part of the Wilberforce Way which is well used. The proposal to surface the track and increase its width to 5m is considered acceptable from a public rights of way perspective. The maintenance of the new surface will be the responsibility of the landowner, not the highway authority. The surface should be maintained to a standard that is suitable for walkers as well as vehicles.

Planning and Environmental Management (Archaeology)

3.5 States this site is located on previously undisturbed land situated within a wider landscape which contains evidence of Prehistoric and Romano-British settlement and activity. It is possible that ground works associated with this proposal may reveal or disturb archaeological features particularly relating to the prehistoric-Romano-British period. It will be necessary to undertake a strip, map and record exercise across the site prior to the start of any construction work.

3.6 A condition should be included requiring an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit.

Planning and Environmental Management (Landscape)

3.7 States the development would be set within a broad, working, rural landscape namely consisting of large foreground fields, and a wooded backdrop. In principle the development would be an appropriate use within the greenbelt and the simple agricultural character of the building is fitting to its context, however the scale of the

building - by way of its length, would be at odds with the relatively modest farmsteads and other agricultural buildings in the area. Nonetheless the elements that make up the immediate landscape are of a corresponding large scale. Hagg Wood screens the development from the immediate west and north, and acts as a suitable visual backdrop in views from the south western approach along Wilberforce Way, from where the development is extremely exposed due to a lack of field boundary hedgerows and trees, combined with an almost perpendicular approach to the site from the south west. The scale of the building will add a notable new element to the existing landscape. Whilst this will bring a degree of harm to views along the Public Right of Way, there are potential landscape design measures that could provide substantial mitigation depending on land ownership.

3.8 Should the outline application be approved it is important that the following information be submitted with a reserved matters application by way of condition:

- Lighting
- Utilities
- Landscape scheme
- Signage
- Access road design
- Boundary treatment
- Cladding materials and colour

Planning and Environmental Management (Ecology and Countryside)

3.9 Air pollution from the use will not exceed thresholds considered to cause harm to habitat or species including Hagg Wood.

3.10 Located along Broad Highway is 'Broad Highways Verges' candidate site for Importance for Nature Conservation (cSINC). The candidate site is treated as an existing SINC until they are surveyed against site selection criteria. The proposed vehicle movements from the site are very low and the creation of dedicated passing places would avoid unchecked erosion of the verges.

3.11 Do not consider that wildlife on the site and adjacent drain would be harmed. Lighting would need to be controlled to avoid harm to a number of species such as badgers and bats.

Highway Network Management

3.12 The applicant has provided details on traffic movements generated by this site. Although more frequent than traffic resulting from its existing use, the resultant impact of 2 HGV movements per day (1in/1out) and light traffic associated with 3 staff will have a minimal effect on the local highway network. Broad Highway is however a single track road serving other agricultural outfits/residences. The

applicant has offered to provide 2no. passing places to help negate concerns raised by local road users, which will relieve the potential conflict of vehicles passing each other on this stretch of highway. Concerns have been expressed as to the conflict between pedestrians and vehicles. The low number of traffic movements produced by the development will not depart unduly from traffic experienced already down this lane by pedestrians. We therefore do not wish to seek a footway as part of this scheme.

Flood Risk Management Team

3.13 No objections to the development in principle but if planning permission is to be granted, conditions should be attached in order to protect the local aquatic environment:

EXTERNAL

Residents

3.14 120 letters have been received objecting to the proposal.

3.15 A petition with 1,360 names was also received objecting to the proposal. The issues raised are summarised below:

Highway Issues

3.16 Broad Highway is already in poor condition, it has blind bends, is pot holed, is not gritted, it regularly floods. There are few passing places. It is not suitable for additional HGV's. They will further damage the road. Any crash will block the road. Vehicles can end up in ditches by road. The verges will be damaged. Large forestry vehicles already cause damage and safety concerns.

3.17 It is not clear that there is space to accommodate passing places suitable for large lorries. Concern that they could lead to land collapsing and blocking drainage ditches.

3.18 Broad Highway is used by cyclists, joggers, horse riders, walkers and so forth. There is no footpath. No street lights. The use conflicts with their safety (some one could be killed by a large vehicle even at low speeds) and enjoyment and the general tranquillity of the route. The road has a 60mph speed limit - this should be reduced. It will make the route particularly hazardous for horse riders given horses will be frightened of the large vehicles and have limited space to pass by them.

3.19 Broad Highway could become a cycle link to York, the proposal detracts from this. The approach to the site passes a school, village hall, playing fields and play area. These are very heavily used including by groups particularly vulnerable to road safety issues. The village has a 7.5 tonne weight restriction. The village's

narrow roads are not suitable as an approach to the site and parking near the school restricts the width further.

3.20 Construction vehicles will cause harm to the safety of other road users and damage the road.

3.21 The predicted traffic generation for the facility underestimates usage including the collection of bedding, chemicals and skips as well as staff travel.

3.22 A new route should be created to the site from the Wheldrake to Crockey Hill road in the south west.

Wildlife

3.23 The large vehicles will damage verges that are a site of local importance for nature including Hagg Wood. The area is a haven for wildlife including owls, woodpeckers, bats and deer. Has the impact on newts in the nearby pond been considered? Poison to control vermin at the site could harm wildlife.

Pollution

3.24 Odours cause concern both from the factory and lorries transporting waste. Objectors have experience of similar facilities and consider the smell travels long distances (far enough to be noticeable in the village).

3.25 Concern that the odours and noise will deter visitors from coming to play or stay at Swallow Hall Golf Club.

3.26 Pollution from dust/particles could damage health, including asthma concerns. HGV's transporting waste have sealed cabs because of the concerns.

3.27 Concerns re the impact that chemicals and waste will have on watercourses. What provision is there for the disposal of human waste?

3.28 What enforcement monitoring/action will be taken by the council in regard to pollution?

3.29 The proposal will attract vermin to the area and village.

3.30 The proposal will detract from homes near the approach road.

3.31 What will be done with waste when the ground is frozen and it can't be spread?

Drainage

3.32 Potential damage to drainage channels by the road.

3.33 Need to ensure that the adjacent watercourse is not damaged.

Visual amenity

3.34 The building will detract from views from Wheldrake Wood. The scale is out of character. It is harmful to the Greenbelt.

3.35 The approach road will detract from the area, particular the new road across the former paddock adjacent to Broad Highway.

3.36 The proposal will create light pollution.

3.37 Wheldrake is an attractive village surrounding by attractive countryside.

Other

- The agricultural diversification does not benefit the village.
- Because the eggs are intended for pharmaceutical use is the proposal still considered agriculture?
- Homes will be de-valued.
- The appeal of the village will be damaged.
- Loss of tranquillity.
- Need to consider the impact on the Iron Age and Romano British field systems in the area.
- If approved they are likely to seek to expand the use in the future.
- The proposal is unacceptable from an animal welfare perspective. It is cruel and archaic. Animals should be treated with respect.
- Intensive farming is bad for the environment and health in general.
- HGV's could lead to the collapse of dykes.
- It should be built close to where the eggs are used.
- It should be made clear that the proposal is on farm land rather than being attached to a working farm/living accommodation.

Wheldrake Parish Council

3.38 It would conflict with the NPPF and Wheldrake Village Design Statement. Object for the following reasons:

- Harm to the openness of the Greenbelt.
- Detract from the enjoyment of nearby public rights of way.

- It would have a negative impact on the use of the approach road which is used widely for leisure purposes. The road has few passing places and its drainage is also a long standing problem.
- Concerns in respect to the impact that large lorries accessing the site would have on congestion and safety including the section of road that runs past the school and village hall.
- Concerns in respect to pollution of watercourses and also the impact of odours on local residents including the impact of transportation of droppings.
- If permission is granted consent may then be sought for further expansion.

Campaign to Protect Rural England (CPRE)

3.39 Object for the following reasons:

- Harm the openness of the Green Belt and detract from the landscape of the area.
- Detract from the enjoyment of nearby public rights of way.
- Adverse impact on Broad Highway which is a single track road serving around 20 homes, a number of farms, the village hall and recreation grounds. It is widely used for leisure purposes.
- Concerns in respect to pollution of watercourses and also the impact of odours on local residents including the impact of transportation of droppings.
- If permission is granted consent may then be sought for further expansion.

Natural England

- The proposal is unlikely to affect any statutorily protected sites or landscapes.
- Natural England's standing advice should be applied to the impact on protected species.
- The proposal has the potential to adversely affect ancient woodland and standing advice on such matters should be applied.
- Opportunities to enhance biodiversity should be considered.

Yorkshire Wildlife Trust

3.40 The Trust would like to maintain a holding objection to the application as the ecology report (December 2015) does not address the issues which the Trust is most concerned about. These are the impact of the development on Hagg Wood which is a small area of Ancient Woodland located next to the development, and the Site of Importance for Nature Conservation (SINC) on the verge of Broad Highway. The Ecology Survey gives no idea of the value of the woodland or SINC and does not suggest what impacts are likely or whether mitigation is possible. Planning permission should therefore not be given until it is clear what the impacts will be and if mitigation is possible.

Forestry Commission

3.41 Refer the Local Planning Authority to Government advice regarding the protection of ancient woodland and veteran trees.

Ouse and Derwent Drainage Board

3.42 The site is in an area where drainage problems exist. The development should be at least 9m from the adjacent watercourse and run off rates are restricted to Greenfield levels. Do not object subject to these elements being controlled by condition.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the openness and character of the York Green Belt
- Also impact on character and appearance of the area?
- Impact of Additional Traffic upon the Local Highway Network;
- Pollution Issues.
- Impact upon wildlife, ecology and the natural environment;
- Impact on Public Rights of Way.
- Animal Welfare Issues;
- Surface water and foul drainage
- Archaeology

PLANNING POLICY:-

Development Plan

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. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. 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 state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

Local Plan

4.3 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

Emerging Local Plan

4.4 The planned consultation on the Publication Draft of the City of York Local Plan, which was approved by the Cabinet of the Council on the 25 September 2014, has been halted pending further analysis of housing projections. The emerging Local Plan policies can only be afforded weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

Wheldrake Village Design Statement

4.5 This document was approved in March 2015 as a draft supplementary planning document to the emerging plan and is a material consideration when assessing planning applications. The future of the countryside around the village is considered in the document. Of relevance to the proposal are the following guidelines and issues:

- The importance of Public rights of way to the quality of life of residents and the desire to see these improved.
- That access through the village by HGV's should be discouraged.
- Wildlife and bio-diversity is important.
- Landscape design is important and the planting of native trees should be encouraged.
- Development should not detract from the Greenbelt or setting of the village.
- Proposals should not cause pollution or harm amenity

National Planning Policy Framework

4.6 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed.

4.7 Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development, unless specific policies in the NPPF indicate development should be restricted. This presumption does not apply in Green Belt locations.

4.8 GREEN BELT:- As noted above, saved Policies YH9C and Y1C of the Yorkshire and Humber Side Regional Strategy define the general extent of the York Green Belt and as such Government Planning Policies in respect of the Green Belt apply. Central Government Planning Policy as outlined in paragraphs 79 to 90 of the National Planning Policy Framework identifies Green Belts as being characterised by their openness and permanence. New built development is automatically taken to be inappropriate and therefore harmful to the Green Belt unless it comes within one of a number of excepted categories. Substantial weight should be given to any harm to the Green Belt. Inappropriate development may only be permitted where "very special circumstances" have been demonstrated. Paragraph 88 of the National Planning Policy Framework indicates that "very special circumstances" will only exist where potential harm to the Green Belt and any other harm are clearly outweighed by other considerations. Policy GB1 of the DCLP sets a firm policy presumption against inappropriate development within the Green Belt.

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

4.10 RURAL ECONOMY: - Central Government Planning Policy as outlined in paragraph 28 of the National Planning Policy Framework urges Local Planning Authorities to support the development and diversification of agricultural and other land based rural businesses as well as supporting sustainable rural leisure developments which benefit rural communities and respect the character of the countryside.

4.11 HABITAT AND BIODIVERSITY: - Central Government Planning Policy as outlined in paragraph 118 of the National Planning Policy Framework indicates that Local Planning Authorities should seek to conserve and enhance biodiversity by ensuring that planning permission is not granted for development that would result in the loss of irreplaceable unless clear public benefits can be demonstrated that outweigh the harm caused by the loss.

4.12 SURFACE WATER DRAINAGE AND FLOOD RISK:-Central Government Planning Policy as outlined in paragraph 103 of the National Planning Policy Framework indicates that when determining planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere.

4.13 ENVIRONMENTAL IMPACT ASSESSMENT: - The proposal falls below the size threshold (60,000 hens) at which an environmental impact assessment would be required.

IMPACT UPON THE OPENNESS AND CHARACTER OF THE YORK GREEN BELT

4.14 The application site lies within the general extent of the York Green Belt and is presently undeveloped comprising part of an arable field. Paragraph 89 of the National Planning Policy Framework indicates that all new built development within the Green Belt is inappropriate and therefore harmful to its character unless it comes within one of a number of categories specifically identified as being not inappropriate. These include buildings to be constructed for the purposes of agriculture and forestry. The definition of agriculture for planning purposes is set out in the Town and Country Planning Act 1990 (section 336). Agriculture is defined in s366 as including the breeding and keeping of livestock without reference to the purpose for which they are bred. The keeping of birds for producing eggs falls within the definition of agriculture. The eggs to be produced on the site are intended for use in vaccines. The proposed pharmaceutical use is not considered to remove the proposal from the definition of agriculture.

4.15 Agricultural buildings are not inappropriate development within the Green Belt and therefore the issue of very special circumstances does not arise.

4.16 Paragraphs 79 and 80 of the National Planning Policy Framework state that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of the Green Belt are its openness and permanence.

4.17 The NPPF states that the Green Belt has five purposes. These are:

- To prevent sprawl;
- To prevent towns merging;
- Safeguarding the countryside from encroachment;
- Preserve the setting of historic towns,
- Encourage the recycling of derelict land.

4.18 As stated previously, a building for agriculture is not inappropriate development in the greenbelt. It is the officer opinion, however, that regard should be given to the impact that the building has on openness. Paragraph 79 of the NPPF states that the essential characteristics of Green Belts are their openness and their permanence.

4.19 Because of its large size the proposed building will have some impact on openness. Paragraph 88 states that when considering all applications, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

4.20 The proposal is for an agricultural use and needs to be set away from other land uses. Although its footprint is large, the scale is not unusual in respect to modern intensive farming and the form (including the large feed bins) is such that it will appear as an agricultural building (albeit a large and modern one).

4.21 The City Council's Landscape Architect has undertaken a thorough assessment of the impact that the development would have on the appearance of the countryside. She considers that although the building is a large structure the generally open local character of the landscape and lack of an intimate scale would be such that the building would not be so alien to cause undue harm.

4.22 The width (23m) of the proposed building and height (3.8m to eaves 6.8m to ridge) is not such that it would appear unduly large when viewed from the south or north. The building's most significant elevations will be viewed from the east and west. From the east the building will be largely screened by Hagg Wood. The building is set against Hagg Wood when viewed from the west. The building is not of such a height that it would break the outline of the canopy of the woodland. In addition, additional deciduous planting is proposed on the application site to soften the building's impact.

4.23 It is not considered that the proposed access alterations from Broad Highway and their use by vehicles will significantly impact on character providing the route is not lit. It is noted that the anticipated level of vehicle use of the new/improved access is low.

IMPACT OF TRAFFIC UPON THE LOCAL HIGHWAY NETWORK

4.24 A large number of objections have been received expressing concerns in respect to the impact that additional vehicle movements (particularly heavy lorries) will have on the safety and enjoyment of Broad Highway. The particular highway issues raised by objectors are set out in paragraphs 3.16 to 3.21 above.

4.25 Although the facility is large the level of traffic generated is modest.

4.26 The flock cycle is 52 weeks. Four 16.5m articulated lorries are proposed to bring the birds at the beginning and four lorries remove the birds at the end of the flock.

4.27 Each week the following heavy vehicles are required to service the facility:

- 1 delivery of feed with a 16.5m articulated lorry.
- Manure collection twice a week using a 12 tonne agricultural trailer.
- 2 collections of eggs using a 26 tonne rigid lorry.

4.28 Staffing levels are low with only 3 staff being employed.

4.29 It is not considered that staff travel will be significant in terms of the impact on the highway. Objectors concerns largely relate to the impact of lorries and large vehicles. The applicant's submission indicates that typically 5 heavy vehicles will visit the site each week. This is a slight increase over existing use but still a relatively low level of traffic movement, however, it is noted that the actual vehicles themselves are large.

4.30 Broad Highway is relatively well used as it serves a number of houses as well as farms. Wheldrake Wood is also located off the road to the north and is used widely for recreation purposes. It is understood that the road itself is also used for general recreation including walking, dog walking, jogging, cycling and horse riding. There is no footpath along the single width route.

4.31 The Council's Highway Network Management Team are satisfied that, subject to the provision of two new passing places and a suitable access between Broad Highway and the access to the facility, the development will cause no material harm to highway safety. The location of the two new passing places could be secured by condition. There are sections of the road where the existing drainage ditch inhibits the creation of a suitable passing place, however, there is sufficient flexibility in location to create two such facilities to aid passing. The verge along the road is classified as highway land and as such the Council as local highway authority has statutory powers to oversee improvements to it.

4.32 Although objectors' concerns regarding the impact of large lorries are understandable it is not considered that the frequency of such journeys is sufficient to create significant concerns in terms of the impact on the character or safety of the road. It is noted that agricultural vehicles such as tractors already use the route.

4.33 A condition has been suggested restricting the use of the building to occupation by poultry as an egg laying unit. In addition, a condition is suggested requiring that the facility is run in accordance with the details submitted in the design and access statement. This would prevent a material change of use of the scheme without planning consent.

4.34 Vehicles accessing the site will pass through the village and past the school and other community facilities. It is not considered, however, that the level of activity is such to cause material harm. The 7.5 tonne weight restriction would not apply to the proposed chicken unit as the only access to the unit is through the village (i.e. the weight restriction excludes access).

4.35 To conclude, it is not considered that the traffic generated by the development would give rise to such a material increase in traffic movements to the extent that it could justify refusing planning permission.

Construction traffic

4.36 It is considered reasonable to manage the times that construction traffic would access the site so as to avoid potential conflict with people in the village, particularly school children. A condition has been suggested to address this.

POLLUTION ISSUES

4.37 Odour - The design and access statement sets out the methodology for ensuring odour from manure does not cause nuisance. This is based around perching areas being over manure belts which are emptied on a twice weekly basis. It is understood that this creates less odour concerns than if bedding is used. Officers of the Council's public protection team are satisfied that subject to the appropriate management of the facility this is acceptable. A condition has been suggested requiring manure to be removed from the site a minimum of two times per week. In addition a condition is suggested requiring the facility to be run in line with the information in the design and access statement which relates to, for example, vehicle movements and the number of chickens on site. It is not considered, that heavy vehicles carrying manure through the village or other local routes twice a week will cause concerns in respect to health or amenity.

4.38 Light: - The applicant has indicated that no significant lighting is required at the site. A condition has been suggested to ensure that the levels of lighting are appropriate within the countryside setting.

4.39 Noise: - Officers of the Council's public protection team are satisfied that there is sufficient distance between the unit and residential properties (nearest house around 400m away) to avoid harm to residential amenity.

4.40 The level of vehicle movement associated with the use is low and noise associated with it would not be material detrimental.

4.41 When considering the impacts in respect noise, odour, light and dust, should the unit change in system or the existing system fail to be maintained there are powers to deal with this as statutory nuisance under the Environmental Protection Act 1990.

IMPACT ON WILDLIFE, ECOLOGY AND THE NATURAL ENVIRONMENT

4.42 The Council's Countryside Officer has fully considered the impact that the proposal will have on habitats and species.

4.43 Hagg Wood is located to the east of the application site. The wood is private. It is a re-planted ancient woodland with a central area of ancient and semi-natural woodland. Local Planning Authorities should refuse permission for developments that would lead to the deterioration of such habitats unless the benefits of the development outweigh the loss.

4.44 The proposals, including the upgraded access road, will not lead to the loss of trees within Hagg Wood. The Countryside officer is satisfied that the impacts from air and light pollution, hydrology, shading vegetation and any damage to roots will not be such to refuse the application. The impacts in terms of ammonia produced at the site are within acceptable levels. The separation to the woodland coupled with the drainage ditch that runs around it will minimise the impact on tree roots. The applicant has agreed to incorporate some deciduous tree planting and suitable landscaping between the building and the wood and around the other perimeters of the building to create a more suitable buffer to the wood and enhance the sites ecological value.

4.45 There is a candidate site for Nature Conservation status located in the verge on Broad Highway between the application site and Wheldrake village. It is not considered that the modest additional traffic associated with the development creates undue concern in respect to the impact on this. The developer agrees to the creation of two additional passing places on the single track road which may help to reduce the impact of the (low level) of additional heavy traffic.

4.46 The Countryside officer is satisfied that the development of the arable land and new building/structure and operations will not harm protected and notable species in accordance with local and national planning policies.

IMPACT ON PUBLIC RIGHTS OF WAY

4.47 The track linking Broad Highway to the proposed facility is part of the Wilberforce Way which is well used. The proposal to surface the track and increase its width to 5m is considered acceptable from a public rights of way perspective. The introduction of a hard surfaced road and the egg laying unit will clearly change the character of the immediate area, however, such uses are considered appropriate in the countryside and as set out in the assessment of its visual impact it is not considered that the proposal would appear so alien in the context to justify refusal of the application.

ANIMAL WELFARE ISSUES

4.48 A number of people have raised objections based on the proposed intensive farming methods. The ethical or moral issues relating to the egg laying operation are not material to the determination of this planning application. The operation of the unit is regulated by a separate system of control administered by DEFRA and associated agencies.

SURFACE WATER AND FOUL DRAINAGE

4.49 The applicant proposes an attenuation pond with a restricted discharge rate to the adjacent water course to discharge surface water. Subject to the details of the design being controlled by condition this is considered acceptable to the drainage board and the council's Flood Risk Manager. Foul water produced by the development would be minimal and its disposal could be addressed via the suggested drainage condition.

ARCHAEOLOGY

4.50 This site is located on previously undisturbed land situated within a wider landscape which contains evidence of Prehistoric and Romano-British settlement and activity. A condition has been suggested requiring an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit.

COMMITTEE TO VISIT

5.0 CONCLUSION

5.1 The proposed building has a relatively large footprint, however, it is not excessive in scale in respect to intensive farming methods. Agriculture is not inappropriate development in the Green Belt.

5.2 The scale of the development is such that officers consider that it will detract from the openness of the Green Belt. It is considered however, that this negative impact should be balanced against the economic benefits from the proposed farm diversification. In respect to economic issues, paragraph 28 (first bullet point) of the NPPF states that planning policies should support economic growth in rural areas to create jobs and prosperity. It is considered that this outweighs the impact on openness. In addition, although the scale of the building is such that it will impact on openness, it is not considered that its proposed location and design is such that it will detract unduly from the visual character of the local area providing suitable landscaping is provided adjacent to the development. In addition, it is not considered that the proposal conflicts with four of the five purposes that the Green Belt serves (paragraph 4.17 above) and that the purposes of safeguarding the countryside from

encroachment should be balanced against the benefits from the intensification and diversification of its agricultural use.

5.3 The approach to the site is along Broad Highway a single track route. It is considered subject to the provision of two passing places the proposal will not create additional concerns in respect to the safety of the popular route, or the general condition of verges. The level of traffic movement associated with the proposed development is low.

5.4 Officers are satisfied that any pollution coming from the site will be within acceptable levels and not harm residential amenity. In addition, it is not considered that the proposal will damage important habitats for wildlife. Should problems arise in the future in respect to pollution there are powers to deal with this as statutory nuisance under the Environmental Protection Act 1990.

5.5 Because of the constrained nature of Broad Highway and its use for leisure purposes, conditions are suggested to ensure that the scheme can not be significantly altered without planning permission being required.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission and the development hereby permitted shall be begun before:

the expiration of two years for the date of approval of the last of the reserved matters to be approved.

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

2 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 building works, and the development shall be carried out in accordance with such details:

Details to be submitted: access, appearance and landscaping.

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.

3 The development hereby permitted shall be carried out only in accordance
Application Reference Number: 15/02439/OUTM Item No: 4a

with the following plans:-

Site layout plan dated Nov 15 received by the Local Planning Authority on 30 November 2015.

Location plan dated Nov 15 received by the Local Planning Authority on 30 November 2015.

Elevation drawings dated Feb 16 received by the Local Planning Authority on 29 January 2016.

Plan showing area available for landscaping dated Feb 16 received by the Local Planning Authority on 1 February 2016.

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

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

5 The building hereby permitted shall only be used in accordance with the operational information contained within the Design and Access Statement (including references to amount, use and access in pages 4 to 8) received by the Local Planning Authority on 30 November 2015. Any variations to the above mentioned operational information shall not be implemented without the prior written approval of the Local Planning Authority.

Reason: This condition is imposed in the interests of residential amenity to prevent odour and other nuisances from being caused to the occupiers of residential properties in the area, and for protecting nature conservation interests.

6 The building hereby approved shall be used only for the keeping of chickens for egg laying and for no other use.

Reason: To ensure that it is compatible with the associated road infra-structure.

7 The building shall not be occupied until a detailed landscape and planting scheme for the area shown on drawing IP dated Feb 16 titled 'Area Available for Landscaping', has been submitted to and approved by the Local Planning Authority. The approved landscape and planting scheme shall thereafter be implemented within 8 months of occupation. If any tree, hedge or shrub planted or retained as part of the approved landscaping scheme (or replacement tree/hedge) on the site dies or is lost through any cause during a period of 5 years from the date of first planting, it shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To help integrate the building with its surroundings.

8 Before the development hereby approved is occupied, details of all external means of illumination, including the design and levels of illumination thereto, shall be submitted to and approved in writing by the Local Planning Authority. The approved means of illumination shall thereafter be implemented in accordance with the approved details.

Reason: To avoid light pollution and harm to wildlife.

9 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the building is occupied and shall be provided in accordance with the approved details before the development is occupied.

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties.

10 HWAY18 Cycle parking details to be agreed

11 Prior to the commencement of any works on the site, 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 LPA. Such a statement shall include at least the following information;

- measures to avoid heavy vehicles travelling through Wheldrake at peak network hours and school pickup/drop off times.
- where contractors will park

- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.
- measures to avoid unacceptable conflict with nearby public right of ways

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.

12 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been completed in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Provision at no cost to this Council of 2 Number (approximately 12m x 3m) passing places (full carriageway construction) to Broad Highway, position and exact width to be agreed in writing by the Local Planning Authority.

Reason: In the interests of the safe and free passage of highway users.

13 HWAY35 Servicing within the site

14 HWAY14 Access to be approved, details reqd

15 HWAY11 Initial 10m of access surfaced

16 On two occasions each week all manure shall be removed from the site, in accordance with information contained in the design and access statement.

Reason: To ensure that the site is managed appropriately in respect to odours.

17 No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and

b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason: To ensure that badgers are not trapped and harmed on site.

18 ARCH1 Archaeological programme required

19 No development shall take place until 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.

Design considerations.

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 (SuD's). 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 i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuDs methods can be proven to be unsuitable then in accordance with City of York Council's Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha shall be used for the above.

Surface water shall not be connected to any foul / combined sewer, if a suitable

surface water sewer is available.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

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

7.0 INFORMATIVES:

Notes to Applicant

1. Informative note: Drainage

The applicant should be advised that the Internal Drainage Board's prior consent is required for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge to the watercourse will also require the Board's prior consent.

2. It is recommended that the developer contact Joanne Coote (Definitive Map Officer, rightsofway@york.gov.uk) to discuss the need to submit a declaration under s31(6) of the Highways Act 1981 regarding public rights of way over the additional width of the access route. Please note that the maintenance of the new surface will be the responsibility of the landowner, The surface should be maintained to a standard that is suitable for walkers as well as vehicles.

3. INFORMATIVE:

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:

Works in the highway - Stuart Partington (01904) 551361

4. 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 an acceptable outcome:

Passing places sought in highway and area for new landscaping identified.

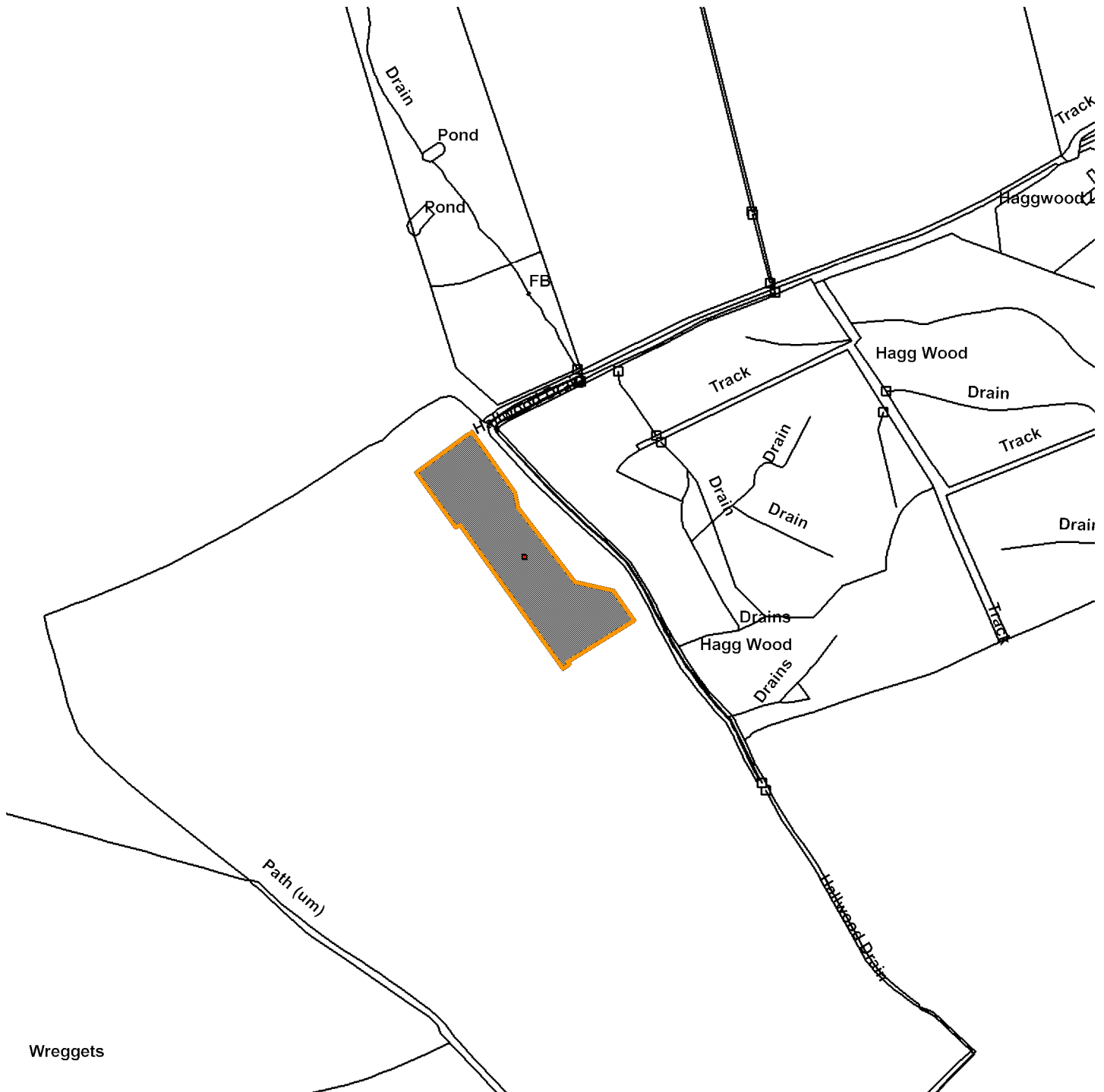
Contact details:

Author: Neil Massey Development Management Officer (Mon/Tue/Fri)

Tel No: 01904 551352

15/02439/OUTM

Land West Of Hagg Wood Broad Highway Wheldrake



Scale : 1:3470

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Organisation	City Of York Council
Department	CES
Comments	Location Plan
Date	11 April 2016
SLA Number	Not Set

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COMMITTEE REPORT

Date: 21 April 2016 **Ward:** Fulford and Heslington
Team: Major and **Parish:** Fulford Parish Council
 Commercial Team

Reference: 13/03481/FULM
Application at: Royal Masonic Benevolent Institute Connaught Court St
 Oswalds Road York YO10 4QA
For: Erection of 14no. dwellings following demolition of existing
 bowling clubhouse and garage block
By: RMBI And Shepherd Homes Ltd
Application Type: Major Full Application (13 weeks)
Target Date: 7 November 2014
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 Erection of 14 detached houses on two parcels of land (Area A and Area B) within the grounds of Connaught Court care home. Ten of the houses would have 2.5 storeys; the remaining four houses would have two storeys. The houses would have 4, 5 or 6 bedrooms. All units would have integral or detached garages. An existing internal access road from St Oswald's Road would be widened and the junction improved. The bowling green on the site has been removed and a pavilion and greenhouse demolished.

1.2 The application was submitted to the Council in October 2013. On 6 February 2014 the application was deferred by the Area Sub-Committee pending amendments to the design and layout of Area A. The application as amended was returned to the Area Sub-Committee on 8 May 2014. Members resolved, in accordance with the officers' recommendation, to approve the application subject to a Section 106 agreement to secure financial contributions. The application was approved by the Area Sub Committee, and planning permission issued on 7 November 2014 following completion of a S106 agreement.

1.3 On 17 November 2014 a local resident sent a pre-action protocol letter to the Council to give notice that they intended to challenge the grant of planning permission on the grounds that:

- The Council failed to take into account the requirement in the National Planning Policy Framework (NPPF) that development within flood zone 2 should be subject to a sequential test; and

- The Council failed in its duty under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing a conservation area; and
- That consequently the decision to grant planning permission was unlawful.

1.4 The Council accepted that a sequential test should have been carried out and that the statutory duty under S72 of the 1990 Act had not been properly applied in the determination of the application. These legal flaws were sufficient to make the decision unlawful. A Consent Order was agreed and the planning permission was quashed by the High Court.

1.5 The application was therefore remitted back to the Local Planning Authority for determination.

1.6 The application was placed on the agenda for the 9 April 2015 Area Sub-Committee. Officers recommended that permission should be granted. The application was withdrawn from consideration before the meeting on the advice of the Monitoring Officer, and in consultation with the Chair, as it was not considered appropriate for a decision to be made prior to the elections (during the purdah period).

1.7 The application was placed on the agenda for the 11 June 2015 Area Sub-Committee. Officers recommended that permission should be granted. Reference was made to the completed section 106 agreement dated 23 October 2014 which contained Planning Obligations to secure developer contributions towards the provision of-site open space, improvements to bowling facilities at Scarcroft Green and additional school places at St Oswald's Junior School and Fulford Secondary School. Members resolved to grant planning permission subject to conditions and the decision notice was issued on 22 June 2016.

1.8 On 21st July 2015 a local resident sent a pre-action protocol letter to the Council to give notice that they intended to challenge the grant of planning permission in the High Court on the grounds that:

- The Council failed to take into account the requirement in the National Planning Policy Framework (NPPF) that development within flood zone 2 should be subject to a sequential test; and
- The Council failed in its duty under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing a conservation area;
- Legal agreement – pooling regulations; and

- That consequently the decision to grant planning permission was unlawful.

1.9 In the event, the claimant issued proceedings on only one ground of challenge, that the Planning Obligation relating to contributions towards the provision of off-site public open space breached Regulation 123 of the Community Infrastructure Levy Regulation, in that from 6 April 2015 a Planning Obligation may not constitute a reason for granting planning permission where the obligation provides funding or provision of an infrastructure project or type of infrastructure and 5 or more separate obligations which provide funding or provision of that project or type of infrastructure have already been entered into since 2010. Counsel's advice was sought by the Council and as it was agreed that this makes the decision unlawful. A Consent Order was therefore agreed and the planning permission was quashed by the High Court on 27th January 2016, and is remitted back to the Council for a decision to be made.

REVISED DRAWINGS AND REPORTS

1.10 Following the decision of the High Court to remit the application for re-determination the applicant has submitted an updated planning statement, flood risk assessment, Tree report, tree protection plan, arboricultural method statement, open space and recreation statement, ecological assessment, design and access statement. Revised drawings have also been submitted clarifying that the existing railings to the St Oswalds Road boundary are to be retained and altered to provide pedestrian gates.

RELEVANT PLANNING HISTORY

1.11 In 2007 the council refused outline planning permission for (principally) the erection of housing, extra care accommodation, an extension to the mentally frail unit, relocation of the bowling green on the site, a new access off Main Street and car parking (05/00022/OUTM). The subsequent appeal was dismissed due to impact on the character and appearance of the area, including Fulford Village Conservation Area. In the current proposal there is no access from Main Street, no replacement bowling green (a contribution towards off-site provision is offered), the housing along the southern boundary of the site has been deleted and there are no proposals for extra care flats to the east of the existing care home. The current proposal is confined to the areas south and east of Atcherley Close.

2.0 POLICY CONTEXT

2.1 Section 38 of the 1990 Act requires local planning authorities to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. There is no development plan in York other than the saved policies of the Regional Spatial Strategy relating to the general extent of the Green Belt. (The application site is not within the Green Belt). Although there is

no formally adopted local plan the City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of s.38 its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are consistent with those in the NPPF.

2.2 The most relevant Draft (2005) Policies are:

CYGP1	Design
CYGP4A	Sustainability
CYGP9	Landscaping
CGP15A	Development and Flood Risk
CYNE1	Trees, woodlands, hedgerows
CYNE6	Species protected by law
CYHE2	Development in historic locations
CYHE3	Conservation Areas
CYHE10	Archaeology
CYT4	Cycle parking standards
CYED4	Developer contributions towards Educational facilities
CYL1C	Provision of New Open Space in Development

2.3 Following a motion agreed at Full Council in October 2014, the Publication Draft of the York Local Plan (2014) is currently not progressing through its statutory consultation pending further consideration of the Council's housing requirements and how they should be met. The plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF. 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. The evidence base includes an assessment of housing requirements undertaken by consultants Arup (Housing Requirements in York: Evidence on Housing Requirements in York: 2014 Update, Arup, 2014), which informed the publication draft of the local plan, as approved by Cabinet in September 2014, and the Council's Site Selection Papers produced to support the emerging Local Plan (Site Selection Paper (2013) City of York Council) in respect of proposed housing allocations.

2.4 Relevant emerging policies are:

- Policy DP1: York Sub Area
- Policy DP2: Sustainable Development
- Policy DP3: Sustainable Communities
- Policy SS1: Delivering Sustainable Growth for York
- Policy H1: Housing Allocations
- Policy D1: Landscape and Setting
- Policy D4: Conservation Areas

Policy D7: Archaeology
Policy G15: Protection of Open Space and Playing Pitches
Policy G16: New Open Space Provision
Policy ENV4: Flood Risk
Policy ENV5: Sustainable Drainage
Policy T1: Sustainable Access

2.5 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The sections in the NPPF most relevant to this proposal include:

Section 4 Promoting sustainable transport
Section 6 Delivering a wide choice of high quality homes
Section 7 Requiring good design
Section 8 Promoting healthy communities
Section 10 Meeting the challenge of climate change, flooding and coastal change
Section 11 Conserving and enhancing the natural environment
Section 12 Conserving and enhancing the historic environment

2.6 The NPPF is the most up-to date representation of key relevant policy issues and it is against this Framework that the proposal should principally be addressed.

2.7 The essence of the Framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14). A footnote to paragraph 14 gives examples of policies where the presumption in favour of sustainable development does not apply. They include policies relating to designated heritage assets and locations at risk of flooding. Both of these policy areas are relevant to the current application. Therefore, in this case, the presumption in favour of development does not apply. Instead, the application should be judged against, among other things, policies in sections 10 and 12 of the NPPF, which are specific to these areas (flood risk and heritage assets respectively) and which are considered later in this report.

2.8 In addition to policies in the Framework to protect heritage assets the Local Planning Authority has a statutory duty under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Case law has made clear that when deciding whether harm to a Conservation Area is outweighed by the advantages of a proposed development, the decision-maker must give particular weight to desirability of avoiding such harm. There is a "strong

presumption” against the grant of planning permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to maintaining the Conservation Area (E.Northants DC v Secretary of State for Communities and Local Government [2014] EWCA Civ137). This means that even where harm is less than substantial (as in this application), such harm must still be afforded considerable importance and weight, i.e. the fact of harm to the Conservation Area is still to be given more weight than if it were simply a factor to be taken into account along with all other material considerations. The local planning authority has a further statutory duty under s.66 of the same Act to have special regard to the desirability of preserve the setting of listed buildings. These duties are considered later in this report.

2.9 As this is an application for housing development, paragraph 49 of the NPPF applies. It states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. However, the NPPF must be considered as a whole, and in this case, the proposal involves heritage assets and flood risk and therefore the presumption in favour of sustainable development set out at paragraph 14 does not apply. Instead more restrictive policies apply set out in Chapter 10 and 12 of the NPPF.

3.0 CONSULTATIONS

3.1 Following the decision by the High Court to remit the application back to the local planning authority for re-determination the applicant submitted a number of updated documents to support the application. A further consultation process has been undertaken in respect of the revised information and to take account of any material change in circumstances. The original responses received are summarised below along with any further comments received following the recent re-consultation.

INTERNAL

Communities and Neighbourhoods - Public Realm

3.2 As there is no on-site open space commuted sums should be paid to the Council towards off-site provision of amenity open space, play space and sports pitches. Play and amenity open space payments will go toward facilities in Fulford Parish, sports pitch payments will be used within the south zone of the Sport and Active Leisure Strategy. The contribution is to be based on the latest York formula through a Section 106 Agreement. A contribution should also be paid for replacement open space due to the permanent loss of open space at Connaught Court. The contribution should be put towards the improvement of bowling facilities at Scarcroft Green. The investments reflect needs identified by existing and relocated bowlers.

Comment following re-consultation

3.3 Open space - no off site open space provision is required for this site. This statement is based on:

A) Fulford Ward open space profile found in Local Plan Evidence Base: Open Space and Green Infrastructure Final Report September 2014. Open Space Study - Appendix D (Part 1). Which states “*This is a suburban/semi-rural ward with a complex pattern of provision dominated by proximity to the River Ouse corridor to the east. Generally, provision is reasonable across the majority of categories, with facilities in adjacent wards compensating for deficiencies.*”

B) At the time of the study (2013) Fulford and Heslington were separate wards, since then the areas have been combined to form one new ward. The authors of the report, AMEC note that use of open space does not respect ward boundaries as users will travel cross boundaries to use open space (Final Report page 8). Based on data for the new combined ward of Fulford and Heslington the situation remains the same – there is sufficient open space for both existing residents and new residents from this development (Final Report page 9). If recreational use of Walmgate Stray in the adjoining Fishergate ward is also taken into account the position is further strengthened.

3.4 Bowling Green: To mitigate the loss of the Bowling Green a contribution is required to improve bowling facilities at Scarcroft Bowling Green. This is one of the nearest bowling greens to the development and one where previous users of the Connaught Court Green have relocated to. We have not exceeded the limit of obligations for Scarcroft Bowling Green.

Flood Risk Management team

3.5 No objections to the development providing our previously recommended conditions are applied. Please note that the areas of proposed housing were not affected during the December 2015 flooding event.

Highway Network Management

3.6 No objections subject to standard conditions and submission of a construction method of works statement.

Comment following re-consultation

3.7 Application is as per previous consultation and subsequent response.

Planning and Environmental Management - Landscape Architect

3.8 The building line of properties within Area A is just outside of the recommended root protection area (RPA) of the protected trees located along St. Oswalds Road, however construction operations such as scaffolding and excavations for footings would be within the RPA. The submitted tree protection method statement should be adhered to. Pear trees of the stature of T294, which would be lost, are no longer commonplace so it would be preferable to retain this tree. New tree planting is suggested in the front gardens along the entrance into the site. The planting proposals are fine and include a number of additional trees along the boundary with Area B.

Comment following re-consultation:

3.9 The updated tree survey presents no changes to earlier responses to the proposed development however changes to the previously recommended condition are required to cover phasing and construction details and methodology of works in proximity to the St Oswalds Road trees. The tree data schedule includes a recommendation for crown reduction of sycamore 319 to achieve a 2m clearance from the adjacent existing building off-site. This is deemed acceptable to prevent a nuisance

Planning and Environmental Management - Conservation Architect

3.10 The vehicular areas at plots 3 and 4 (Area A) are extensive and prevent the houses being moved further from the trees along St Oswald's Road. Nevertheless the impact on the conservation area is acceptable. The 2 ½ storey gable wall of the house at plot 9 (Area B) would have a rather overbearing impact on the occupiers of No. 26 Atcherley Close. The council's pre-application advice/guidance to the applicant has been consistent in requesting lower massing in this location. Details of the verge to St Oswald's Road and the proposed gates in the existing railings should be made conditions of approval.

Planning and Environmental Management - Ecologist

3.11 The development is unlikely to have any significant impact on Fulford Ings SSSI. The main habitats on the application site to be affected by the development are amenity grassland with standard trees, species-poor hedgerow, areas of tall ruderal and two buildings. The buildings that have been demolished (a bowling pavilion and garage block) were assessed as having low or negligible potential to support roosting bats. External daytime inspections and evening emergence surveys found no evidence of roosting bats. All of the trees identified for removal have negligible potential to support roosting bats. Fulford Ings and the adjoining habitats along the River Ouse provide excellent foraging habitat for bats and

therefore the loss of these habitats on the site would not significantly impact on bats within the wider area. The grassland, hedgerows and ruderal vegetation are of low value; their impact would not be significant.

Comment following re-consultation:

3.12 An updated ecological impact assessment has been submitted. The site has been subject of previous studies in 2005, 2012, 2013 and 2014. The updated Phase 1 Habitat Survey found habitats on site to be similar to the earlier (2013) survey, except where pre-development work e.g. excavations, and changes in management e.g. un-maintained grass, has led to minor changes in habitat structure. This is not considered to be a significant change and the habitats on site are still assessed as being of low conservation significance.

3.13 None of the trees identified with potential for bats are scheduled for removal as part of the development proposal. In the updated tree report a crown reduction has been recommended for a sycamore in the north east corner of the site along St. Oswald's Road (tree tag 319). This tree was assessed as having moderate potential to support roosting bats. The crown reduction work is not critical to the development and has been recommended by the arboriculturalist regardless of whether the development goes ahead or not. If this work is undertaken in the future and will directly disturb or remove timber with bat potential then a precautionary approach should be used.

3.14 The main impact from construction is the loss of habitats of low conservation significance. Habitats on site could support nesting birds. Fulford Ings and the adjoining habitats along the River Ouse provide excellent foraging habitat for bats and therefore the loss of the habitats on site will not significantly impact on bats within the wider area.

3.15 Other potential impacts from construction are identified as changes in hydrology and potentially pollution incidents which could affect the adjacent Fulford Ings Site of Special Scientific Interest (SSSI) and the River Ouse. These impacts can be avoided by putting reasonable avoidance measures in place typically used in construction best practice.

3.16 Conditions are recommended to control external lighting and to provide enhancements for birds and bats. Informatives are recommended regarding nesting birds and Himalayan balsam.

Planning and Environmental Management – City Archaeologist

3.17 The application site lies in an area of archaeological interest. The previous approval was subject to conditions requiring a written scheme of investigation (WSI) for an archaeological excavation and a WSI for an archaeological watching brief. The applicant submitted a WSI which set out the details of an archaeological

excavation of the area of the site adjacent to St Oswald's Road and an archaeological watching brief on the development of the remainder of the site. Work on the excavation area adjacent to St Oswald's Road commenced in October 2014 and finished in November 2014. Not all of this area was excavated at this time and further excavation will be required to fulfil the requirements of the WSI. As no development has taken place on the rest of the site, the watching brief element of the WSI has not been implemented. As the archaeological work has not been completed, no report on the archaeological work has been submitted. It is very important that this work is completed should development of this site proceed.

3.18 The excavation was very productive. Important and significant evidence was recorded for occupation during the Roman period consisting of a series of enclosure ditches and a possible trackway. There was also a large ditch of possible Iron Age date. An open day where residents and the general public was given access to view the excavation and finds was held at the end of the excavation.

3.19 If the re-determination of this application leads to an approval of the application, there must be an archaeological condition placed on the consent which requires the completion of the works set out in the WSI.

Planning and Environmental Management - Forward Planning

3.20 In terms of the Council's 5 year housing land the issue is complicated given the current status of the emerging Local Plan and the very recent release of the DCLG household projections. The Council does not have an NPPF compliant five year housing supply unless the proposed housing sites within the present general extent of the green belt are included. Such sites cannot be included until the defined boundaries of the Green Belt have been identified through the Local Plan process. Consequently, until the Plan is progressed further, an NPPF compliant 5 year supply cannot be demonstrated. The site at Connaught Court is included as a draft housing allocation within the Publication Draft Local Plan (2014) - Site H47 and therefore is included and required as part of the five year housing supply. It is not within the general extent of the York Green Belt.

3.21 There is a possibility given the current position in terms of the housing demand figure for the Local Plan that the position in relation to the housing supply may change when the Local Plan recommences its passage to adoption.

3.22 In terms of flood risk, as the site is a draft housing allocation within the emerging local plan document (Publication Draft 2014) a level of assessment against flood risk has already been undertaken through the site selection methodology in line with the requirements set out in York's SFRA as outlined as necessary by the NPPF. This site selection methodology is explained further in a later section (Para 4.12) but involves the exclusion of any land within flood zone 3b or greenfield land within flood zone 3a from development. It also applies a net to

gross ratio to sites to allow for areas of flood zone 2 to be used as amenity land rather than part of the development.

3.23 The emerging planning policy in relation to flood risk (ENV4) states that new development shall not be subject to unacceptable flood risk and shall be designed and constructed in such a way that it mitigates against current and future flood events.

3.24 This emerging policy recommends that an assessment of whether there will be increased flood risk either locally or within the wider catchment is undertaken. It also asks that the vulnerability of any development be assessed in line with the SFRA to deem what is and isn't appropriate development on areas at risk of flooding. It states that development will be permitted should the authority be satisfied that any flood risk within the catchment will be successfully managed (through the management and maintenance plan for the lifetime of the development) and there are details of proposed necessary mitigation measures subject to a flood risk assessment being submitted. A further flood risk assessment should also be submitted which takes account of the potential effects of climate change. Areas of greater risk of flooding may be utilised for appropriate green infrastructure spaces.

3.25 The NPPF paragraph 103 asks that development be situated in areas of the site with the lowest flood risk and ensure that they are appropriately flood resilient, allow safe access and escape routes and give priority to the use of sustainable drainage systems.

3.26 In terms of Placemaking and Design there are a number of emerging policies which are relevant to this application including policy D1 landscape and setting, policy D2 placemaking, policy D4 conservation areas and policy D5 listed buildings.

3.27 The most relevant is policy D4 as the site lies entirely within a conservation area and close to another. This policy asks that proposals leave qualities intrinsic to the wider context unchanged, and respect important views and that they are also accompanied by an appropriate evidence based assessment to ensure the impacts of the development are clearly understood. Proposals will be supported where the new use would not significantly harm the special qualities and significance of the place. This level of harm would need to be assessed by the council's relevant Landscape/Heritage and Conservation officers.

3.28 As the site includes a designated Local Green Infrastructure Corridor for wildlife it is important for the site to have open space and garden land to allow for the migration of wildlife through the site. This will be helped by keeping the land to the south of the site open in line with the comments received through the site selection/further sites consultation process. The need to keep this land open in terms of the connection between Fulford Road and Fulford Ings is also addressed in the further sites consultation emerging evidence base document in terms of its landscape value.

Comment following re-consultation

3.29 A report was taken to LPWG on 29th September 2015 to update Members on the Objective Assessment of Housing Need (OAHN) produced by consultants Arup to inform the preparation of the emerging Local Plan. The report informed members of the requirements in relation to OAHN and included an assessment of the revised national household projections published by the Department of Communities and Local Government (CLG) in February 2015 which are used as the starting point in the assessment of housing need.

3.30 Members of the working group were asked to note and consider this evidence on OAHN as the starting point for determining the amount of housing land required to be identified in the Local Plan. This figure does not therefore represent Council policy and should therefore should be seen in this context.

3.31 Since the Plan date of 1st April 2012 up to 1st April 2015 housing delivery has fallen short of the benchmark by -940 dwellings using the demographic led requirement of 758 dwellings per annum. It is recommended by Arup that a 2012 base date should be used for the calculation of past under-delivery. This is in line with the Zurich decision a high court case in March 2014.

3.32 The September 2015 LPWG report also includes an indicative five year housing land supply calculation at 1st April 2015. It is important to caveat that this position was reported as an indicative position only and is not considered to represent an NPPF compliant five year supply pending further work on the viability and deliverability of sites currently being undertaken to support the emerging Local Plan. This work is expected to be reported to Members in May/June 2016.

3.33 As listed in Annex 2 to the LPWG report the indicative 5YHLSC includes those sites with planning consent at 1st April 2015 including those which are under construction and part implemented and also those sites which at 1st April 2015 were awaiting legal/planning conditions approval. In total there were 4,390 dwellings with consent or awaiting legal/conditions approval.

3.34 NPPF states that deliverable sites for housing could include sites with planning permission (outline or full that have not been implemented) and those allocated for housing in the development plan unless there is clear evidence that schemes will not be implemented within five years. Having planning permission is not a pre-requisite for sites being deliverable in terms of the 5YHLS but local authorities need to provide robust, up to date evidence to support the deliverability of sites ensuring that judgements on deliverability are clearly set out.

3.35 In terms of emerging allocations included within the indicative 5YHLSC, drawing on the experience of the Brecks Lane Case the 5YHLSC does not include

any sites which are within the general extent of the York Green belt unless there is an extant permission for the site.

Indicative 5YHLSC 2015/2016 to 2019/20 (@1st April 2015)

Emerging housing target (incl. backlog from 2012)	5yr Housing requirement inclusive of 20% buffer	5 yr annualised average	Identified Supply (with 10% non-implementation discount)	Land Supply (years)
817	4,902	980	4,904	5.00

3.36 Officers are currently undertaking further work in relation to both objectively assessed housing need (OAHN) and further technical analysis on the previous draft allocations. This work will be reported to members of LPWG in May/June 2016 and will then be subject to further work on viability and deliverability and SA/SEA before consultation on a revised Publication Draft Local Plan later in 2016.

3.37 It is important to understand the current context of the emerging Local Plan and the current uncertainty regarding both housing demand and supply which will be subject to a series of future decisions by Members over the coming months.

Public Protection

3.38 Add conditions re: unsuspected contamination, gas emissions from landfill sites, electrical recharging and hours of construction.

Comment following re-consultation

3.39 Previous comments generally still apply subject to updating conditions and informatives relating to land contamination, air quality management and demolition and construction due to changes in the relevant standards.

EXTERNAL

Environment Agency

3.40 No objections subject to conditions requiring adherence to the submitted flood risk assessment, submission of drainage details (including attenuation) and no erection of structures within flood zone 3.

Comment following re-consultation

3.41 In order for the development to meet the requirements of the NPPF the Agency recommend conditions regarding provision of compensatory flood storage and flood resilience measures and the removal of permitted development rights for structures within flood zone 3.

Historic England

3.42 No comments.

Natural England

3.43 Does not wish to comment on the details of the application as it does not pose any likely or significant risk to those features of the natural environment for which we would otherwise respond.

Comment following re-consultation

3.44 The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Conservation Area Advisory Panel

3.45 No objection. The panel commends this much improved scheme.

Ouse & Derwent Internal Drainage Board

3.46 No objections.

Police Architectural Liaison

3.47 No concerns or issues.

York Natural Environment Panel

3.48 The Panel are glad to see the retention of an open corridor along the southern aspect of the site leading from Main Street down to the Ings. The proposals are contrary to policy GP10, converting what is essentially garden space into building land. The proposals represent a loss of green land when the priority should be for the development of brownfield sites, of which York has a significant provision. There is concern that the build line extends closer to the flood plain, an extent which is likely to expand over time given climate change and the associated increase in flooding incidence.

Fulford Parish Council

3.49 Objection on the following grounds:

- The principle of development on the site.
- The proposed housing would have a detrimental effect on Fulford Village Conservation Area, Fulford Road Conservation Area and the parkland setting.
- The s.106 contributions and housing need are not public benefits that outweigh the harm to heritage assets.
- It is not appropriate to build in flood zone 2 and raise gardens in flood zone 3 when other areas are available.
- Allocation as a housing site should be re-evaluated.
- The appearance of the verge would be further changed by the proposed footpaths crossing it.
- The position of houses 1, 3 and 4 forward of the building line formed by Sir John Hunt Homes would harm both conservation areas.
- Houses 1, 2 and 3 are too close to prominent trees that contribute positively to the character of the conservation area.
- The setting of The Cottage, which is a listed building, would be harmed because the house at plot 3 would have an overbearing effect, due to its location and size.
- Several protected trees would be lost
- Several houses within area B are partly in flood zone 2. Sequential testing should be applied to this [Officers' response - A sequential test has since been applied].
- Raising the level of private gardens would obstruct the floodplain, contrary to guidance.
- The houses at plots 10-14 (Area B) would be very conspicuous from the Ings, which is in the green belt
- No affordable homes are provided, contrary to local planning guidance.
- The submitted bat survey is deficient.
- The proposed site is immediately adjacent to Fulford Ings, an SSSI. The local authority should ensure that it fully understands the impact of the proposal on the local wildlife site, before it determines the application.
- EIA regulations apply to the development site and an EIA should be carried out.
- The site is not allocated for housing in the consultation draft of the local plan.

Fulford Friends

3.50 Objection on the following grounds:

- Substantial harm to Fulford Village Conservation Area, to the setting of Fulford Road Conservation Area and to the historic character and setting of the City.
- The harm to heritage assets is not outweighed by the public benefits of the scheme.
- The iron railings and the verge contribute greatly to the rural character of the conservation area.

- The application should not include the line of trees or any part of the public verge within the curtilage of the new dwellings [Officers' response - The trees and railings will now remain outside the curtilage of the houses].
- Impact on the setting of the listed cottage.
- The number and height of dwellings at Area B should be reduced to minimise the impact on the local and wider environment.
- The sequential test has not been properly applied to these areas [Officers' response - The sequential test has since been applied].
- Loss of important trees/hedges, especially T294, T298 and T299, which have high amenity/wildlife value and contribute to the conservation area.
- Long-term risk to the trees along the St Oswald's Road frontage.
- Impact on bats should be fully assessed before any planning decision is taken.
- The need for the development does not outweigh the loss of the bowling green, which is a local community asset.
- The scale of development is just below that which would require the provision of affordable housing.
- The site should be treated as greenfield land not brownfield.
- The application should not be determined without a response from Yorkshire Water.
- The site should be fully assessed for allocation in the Draft Local Plan.
- The impact of the proposals on public views from or into the conservation area, particularly from the green belt, has not been taken into account.

Trustees for Sir John Hunt Memorial Homes

3.51 No objection providing the boundary trees are not adversely affected and that the distance of the nearest house to our mutual boundary is not reduced, nor the house developed with rooms in the roof space. This support is subject to the Highways Department confirming that there would be no noticeable increase in traffic flows that could not be accommodated within the existing highway network.

Publicity and Neighbour Notification

3.52 The initial public consultation period expired on 30 December 2013. A second public consultation exercise was carried out in March/April 2014 following submission by the applicant of revised plans. The public were consulted again following receipt of additional information after the planning permission had been quashed by the High Court. In total, representations have been received from 17 objectors raising the following issues:

- Overdevelopment.
- Impact on the conservation areas.
- Out of keeping with character of the area.
- Increase in traffic.
- Inadequate access.

- Traffic calming required.
- Verge should be kept to prevent kerbside parking in St Oswald's Road.
- Would exacerbate parking problems in St Oswald's Road.
- Loss of attractive open parkland.
- Loss of trees.
- Loss of open views from the river.
- Removal of railings.
- Bowling green should be retained as a community facility.
- There is no oversupply of bowling greens.
- Impact on the adjacent SSSI.
- Increase in flood risk.
- Impact of house 4 on the listed cottage.
- The temporary construction road is unnecessary and would damage protected trees.
- Insufficient mix of housing types.
- Overshadowing and overbearing.
- EIA needed.

Comment following re-consultation

3.53 Fifteen letters of objection, or stating concerns, have been received. Whilst many of the comments repeat those expressed in previous consultations they are summarised below for completeness:

- The conservation area and green corridor should be protected from development
- The development will erode the parkland which creates a buffer between urban Fulford and the rural lower St Oswalds Road.
- The decision should take into account recent permissions for a car park and sun room which will further erode the area of historic parkland.
- The size and character of the proposed houses on St Oswalds Road show no regard to the moderately sized Victorian Villas to the north.
- The size and type of the properties are inappropriate and conflict with the character of the conservation area. They should be lower density.
- Unimaginative low quality architecture, the site is already blighted by the nursing home.
- The proposed houses will dwarf the listed cottage and ruin the view along the street.
- Loss of views into and through the site.
- Harmful visual impact of proposed flood wall and fences on the Ings.
- Loss of green spaces adversely impacts on mental health and wellbeing.
- Impact of development on natural environment and loss of habitat.
- Risk to trees. New residents may campaign to have them removed if not properly managed.

- There should be no pavement in front of area A, the green verge should be preserved.
- The small addition to the housing stock does not outweigh the damage to this part of Fulford.
- No need for the new houses when significant new housing areas have been marked out in the area.
- The houses will not address York's affordability problem.
- Should not be approving new houses without the infrastructure necessary to service them.
- The existing railings to St Oswalds Road frontage should not be breached.
- Cumulative impact on flood plain
- Increased risk of flooding to surrounding properties.
- Increased traffic congestion in St Oswalds Road and at the junction with Fulford Road will lead to increased pollution levels and create dangerous conflicts with pedestrians and cyclists accessing the river side.
- Proposal will exacerbate existing parking problems which already exist for local residents and residents, visitors and staff at Connaught Court.
- Creating a pavement along St Oswalds Road frontage will reduce parking for existing residents. Creating a footpath access through the fence will encourage new residents and visitors to park in St Oswalds Road.
- Impact on access and parking during construction.
- Harmful impact on the residents of Connaught Court and potential for conflict with children in the new development.

3.54 One letter of support has been received stating that the design and siting is appropriate and that neglected land will be tidied and enhanced making the whole site more beneficial for residents.

4.0 APPRAISAL

4.1 MAIN ISSUES

- Principle of Development for Housing
- Trees and the Parkland Setting
- Heritage
- Recreation and Open Space
- Highways Issues
- Flood Risk and Drainage
- Neighbour Amenity
- Education Provision
- Bio-Diversity
- Archaeology
- Affordable Housing
- Environmental Impact Assessment

CONNAUGHT COURT AND THE APPLICATION SITE

4.2 Connaught Court is a 90-bed care home (4.86ha) in a parkland setting, which includes trees protected by TPO. The site lies between Main Street, St. Oswald's Road, Atcherley Close, Fulford Park and Fulford Ings. The main vehicular access is from St. Oswald's Road. The site is dominated by a large 2 and 3 storey care home, with associated smaller buildings and dwellings grouped around it. The buildings are mainly grouped towards St. Oswald's Road and Atcherley Close. Most of the remainder of the site is private open space and included a bowling green which has now been removed. The site contains large number of protected trees, in particular near Main Street.

4.3 The whole of the site lies within the settlement limit of York. The land is mainly flat except at the south-western corner where it falls steeply down towards Fulford Ings and the River Ouse beyond. This part of the site lies in flood zones 3a and 3b (functional flood plain). The whole of the site is in Fulford Conservation Area and abuts, to the north, Fulford Road Conservation Area. The land at Fulford Ings, to the south west (outside the application site) is in an SSSI and the green belt.

4.4 The two parcels of land mainly comprise the current application total 1.28ha of private open space and lie to the east (Area A) and south (Area B) of Atcherley Close. The site area is significantly less than half of the site area of the previous 2005 planning application, which included land to the south and east of the care home buildings.

PRINCIPLE OF DEVELOPMENT FOR HOUSING

4.5 The National Planning Policy Framework requires local planning authorities to boost, significantly, the supply of housing and to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Local Planning Authorities should identify a supply of specific deliverable sites sufficient to provide five years worth of housing. To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years.

4.6 In terms of the Council's five year housing land supply, the issue is complicated given the current status of the emerging Local Plan and the uncertainty surrounding the Communities and Local Government (CLG) household projections, however the latest available figures indicate that at 1 April 2015 the housing land supply was (without the Connaught Court site) marginally less than 5 years.

4.8 There is a possibility given the current position in terms of the Local Plan that the position in relation to the housing supply may also change when the Local Plan

recommences its passage to adoption. However a decision on a planning application has to be made on the policy position at the time of that decision.

4.9 Whilst the emerging local plan identified housing allocation sites, including Connaught Court, the Publication Draft of the plan was halted in late 2014 for further work regarding housing land and housing land supply. Limited weight can therefore be given to the emerging local plan in terms of its identified sites. However the evidence base used to identify and rank sites has more weight in the decision making process as it is considered to be NPPF compliant.

4.10 The application site was assessed within the Council's Site Selection Paper published as evidence base to support the Publication Draft Local Plan in September 2014 (Further Sites Consultation (2014) and Site Selection Addendum (2014) City of York Council). The site is considered to be suitable, available and achievable in accordance with the requirements of NPPF. The application site is in a sustainable location within defined settlement limits and with good access to public transport and local services.

4.11 The methodology used to determine the suitability of sites for allocation in the emerging draft Local Plan was set out in the Site Selection Paper (2013) and subsequent addendums (Further Sites Consultation (2014) and Site Selection Addendum (2014) City of York Council). These set out a 4-stage criteria methodology to sieve out sites which did not accord with the criteria. The chosen criteria are based upon the spatial principles for York as set out in the Spatial Strategy in the draft Local Plan. The assessment criteria included:

Criteria 1: Environmental Assets

Historic Character and setting (The Approach to Green Belt Appraisal, City of York Council, 2003 and Historic Character and Setting Technical Papers 2011 and 2013), Regional green corridors (The Local Plan Evidence Base Study: Open Space and Green Infrastructure, Amec (2014) Nature conservation sites (City of York Biodiversity Audit, City of York Council (2013), Ancient woodland (The Local Plan Evidence Base Study: Open Space and Green Infrastructure, Amec (2014) and High flood risk (flood zone 3b)) (City of York Council Strategic Flood Risk Assessment, Revision 2 (2013)

Criteria 2: Existing openspace;

Criteria 3: Greenfield sites in high flood risk (Flood zone 3a);

Criteria 4a: Access to services; and

Criteria 4b: Access to transport.

4.12 Criteria 4 used defined distances to determine access to the facilities and transport services. A minimum scoring threshold was used to sieve out sites with poor accessibility to ensure that there was sustainable access from these sites to aid the creation of a sustainable community. It was also acknowledged that sites over 100 hectares would be required to provide facilities sufficient to make a new sustainable community. In addition to the criteria assessment the sites were also subject to a Technical Officer Group made up of experts from around the Council who provided more site specific advice on the site. Where officers identified showstoppers for development, these sites were discounted from the list of suitable sites.

4.13 In terms of the application site at Connaught Court (Site 298/H47), it was included as a housing allocation subject to there being no built development within (a) with the strategic open space identified within the further sites consultation appendices document which includes areas of flood zone 3 and allows for a buffer to the regional green corridor of the Ouse (b) the open landscape corridor to the south of the site preserving views and biodiversity routes between Main Street and Fulford Ings. The planning application is in accordance with this draft allocation.

4.13 The National Planning Policy Framework defines "Previously Developed Land" within its Glossary as "Land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface structure". The definition lists exclusions to this definition, including "land in built-up areas such as private residential gardens, parks, recreation grounds and allotments". Officers consider the application site to be previously-developed land on the basis that Connaught Court is a residential institution (within class C2 of the Use Classes Order). Class C2 includes such uses as hospitals, nursing homes and residential schools. The applicant and Fulford Friends on the other hand consider that the application site should be treated as part of the residential garden of the care home and therefore excluded from the definition. Within the definition of previously developed land it is explicitly stated that it should not be assumed that the whole of the curtilage should be developed. The exclusion of private gardens from the definition of previously developed land was introduced in 2010 to prevent local authorities feeling forced to grant planning permission for unwanted development on garden land simply to reach the government's target for development on brownfield sites. The Framework requires local planning authorities to consider policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

4.14 Whatever the designation of the land, it is considered to be immaterial in this case and does not change officers' consideration of the site's suitability for housing development. The removal of residential gardens from the definition of previously developed land in the NPPF Glossary has not introduced a general presumption against the development of gardens. It has removed this as a positive factor in determining such applications. Local planning authorities are still expected to seek the efficient use of land, which focuses new residential development on sites in

sustainable locations. Any scheme still has to be judged against the impact on the character of an area, the impact on adjacent residents and any other material considerations. In this particular case, the change in the definition of previously developed land (which was introduced since the 2005 planning application) does not change officers' opinion that the principle of the use of the site for housing is acceptable.

4.15 All of the houses comprising the application have 5-6 bedrooms, which are larger than is typical for a housing development. In this case the development of a relatively-small number of large houses is preferable to a greater number of more varied houses because it would have less impact on the conservation areas, particularly the site's parkland setting.

TREES AND THE PARKLAND SETTING

4.16 The National Planning Policy Framework states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland unless the need for, and benefits of the development in that location clearly outweigh the loss (paragraph 118).

4.17 One of the key attributes of the care home's setting is the open swathe of parkland between Main Street and Fulford Ings. It helps to preserve the distinction between Fulford Village and the city suburbs. Unlike the 2005 planning application for Connaught Court, this part of the care home site would be left undeveloped. It does not form part of the current application.

4.18 The second key attribute of the parkland setting is the proliferation of mature trees of high amenity value. Most of these trees are at the eastern end of the Connaught Court site, near Main Street. This area is outside the application site. None of the trees in this part of the parkland setting would be affected by the application.

4.19 The application site does contain some attractive, mature trees, notably along the highway frontage facing St Oswalds Road. Whilst all of these frontage trees would abut plots 1, 2 and 3 of Area A they would all be retained. The application as first submitted had the three houses encroaching into the root protection area of these trees. Construction would have been likely to have caused them unacceptable damage. Furthermore, such close proximity of trees to houses frequently results in pressure on the local planning authority, from the occupiers of the houses, to agree to the trees' removal. Prior to the February 2014 committee meeting revised plans were submitted showing the houses 2.5m further from the trees. This is the minimum distance that would be acceptable without resulting in damage to the trees. Nevertheless the trees would still have to be properly protected during construction. Furthermore the position of the footpaths to plots 1 –

3 may need to be re-aligned slightly depending on site investigations in relation to locations of tree roots. This could be secured by planning condition.

4.20 The applicant initially included a temporary construction access road between two of the trees for use whilst the existing access road into the site was being widened and improved. The proposed construction route has since been amended to avoid having to pass between the trees. As now proposed it would enter the site through the front gate before following a new alignment parallel to the internal access road.

4.21 Eight trees and four sections of hedgerow would be removed mainly along the perimeter of the bowling green. None of the trees are classed as aged or veteran, as described in the National Planning Policy Framework. Six of the eight trees are category C, of 'minor value', The remaining two trees are category U, which are recommended for removal for arboricultural reasons. The loss of trees would be compensated for by landscaping, including replacement trees.

4.22 The layout as initially submitted included the loss of a further category C tree, a Pear, close to the private road through the site. The alteration to the layout has allowed the tree to be retained.

IMPACT ON HERITAGE ASSETS

4.23 The whole of the site is within Fulford Village Conservation Area and abuts the curtilage of The Cottage, a grade II listed building. Immediately to the north of the application site (but entirely outside it) is Fulford Road Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, referred to earlier in this report, imposes a statutory duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Section 66 of the same 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.

4.24 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 and 72 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.

4.25 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).

4.26 The Fulford Village Conservation Area Appraisal states that '20th Century development within the park has still left significant large areas of open space, including some fine mature trees and a margin of parkland between Main Street and Fulford Ings which helps to preserve the distinction between Fulford Village and the city suburbs and the open space which encircles the settlement'. Any proposals for the eastern end of Connaught Court would be likely to have a significant impact on the character and appearance of the conservation area. However, the current application does not include this part of the conservation area, which lies to the east of the main care home buildings. Nor would the proposed houses be visible from Main Street. Furthermore, when viewed from Main Street the application would maintain the functional and visual gap between Fulford village and the city suburbs. The development would cause some harm to Fulford Village Conservation Area by allowing built development where there is currently very little, thereby affecting the openness of the overall site; however the landscape character of the boundaries would be preserved and the relative density of the new development would be low. The houses at Area A would inhibit views into the site from St Oswalds Road but generous spaces between the buildings would allow some views through and the line of mature trees forming the historic boundary would be preserved. Although the houses at Area B would be partially visible from Fulford Ings they would be seen against a backdrop of the main care home buildings, which are taller than the proposed houses and set at a higher level. The harm is assessed as minor but in these circumstances the council's statutory duty under s.72 gives rise to a strong presumption against planning permission being granted, and considerable importance and weight must be given to the harm, despite it being minor.

4.27 None of the application site lies within Fulford Road Conservation Area (the boundary runs along the centre line of St Oswald's Road) but plots 1, 2 and 3 would abut St Oswald's Road. The conservation area appraisal describes St Oswald's Road as a spacious and quiet residential cul-de-sac with a very strong sense of identity, quite different in character to anything else in the area. It goes on to say that the street has considerable townscape and architectural interest and that most of the houses bordering the site are of positive value to the area. The three proposed houses along the St Oswalds Road highway frontage would cause some harm to the setting of the conservation area by increasing the amount of development along the south side of St Oswalds Road and reducing the openness, at this point, between the two conservation areas. However, the houses would be set well back from the highway boundary and the line of mature trees along the boundary would be retained as would the existing boundary railings incorporating gates to match. All three houses would have a traditional design - two storeys high

with brick walls, pitched roofs, traditional detailing and front gardens. The impact on the setting of the Conservation Area is therefore assessed as minor.

4.28 Area A abuts the curtilage of The Cottage, a grade II listed building. The building lies adjacent to St Oswald's Road. Since submission of the application the house at plot 3 has been moved 2m further away from the curtilage of the listed cottage (from 3.5m to 5.5m). The house at plot 3 would be set back behind the frontage of the listed building by approximately 11m which, together with the increased separation distance, and the intervening 2m-high boundary wall, the proposed position would be sufficient to prevent any significant impact on the setting of the listed building. 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.

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

RECREATION AND OPEN SPACE

4.30 Paragraph 73 of the NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required. Planning Practice Guidance states that open space should be taken into account in planning for new development and considering proposals that may affect existing open space.

4.31 The requirement for open space in new development has been a long standing policy objective for the City of York, included in the Draft Local Plan Incorporating the 4th Set of Changes (Development Control Local Plan) 2005 (policy L1c) and the City of York Local Plan - Publication Draft 2014 (policy G16).

4.32 Policy L1c (Provision of New Open Space In Development) requires that all housing sites make provision for the open space needs of future occupiers. For sites of 10 or more dwellings, an assessment of existing open space provision accessible to the proposed development site including its capacity to absorb additional usage will be undertaken. This is to ascertain the type of open space required and whether on-site or a commuted sum payment for offsite provision is more appropriate based on individual site circumstances.

4.33 Policy GI6 (New Open Space Provision) states that all residential development proposals should contribute to the provision of open space for recreation and amenity. The precise type of on-site provision required will depend on the size and location of the proposal and the existing open space provision in the area. The draft policy encourages on-site provision where possible but off site provision is considered to be acceptable if the proposed development site would be of insufficient size in itself to make the appropriate provision (in accordance with the Council's standards) feasible within the site.

4.34 The open space standards for new development are found in the evidence base study which sits behind the emerging Local Plan (Local Plan Evidence Base: Open Space and Green Infrastructure (Final Report September 2014)). The Study revisits the PPG17 compliant study which was undertaken in 2008, which analysed open space resources across the city. The study found that the former Fulford Ward (prior to the recent boundary changes) has reasonable provision across the majority of open space categories considered in the analysis with facilities in adjacent wards compensating for deficiencies. The Study also considers the 2015 changes to the ward boundaries and the situation remains the same. Regulation 122 of the Community Infrastructure Levy Regulations 2010 requires planning obligations to be necessary to make the development acceptable in planning terms. Given the conclusions in the Evidence Base, contributions to off-site facilities may be contrary to the legal test contained in Regulation 122 if it is concluded that open space is not necessary to make this development of 14 dwellings acceptable in the particular circumstances of this case.

4.35 The submitted drawings show no on site public open space within the development to cater for the needs of the new residents. The three types of public open space provision required by the draft local plans are: outdoor sports facilities, amenity open space and children's play space. Officer's view is that there is insufficient space to provide feasible outdoor sports facilities on site. Using recommendations from the emerging Local Plan Evidence Base the number of houses proposed would generate an amenity and play space area of 460sq.m. However, the constraints of this particular site requires a split of the application site into two separate parcels and provision of a small area of open space land without links to other open space areas would be of limited amenity value preventing open space being provided in a sensible or feasible way on site. Having regard to this, together with the evidence that alternative facilities already exist generally within the walking or public transport catchment, officers consider that the absence of on site open space provision does not give rise to a level of harm that would justify the refusal of the application. For these reasons, Officers consider that it is not necessary to require a commuted sum payment in lieu of on-site open space provision in this case.

4.36 The application proposes the loss of the bowling green facility at the site.. The bowling green itself has already been removed. Paragraph 74 of the National Planning Policy Framework allows existing open space to be built on where the land is surplus to requirements or would be replaced by equivalent or better provision or the development is for alternative sports and recreational provision that clearly outweighs the loss. The Connaught Court bowling green was constructed in the 1970s and was in regular use by care home members. More recently it was used by Connaught Court Bowling Club, which had a wider membership. The green was never open to the public. For the past few years membership has been in decline so the green was opened to other clubs. Usage continued to decline so the green was closed at the end of 2012. By that time the green was in very poor condition. The demand for bowling is in general decline and there is now an oversupply of bowling greens in the York area. However, there is not a surplus of open space per se. Accordingly the development of the Connaught Court green would be contrary to paragraph 74 of the National Planning Policy Framework unless it were to be replaced by equivalent or better provision of open space elsewhere.

4.37 Despite the general decline in the demand for bowling there is still a need for high quality facilities for the City's remaining bowling clubs. It is considered that the best way of catering for this need is to improve existing bowling facilities at strategic locations throughout the city. The applicant has agreed to a contribution of £19,381 to off-set the loss of open space at Connaught Court which will be used to improve the existing bowling green at Scarcroft Green. This contribution is considered to be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development,

and therefore complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010. This contribution would also comply with Regulation 123 as there have not been 5 or more separate obligations which provide funding or provision of that project or type of infrastructure since 2010.

HIGHWAYS ISSUES

4.38 Access to the site would be via the existing access from St Oswalds Road. The care home's internal access road would be improved and widened as part of the proposals. Based upon experience of other sites around the city the level of development proposed can be expected to generate in the region of nine vehicle movements during the AM/PM peak network periods. This level of traffic would not have a material impact on the operation of the highway network and could be accommodated by adjacent junctions without detriment to the free flow of traffic or highway safety. The internal layout proposed is capable of being adopted as publicly maintainable highway and would provide turning facilities for servicing traffic. Car parking would be provided within the curtilage of each dwelling and it is not anticipated that the development would lead to a displacement of parking onto

the adjacent highway. Sufficient areas exist within the internal layout to accommodate visitors/casual callers. Whilst the provision of pedestrian gates to the front of the three proposed houses fronting St Oswalds Road may make street parking more attractive to future residents or their visitors it is not considered that the potential impact on the wider availability of on-street car parking would be significant. There is no new footway shown to be provided along the existing verge, whilst the three access paths are shown to extend on to the verge this area is outside of the application site and within the adopted highway.

4.39 The accessible location of the site would encourage the use of sustainable modes of transport. Fulford Road is serviced by regular bus services to the city centre, and the area is well served by cycle routes along Fulford Road and both sides of the river.

FLOOD RISK AND DRAINAGE

4.40 The NPPF states that 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 (paragraph 100). Local plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk by, among other things, applying the sequential test (paragraph 100). 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. A sequential approach should be used in areas known to be at risk from any form of flooding (paragraph 101). When determining planning applications local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment (FRA), and following the sequential test, it can be demonstrated that within the site the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant (paragraph 103). This is the planning policy context within which the application should be judged.

4.41 In the Framework and its associated Technical Guidance sites in flood zone 2 and 3 are classed as 'areas at risk of flooding'. Zone 2 has a 'medium probability' of flooding; Zone 3(a) has a 'high probability' while zone 3(b) is functional flood plain. Within zone 2 appropriate uses include buildings used as dwellinghouses, subject to the application of the sequential test. Development should not be permitted in zones 2 or 3 if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. Of the 14 houses proposed 11 are in flood zone 1 and parts of the remaining three are in zone 2. There would be no houses in zone 3.

4.42 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. The Environment Agency checklist to provide a framework for transparent demonstration of the application of the sequential test to planning applications is included within the CYC Strategic Flood Risk Assessment as Table 5.3. The checklist asks a sequence of questions regarding the site's allocation within planning policy documents and if unallocated within a planning policy document whether that document contains reasonably alternative site allocations that are situated in a lower flood risk zones, or reasonably available, alternative site allocations that are within the same Flood Zone and subject to a lower probability of flooding from all sources as detailed in the SFRA. Whilst the emerging local plan identified housing allocation sites, including Connaught Court, the Publication Draft of the plan was halted in late 2014 for further work regarding housing land and housing land supply. Limited weight can therefore be given to the emerging local plan in terms of its identified sites. However the evidence base used to identify and rank sites has more weight in the decision making process as it is considered to be NPPF compliant. Approximately 800 parcels of land were considered through the Site Selection process following the Call for Sites 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, were included as draft allocations within the emerging Local Plan.

4.43 In line with the spatial strategy of the Local Plan, areas of high flood risk (flood zone 3b and Greenfield land within zone 3a) were 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.

4.44 The position in relation to the 5 year housing land supply as at 1 April 2015 (our most recent available figure) is such that it is not possible to say that there is an insufficient supply of housing land with a lower risk of flooding (i.e. zone 1) than this site that also meets the other tests (i.e. suitable, available and deliverable) when assessed against the Site Selection methodology. The site does not therefore pass the sequential test which is a material consideration in the planning balance.

4.45 The application is supported by a Flood Risk Assessment (February 2016). A retaining wall would be built along the general alignment of zone 3a and would separate the occupiers' main amenity area from their lower garden land in zone 3. The alignment of the proposed retaining wall, which would be straight for most of its length, does not follow exactly the zone 3 alignment. Nevertheless the variations (between the wall alignment and the zone 3 boundary) would balance and have been agreed with the Environment Agency and the council's flood risk engineers.

4.46 The FRA proposes that a planning condition be attached to the planning consent preventing the construction of any structures beyond this line (i.e. in zones 3a or 3b) other than the proposed post and rail boundary fencing. This would be a reasonable condition. Further conditions of approval should be attached to control finished floor levels of all the houses in Area B and to require fencing details to be submitted for approval.

4.47 Surface water run-off would be to the river Ouse via existing connections. Infiltration SUDS such as soakaways will not be viable on the site due to the presence of permeable clay and shallow ground water. The discharge rate would be attenuated to the Greenfield rate of 5l/s as agreed with the Environment Agency and the internal drainage board. The proposals reduce the surface water run-off by 30 percent (in accordance with the council's Strategic Flood Risk Assessment) and provide further betterment by storing more water underground than required and applying further restrictions to its discharge. Levels across the site would be laid out to allow any flood water to flow away from buildings. The minimum level for roads, paths and escape routes would be at, or above current site levels. In summary, the whole of Area A and the houses at Area B are not at significant risk of flooding. There remains a risk of flooding to the undeveloped, lower-lying garden areas of Area B but this residual risk would be managed by the mitigation measures outlined above. Bearing in mind that there are insufficient suitable and reasonably available sites in the city at a lower risk of flooding and that the proposal includes appropriate flood mitigation measures officers consider that the development satisfies the sequential test and is acceptable in terms of flood risk.

4.48 Officers accept that the part of the site that is in zone 2 could be avoided by locating all 14 houses entirely within zone 1. However such a scheme is not before the council. Moreover, such a scheme would be likely to result in a more cramped form of development that would be out of keeping with the character of the conservation area and provide a lower level of amenity for the occupiers. An alternative would be to avoid zone 2 by building fewer houses. Again, such a scheme is not before the council. It would also provide York with fewer much-needed houses. Furthermore neither of these options are necessary bearing in mind that the current scheme includes appropriate flood mitigation measures and is acceptable in terms of flood risk.

4.49 The Environment Agency (EA) was consulted at the pre-application stage and the layout modified to reflect discussions between the EA, applicant and local planning authority. The housing layout reflected those discussions. The EA was consulted on the application as initially submitted and had no objection to the application. Since the planning permission was quashed the applicant has submitted a revised FRA. The EA have been re-consulted and have no objections to the application.

4.50 Fulford Friends argue that the application should not be determined without the council first having received a response from Yorkshire Water because the drainage of the site is partly within the functional floodplain. In response, the surface water from this site will not drain into the public sewer and as such Yorkshire Water has no role in the surface water drainage of the site.

NEIGHBOUR AMENITY

4.51 The development of Area A is unlikely to have any significant impact on neighbouring occupiers. Whilst there may be some impact on afternoon sunlight to the rear of The Cottage this is likely to be limited given the positioning of its outbuilding along its western boundary. The houses in Area B would lie behind and to the south of houses in Atcherley Close, i.e. nos 11 and 26. Whilst the proposed houses would have two main storeys, additional floorspace would be provided in the roof space, lit by rooflights. In response to concern about overbearing impact raised by residents the house at plot 9 has been moved 6m from the site boundary. The separation distance between the gable wall of the proposed house at plot 9 and the main elevation of the nearest existing house (No.26 Atcherley Close) is now 20.7m. An extension has been added to the rear of no.26 however the impact on this would not be significant. As there are no permitted development rights to extend beyond the side wall of a house in a conservation area a condition is not necessary.

4.52 Plot no.8 within area B is to the south of no.11 Atcherley Close. Plot 8 would have a rear garden of about 15m in length. Separation distances meet and exceed all normal requirements in relation to distances between the proposed house and the original rear elevation of no.11. It is noted that no.11 has been extended to the rear at ground floor level, however it is considered that limited weight can be given to the impact on the extended part of the dwelling which has been built closer to the rear boundary. As there no permitted development rights to extend beyond the rear wall of a dwelling in a conservation area at more than single storey level a condition is not necessary.

4.53 It is not considered reasonable to restrict garden buildings and structures (other than in the flood zone 3 as detailed above) as permitted development rights contain restrictions regarding heights of structures and proximity to boundaries.

EDUCATION PROVISION

4.54 The development would generate the need for four additional places at St Oswald's Junior School and two additional places at Fulford Secondary School. These schools are currently at capacity. Financial contributions totalling £84,053 would therefore be required under policy ED4 of the 2005 local plan This contribution is considered to be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development,

and therefore complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010. This contribution would also comply with Regulation 123 as there have not been 5 or more separate obligations which provide funding or provision of that project or type of infrastructure since 2010.

BIO-DIVERSITY

4.55 The NPPF states that when determining planning applications local planning authorities should aim to conserve and enhance biodiversity. Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss.

4.56 Fulford Ings Site of Special Scientific Interest (SSSI) is approximately 55m to the south-west of the site at its closest point. Assessed using Natural England's Risk Impact Zones, the development is unlikely to have any significant impact on Fulford Ings SSSI. There are no comparable habitats within the development site, the loss of which could have an indirect impact on the SSSI. However best working practices for construction should be followed e.g. waste water, dust control etc.

4.57 The main habitats on the application site to be affected by the development are amenity grassland with standard trees, species-poor hedgerow, areas of tall ruderal. The two buildings on the site were demolished in November 2014. None of the trees identified with potential for bats are scheduled for removal as part of the proposals. Fulford Ings and the adjoining habitats along the River Ouse provide excellent foraging habitat for bats and therefore the loss of the habitats on site will not significantly impact on bats within the wider area. The grassland, hedgerows and ruderal are of low conservation significance.

ARCHAEOLOGY

4.58 The application site lies in an area of archaeological interest. The quashed approval was subject to conditions requiring a written scheme of investigation (WSI) for an archaeological excavation and a WSI for an archaeological watching brief. The applicant submitted a WSI which set out the details of an archaeological excavation of the area of the site adjacent to St Oswald's Road and an archaeological watching brief on the development of the remainder of the site. Work on the excavation area adjacent to St Oswald's Road commenced in October 2014 and finished in November 2014. Not all of this area was excavated at this time and further excavation will be required to fulfil the requirements of the WSI. As no development has taken place on the rest of the site, the watching brief element of the WSI has not been implemented. As the archaeological work has not been completed, no report on the archaeological work has been submitted. Planning conditions are recommended which requires the completion of the works set out in

the WSI.

AFFORDABLE HOUSING

4.59 The National Planning Policy Framework states that local planning authorities should set policies for meeting identified need for affordable housing on site. To that end the Council seeks to ensure that new housing development of 15 dwellings or more in the urban area will include affordable housing. The current application is for 14 dwellings, thereby not triggering the need for affordable housing. Whilst the site is large enough to accommodate a greater number of dwellings a balance has to be struck between the provision of housing and protection of the Conservation Area, particularly its landscape setting. Officers consider that the application achieves this balance.

ENVIRONMENTAL IMPACT ASSESSMENT

4.60 The local planning authority has carried out a screening opinion and taken into account the EIA regulations, the advice in National Planning Practice Guidance (March 2014), the documentation submitted with the application, consultation responses, the scale and characteristics of the development and knowledge of the site. The authority concludes that the development is unlikely to have significant environmental effects. Accordingly the proposal is not EIA development and an Environmental Statement is not required.

COMMUNITY INVOLVEMENT

4.61 The application includes a statement of community involvement. It sets out how, following the appeal inspector's decision in 2008, the applicant set out its revised intentions for the site. Pre-application discussions were held with council officers followed by a range of public consultation exercises. The public response was lower than the applicant expected and some changes were made.

5.0 CONCLUSION

5.1 The application would provide 14 dwellings in a highly sustainable and accessible location. There would be some minor harm to designated heritage assets, i.e. Fulford Village Conservation Area, the setting of Fulford Road Conservation Area and the setting of the Grade II listed building (The Cottage). Having attached considerable importance and weight to the desirability of avoiding such harm the local planning authority has concluded that it is outweighed by the application's public benefits of providing housing in a sustainable location within defined settlement limits and with good access to public and sustainable transport links and local services. This is in line with the aim of the NPPF to boost, significantly, the supply of housing and to deliver a wide choice of high quality homes. In terms of flood risk the site fails the sequential test as there appears to be reasonably available sites for the proposed development in areas with a lower

probability of flooding. However following consultation with the Environment Agency the development would be appropriately flood resilient and resistant, limited parts of three of the proposed houses would be in flood zone 2 (areas of medium risk of probability of river flooding) with the remainder within flood zone 1. Whilst paragraph 100 of the NPPF states that development should not be permitted in such cases, it is considered that on balance the development provides wider benefits with the provision of new housing and that the submitted flood risk assessment has demonstrated that the site can be safely developed without increasing the risk of flooding elsewhere. All other issues are satisfactorily addressed. The developer would contribute £84,052 to fund additional school places arising from the development and £19,381 towards improvements to bowling green facilities at Scarcroft Green. These contributions are considered to be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development,

and therefore comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. These contributions can be secured through a s.106 Obligation. A Planning Obligation would also be in accordance with Regulation 123 of the Community Infrastructure Levy Regulations 2010 as there have not already been 5 or more separate obligations which provide funding or provision of that project or type of infrastructure.

The application accords with national planning policy set out in the National Planning Policy Framework. The proposal accords with the draft policies in the 2005 Development Control Local Plan and emerging policies in the Draft York Local Plan (2014 Publication Draft) where those policies are considered to have material weight in the decision process.

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement and the following conditions

- 1 TIME2 Development start within three years
- 2 The development hereby permitted shall be carried out only in accordance with the following plans: Y81.822.02B, Y81.822.03Q, Y81.822.05F, Y81.822.10C, Y81.822.11C, Y81.822.12C, Y81.822.13C, Y81.822.14C, Y81.822.15C, Y81.822.16D, Y81.822.17D, Y81.822.18C, Y81.822.19C, Y81.822.20B, Y81.822.21B, Y81.822.22B, Y81.822.23B, Y81.822.24C, Y81.822.25C, Y81.822.26, Y81.822.27A, Y81.822.28, Y81.822.29, R/1496/1C, 34511/003F and 34511/004C.

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

3 Before the commencement of the construction of the houses in Area A details of the following matters shall be submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the approved details.

i/ Works to the highway verge along St Oswalds Road

ii/ Footpaths between the houses at plots 1, 2 and 3 and the public highway at St Oswalds Road

Reason: In the interests of the character and appearance of the conservation area, protected trees and mitigation of flood risk.

4 HWAY1 - Details roads, footpaths, open spaces req.

5 HWAY7 - Const of Roads & Footways prior to occup

6 No dwelling shall be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles and cycles have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

7 Prior to the commencement of any works on the site, 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. Such a statement shall include at least the following information:

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be detrimental to the amenity of local residents, free flow of traffic or safety of highway users. The details are required prior to commencement in order to ensure that they are in force during the whole of the construction phase of the development.

8 The tree planting scheme shown on submitted plan numbered R/1496/1C shall be implemented within a period of six months from the completion of the development. Any 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: In the interests of the character and appearance of the conservation area and to enhance the biodiversity of the area.

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

- A. Peak surface water run-off from the proposed development to a maximum 5.0 lit/sec.
- B. Details of the future management and maintenance of the proposed drainage scheme.

The drainage details submitted and approved under this condition the drainage works shall be carried out in accordance with the following plans:

- a. Flood Risk Assessment - PR/34511 005G
- b. Drainage Layout - 34511 003F
- c. Plot Drainage Layout - 34511 012B
- d. Catchment Area Plan - 34511 013A
- e. Flow Control Detail-Manhole S5 Sheet 1 of 2 - 34511 015A
- f. Flow Control Detail-Manhole S5 Sheet 2 of 2 - 34511 016A
- g. External Works Plan - Area B Sheet 2 of 2 - 34511 19B
- h. External Works Plan - Area A Sheet 1 of 2 - 34511 14B
- i. Compensatory flood storage as shown on drawing no. 34511/004 Rev.C

There shall be no raising of land levels unless shown on the approved drawings.

Reason: So that the Local Planning Authority may be satisfied with the details for the proper drainage of the site. The details are required prior to commencement in order to ensure that groundworks and/or other operations early in the construction process do not prejudice the proper drainage of the site.

10 The finished floor levels on the ground floor of the dwellings hereby approved shall be built in accordance with the levels shown on drawing number 34511/004 Rev.C dated 25/05/13.

Reason: In the interests of the amenities of neighbouring occupiers and the character and appearance of the conservation areas and to reduce the risk and impact of flooding to the proposed development and future occupants.

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting that Order with or without modification, no structure, enclosure or building shall be erected nor shall there be any changes to land levels within Flood Zone 3 (as shown on drawing no. 34511/004 Rev C) except for the 1.2m-high post and rail fencing to plots 9, 10, 11, 12, 13 and 14 shown on approved plan Y81:822.03 Rev.Q and detailed on drawing no. Y81.822.27 Rev A.

Reason: To ensure that there is no loss of flood storage and that no obstructions to flow are erected.

12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order), no door, window or other opening shall at any time be inserted in the eastern elevation of the house at plot 3, the northern elevation of the house at plot 4 or the northern elevation of the house at plot 9 without the prior written planning permission of the local planning authority.

Reason: In the interests of the amenities of occupiers of adjacent residential properties.

13 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall 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 shall be prepared, which will be subject to the approval in writing of the Local Planning Authority.

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

14 Prior to commencement of development: (a) gas monitoring and/or a risk assessment shall be carried out by a competent person to assess landfill gas generation and migration. The findings shall be submitted to and approved in writing by the local planning authority; (b) based on the results of the gas monitoring and/or risk assessment, the detailed design of a gas protection system shall be submitted to and approved by the local planning authority. Prior to occupation of the development, a verification report that demonstrates the effectiveness of the gas protection system shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that risks from landfill 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. The details are required prior to commencement in order to ensure that they are in force during the whole of the construction phase of the development.

15 For each dwelling the applicant shall install a three pin 13 amp electrical socket in the garage which is in a suitable location to enable the charging of an electric vehicle using a 3m length cable.

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

NOTE: Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations, be suitable for charging electric vehicles and should have a weatherproof cover if place outside. Where charging point is located outside an internal switch should be provided in the property to enable the socket to be turned off.

16 NOISE7 - Restricted hours of construction

17 An archaeological investigation shall be completed as detailed in the written scheme of investigation, CONNAUGHT COURT, FULFORD, YORK, WRITTEN SCHEME OF INVESTIGATION, JUNE 2014 prepared by MGA and a report on the fieldwork as set out in the WSI shall be submitted to the Local Planning Authority for inclusion in the Historic Environment Record no later than one month after the first occupation of a completed dwelling on this site.

Reason: The site is of archaeological interest and the development will affect important archaeological deposits which must be recorded prior to destruction. The details are required prior to commencement in order to ensure that no archaeological deposits are destroyed prior to them being recording.

18 The works hereby approved shall be carried out in accordance with the tree protection measures within the Tree Survey report by CAPITA dated 20 September 2013 (including the construction access alignment shown on plan ref: yfd1404 dated 9 April 2014 and the CAPITA Arboricultural Method Statement revised 28 March 2014 submitted with the application. A copy of each of these documents will at all times be available for inspection on site.

Reason: To protect existing trees which are covered by a Tree Preservation Order and to protect the character and appearance of the Fulford and Fulford Road conservation areas and to enhance the biodiversity of the area.

19 Prior to the commencement of the construction of any building details of measures to be provided within the design of the new buildings to accommodate bats and provide nesting sites for birds shall be submitted and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with these approved details. Features suitable for incorporation for this group include the use of special tiles, bricks, soffit boards, bat boxes, bird boxes etc.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area.

20 Full details of the proposed external lighting to the site shall be submitted to, and approved in writing by the Local Planning Authority to show how the scheme will minimise light spillage including;

- i) External lighting requirements to be carefully designed to avoid light spillage affecting surrounding habitat.
- ii) Security lighting to be on a short timer and motion sensitive to large objects only.

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

Contact details:

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13/03481/FULM

Royal Masonic Benevolent Institute Connaught Court



Scale : 1:2119

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Organisation	CYC
Department	Not Set
Comments	Site Plan
Date	25 August 2015
SLA Number	Not Set

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COMMITTEE REPORT

Date: 21st April 2016 **Ward:** Wheldrake
Team: Major and **Parish:** Elvington Parish Council
Commercial Team

Reference: 15/02639/FULM
Application at: Elvington Water Treatment Works Kexby Lane Elvington
York
For: Installation of solar photovoltaic array with associated
infrastructure including kiosks, security fencing, cctv and
internal access track
By: Mr Daniel Oxley
Application Type: Major Full Application (13 weeks)
Target Date: 29 April 2016
Recommendation: Approve

1.0 PROPOSAL**THE SITE**

1.1 The application site is an irregular shaped site, 4.10ha in size, approximately 250m (two fields) north of the village of Elvington. It lies adjacent to, and to the south of Elvington Water Treatment Works (WTW). A grassed steeply sloping bund, generally 3m in height rises from the back (north) of the site, providing some screening of the WTW. The site itself is relatively flat in the northern half, but land slopes down across the eastern part of the site from 11m AOD on the north-eastern boundary at the base of the bund, down to 8m AOD along the ditch, on the southern boundary of the site. From there, beyond the southern boundary, the land gently rises towards the village, which generally lies on the 10m AOD contour.

1.2 The site is not currently in agricultural use and the northern part of the site historically was used for storage for the WTW. An area of broken hardstanding is visible beneath the grassland in the northern part of the site together with a metal storage container. The site is characterised by rough semi-improved grassland with approximately 30 scattered scrubs and young trees (hawthorne, willow, oak and birch) on the central and eastern portion of the site.

1.3 The site is bounded by species-rich hedgerows on its western and southern boundary. This western boundary includes several mature trees within the hedge, including a notable large mature oak tree in the western corner. This hedge is unmanaged and an area of scrubland runs alongside it within the site. The southern site boundary runs on the far side of a steep banked drainage ditch, which at the time of the site visit contained running water. The eastern section of this hedgerow lies to the north of the ditch within the site boundary and a 4m thick thicket of blackthorne runs along the north side of the hedge within the site. The western

section of the hedge on the southern boundary lies on the southern side of the ditch (and is not believed to be accurately shown on plans, which has been highlighted to the agent and revisions to plans been sought to no avail.)

1.4 The site is accessed from Dauby Lane along a private road to the WTW. Post and rail fencing with managed hedgerow run the length of the northern boundary with a vehicle access in the centre. There are a cluster of trees on the northern tip of the site. The north-eastern boundary of the site is marked by c2m high mesh fencing.

1.5 An area of the site alongside and to the north of the ditch falls within Flood Zones 2 (medium risk) and Flood Zone 3 (high risk) of flooding. The area within these zones totals about 7 % of the site. The site is identified on the City of York Council's Agricultural Land Classification Plan (updated 2010) as being of moderate agricultural value (Grade 3b). The site lies wholly within the Green Belt.

1.6 The site is located in a sensitive location from a nature conservation perspective being approximately 325m west of the River Derwent at its nearest point. Whilst the site itself is not designated for its ecological value, it is close to a number of statutory nature conservation sites of international importance. There are four statutory designated sites within 2km;

- River Derwent Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and Special Protection Area (SPA)
- Lower Derwent Valley Ramsar, SAC, SPA and National Nature Reserve (NNR)
- Derwent Ings SSSI, Ramsar, SPA and NNR
- Newton Mask SSSI

1.7 These sites are designated for a range of features including flood meadows and associated species, the most mobile of which are otters, and breeding and wintering birds.

1.8 The site lies between two parts of the Lower Derwent Valley Ramsar. Ramsar sites are wetlands of international importance which represents one of the most important examples of traditionally managed species-rich alluvial meadow habitats in the UK. Special Protection Areas (SPAs) are strictly protected sites classified for rare and vulnerable birds and the SPA covers the same area as the Ramsar. The River Derwent Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) and are located 220m from the site at the nearest point. Special Areas of Conservation (SACs) are strictly protected sites designated under the EC Habitats Directive. The primary reason for the SAC designation is the presence of the river lamprey (fish) with the sea lamprey (fish), bullhead (fish) and otter (mammal) being qualifying features. The SPA is designated as a site of outstanding importance for a diverse range of waterbirds throughout the year. Sites of Special

Scientific Interest (SSSI) (England, Scotland and Wales) provide statutory protection for the best examples of the UK's flora, fauna, or geological or physiographical features. The SSSI designated along the River Derwent represent one of the best British examples of the classic river profile and this section supports diverse communities of aquatic flora and fauna, many elements of which are nationally significant.

1.9 Elvington Church of England Primary School is located 400m to the west of the site, at the junction of Dauby Lane with the Water Treatment Work's access road. The village of Elvington curves around the site to the south at a distance. Elvington Conservation Area is approximately 400m to the south of the site. There are nine listed buildings within the village, many clustered along the Main Street, including Elvington Hall (Grade II*). At the eastern end of the village, Sutton Bridge, over the River Derwent is a listed structure (Grade II*) and a scheduled ancient monument, dating from the late 1600s.

1.10 The surrounding countryside includes gently rolling arable fields interspersed with farmsteads and villages. The WTW works is an industrial facility which is visible, despite the bunding, from Elvington village.

1.11 There are three public rights of way in the local vicinity. Wilberforce Way is a 60 mile linear trail from Hull to York. It runs east to west to the south of Elvington village, crossing the river at Sutton Bridge. The Jorvik Way is a circular route around York. In Elvington it follows the east bank of the River Derwent so is at a distance of approximately 335m from the site at its nearest point. There is also a public footpath two fields to the north of the site (490m away) which leads from Dauby Lane towards the WTW.

THE PROPOSAL

1.12 The applicant is proposing the installation of a solar photovoltaic (PV) array with associated infrastructure on the site (the solar farm). It is a full planning application accompanied by an Environmental Statement (ES) which sets out in detail the environmental impacts associated with the proposals. A Planning Statement has also been submitted.

1.13 In summary, the proposals comprises approximately 29 rows of solar panels, known as strings ranging from 0.8m off the ground to a maximum of 2.5m in height. Each string of panels would be mounted on a rack comprising poles driven into the ground by direct screw piling to a depth of approximately 1.5m without the need for excavation. The associated infrastructure includes an inverter kiosk measuring approximately 6m in length by 2.44m in width and 2.59m in height but no more than 4m in height and a switchgear kiosk measuring 5.1m in length by 2.65m in width and generally 2.25m high; buried cables connecting the solar panels to the invertors and grid connection; 12no. CCTV cameras and audio projectors on poles a maximum of 4m in height; a perimeter deer fence of galvanised mesh and wooden posts a

maximum of 2m in height and a temporary construction compound on the existing hardstanding area in the north of the site.

1.14 The site would be accessed from Dauby Lane and the private WTW access road, with a new access point into the site on the north-western corner. The planning application is for temporary development of 25 years, thereafter the site would be returned to its current use being unmanaged grassland. The construction period for the development is anticipated to be 12 weeks.

1.15 The applicant is Kelda Energy Services Ltd; part of the Kelda Group which includes Yorkshire Water and Kelda Water Services. They have advised that treating water and sewage to required water quality standards in an increasingly energy intensive operation. The electricity generated from the solar farm will directly provide electricity to the adjacent WTW. The development will have a capacity of around 1.8MW electricity and it will be used to offset approximately 15% of the existing annual on-site demand with renewable energy, equivalent to powering approximately 460 homes per annum with a minimum save of 645 tonnes of CO2 emissions per year. Benefits include replacing some of the grid electricity generated from finite resources by renewable energy generation; avoiding transmission losses because power is generated on site; and reducing energy costs to the business.

PLANNING HISTORY

1.16 A screening opinion was requested by the applicant on 16.03.2015 as to whether the application required an Environmental Impact Assessment (EIA) to be undertaken. The Council's view was that, through reference to Schedule 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and Planning Practice Guidance (PPG) on EIA (updated 15.04.2015), internal and external consultees, an EIA was necessary.

1.17 In undertaking the screening exercise, the Regulations required the consideration of the location of development and the characteristics of the potential impact to be assessed. The Regulations advised that particular attention should be paid to the existing land use, the relative abundance, quality and regeneration capacity of natural resources in the area, paying attention to wetlands and areas designated by Member States for the conservation of wild birds and natural habitats, wild fauna and flora. PPG explains that the more environmentally sensitive the location, the lower the threshold will be at which significant effects are likely. Sensitive locations included SSSI and European sites (which would include Ramsar, SAC and SPAs) and landscapes of historical, cultural or archaeological significance.

1.18 The screening opinion provided detailed consideration of the proposals, and concluded that due to the sensitivity of the local environment, particularly the proximity of the Ramsar, SPA, SAC and SSSI and the cumulative impacts from particularly the construction and decommissioning phases of the development, an

EIA was required to understand the full impact of the development proposed, particularly during the construction, decommissioning and restoration phases.

1.19 On 21.01.2015, an EIA screening request was received for a similar proposed solar farm on a larger site area, closer to the River Derwent (ref. 15/00145/EIASN). However this application was withdrawn as a smaller site area (the current application) was then proposed to bring the development further away from the river.

1.20 On 03.04.2002, a prior notification for various hedgerow works along the length of the proposed duplication drain from Elvington Treatment Works to Keldcarrs Drain was determined as having no objections (ref. 02/00530/HRN). This application was along and within the site boundary and mature hedge on the west of the site.

1.21 On 18.12.2001, planning permission was granted for the installation of a buried treated water contact tank and associated landscaping mound immediately to the north of the current site boundary (ref. 01/03069/FUL). A relevant condition attached to the approval related to landscaping of the bund to screen the development from surrounding properties for residential amenity and that details of the landscaping scheme should be agreed prior to work commencing on site and should be provided before the tank comes into use. It appears that such a landscaping scheme was not agreed nor implemented. Officers notes on file indicate it should have been a native woodland mix, including 20% evergreens. Plans show that it is not the same as the existing young trees within the current application site, but was intended to be planting on the bund.

1.22 On 29.08.2008, planning permission was granted for the erection of a 50m high environmental monitoring mast and associated guy ropes for a temporary period of 18 months (ref. 07/02915/FUL). The purpose of the mast was to determine whether it would be suitable for a wind turbine to be located here and at what height. This application site area falls partially within the current application site. It was not followed by an application for a wind turbine.

1.23 Various other planning permissions have been granted for additional facilities at the WTW, including an outline application for additional water treatment works including extension to the operational boundary (ref. 8/05/42J/PA) of the WTW, a new water pumping station (01/00432/FUL) and various new buildings. However, none of these are considered to be directly relevant to the current application. There have been no refusals of planning applications recorded (which may otherwise inform for example Green Belt considerations).

2.0 POLICY CONTEXT

2.1 Draft Development Plan Allocation:

Contaminated Land

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

2.2 Policies:

City of York Draft Local Plan adopted for Development Control Purposes in 2005 (DCLP)

CYSP2: The York Green Belt

CYGB1: Development within the Green Belt

CYGB10: Major development sites in Green Belt

CYGP5: Renewable energy

CYGP15: Protection from flooding

CYNE2: Rivers and Stream Corridors, Ponds and Wetland Habitats

CYNE7: Habitat protection and creation

CYNE4A: International and National Nature Conservation Sites

CYHE2: Development in historic locations

3.0 CONSULTATIONS

INTERNAL

Planning and Environmental Management (Forward Planning)

3.1 Forward Planning provided a full planning policy review. Referencing the NPPF, they underline that whilst there is a general presumption in favour of sustainable development, in this instance it does not apply as the site falls within the general extent of the Green Belt, part of the site is within an area of high flood risk and is close to a site that is protected under the Birds and Habitats Directive (footnote 9, paragraph 14).

3.2 The site is located within the Green Belt, so the impact on openness of the site is important and whilst a maximum of 2.5m in height, it is likely to be visible in the wider landscape. NPPG states that heritage assets, including the impact of proposals on views important for their setting, should be given careful consideration in relation to large scale solar farms. The proposed development is distinctly different from the existing countryside and village character and therefore does constitute coalescence of an existing countryside 'gap' between Elvington and the existing water treatment works. Cumulatively, this development site is likely to change the perception of the countryside in this area and cause harm to the openness of the Green Belt in this location for the duration of the development.

Whilst a temporary permission has been applied for, 25 years in this context is a long term effect.

3.3 The applicants have stated the economic and environmental benefits which they consider to amount to very special circumstances and the need to locate the solar farm adjacent to the WTW. National and emerging local policy supports a positive approach to renewable energy for its environmental benefits in mitigating climate change and that renewable energy generated from solar PV has the most viable potential in the city, as demonstrated in the evidence base. A 15% reduction represents a significant saving for this site and for the city as a whole in reducing non-renewable energy consumption.

Planning and Environmental Management (Landscape)

3.4 The site lies just on the outside edge of the 'River Derwent Floodplain' and adjacent to landscape character type 'Wooded Arable Lowland'. The North Yorkshire and York Landscape Characterisation Project places the whole of the site within the character type 'River flood plain', and adjacent to 'Vale Farmland with Plantation Woodland and Heathland'. The land is not physically part of the traditional ings meadows, though it does relate to the Derwent ings landscape by way of its proximity and grassland openness, which has the potential to be returned to pasture. The EIA includes a Landscape and Visual Impact Assessment (LVIA), which assesses views of the site from a suitable choice of view points.

3.5 The development represents an extension of structures into the open countryside, which would be visible from the riverside public right of way in the winter months, though it would be strongly associated with the WTW. Although the site is not currently in agricultural use, it is part of the open Green Belt associated with Elvington village and the River Derwent corridor and the open landscape to the north of Elvington. Were the site to be returned to grazing it would marry with the context of the natural surroundings. The introduction, albeit potentially temporary, of the solar arrays plus not insignificant ancillary structures including fencing and security cameras, would impact on the open character of the site, and extend the man-made nature of the WTW (though of a different ilk) into the countryside. This would be over a fairly limited area when viewed from the surrounding context.

3.6 In general the visibility of the development is limited by the relatively low height of the photovoltaic panels. Fencing and security cameras on 4m high poles would create closure and render the development more conspicuous. Although the kiosks are generally 2.6m overall height, they are small in number and fairly incidental in the scale of the landscape in which small outbuildings can be regularly seen.

3.7 The site is heavily screened from Elvington Main Street due to the extent of residential development, mainly in the form of cul-de-sacs and courtyards to the north of the main street. The built form creates a shallow arc roughly parallel with the site's southern boundary. Views of the site from within such streets is limited,

however due to the spatial relationship between the outer northern edge of the village and the site, a number of properties will have views of the site from upper floor windows.

3.8 The River Derwent corridor is an extremely important green infrastructure corridor in terms of biodiversity, recreation and landscape character. The site is located within/immediately adjacent to this corridor. A public footpath hugs the eastern bank of the river and connects Elvington/Sutton upon Derwent and the Wilberforce Way with Kexby and the Minster Way: two recreational routes. There are sensitive views of the site from this footpath. The views are generally perpendicular to the narrower eastern end of the site which reduces the proportion of view taken up by the site. Distance and vegetated field boundaries provide some natural visual mitigation. The proposed planting plan places a new hedgerow and a random line of Oak trees along the far eastern boundary of the site, which will provide additional screening/distraction from the proposed development, whilst providing an appropriate addition to the landscape features in the vicinity.

3.9 The site is currently rough grassland, as is the earth mounding that separates the application site from the WTW. Generally the application site is seen as an extension of the mounding and the various structures that can be seen as part of the WTW, particularly when viewed from the south e.g. as at the end of Riverside Close. The development has a direct impact on the landscape on which it stands; however the intervention on the physical landscape is very limited. With foreshortening and the background WTW context, and intermittent vegetation, the application site does not appear to excessively extend the built influence into the wider landscape character as seen from public viewpoints beyond the site.

3.10 The proposals include 12no. security cameras, mounted on 4m high posts, spaced evenly around the entire perimeter of the site, at approx. 80m. Negotiations with the applicant sought to reduce the number as they are a conspicuous element in the landscape. However, the Council was advised this was not possible for security reasons.

3.11 Although the LVIA states that no landscape mitigation is required, the landscape plan includes a number of measures that will assist in screening the development and distracting the eye with improved landscape features, which include a new native hedge and standard Oaks that will reinstate an old hedge line (approximately) along the eastern boundary; additional small trees along the southern boundary; retention of the blackthorn along the southwest boundary; hedges maintained at taller minimum height of 2.4m. The 'scrub' internal to the site includes some young trees. The development will remove these, though some of the scrub vegetation will be retained at the base of the embankment in the north west corner.

Planning and Environmental Management (Ecology)

3.12 The Council as the competent authority must make a judgement under Regulation 61 of the Conservation of Habitats and Species Regulations (2010) as to the 'likely significant effect', if any, of the above project on the River Derwent SAC, SSSI and Lower Derwent Valley SPA. A Habitat Regulations Assessment screening was undertaken by CYC and it was determined that an Appropriate Assessment was not required.

3.13 Guidance from Natural England and the RSPB states that solar arrays could result in direct habitat loss, habitat fragmentation and/or modification and disturbance/displacement of species. There is currently no evidence of direct impacts to birds during operation. The operational phase of the development was scoped out of the EIA and the assessment specifically focuses on the noise, vibration and soil disturbance effects arising from the construction and decommissioning of the development on statutory nature conservation sites.

3.14 There are four statutory designated sites within 2km;

- River Derwent Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and Special Protection Area (SPA)
- Lower Derwent Valley Ramsar, SAC, SPA and National Nature Reserve (NNR)
- Derwent Ings SSSI, Ramsar, SPA and NNR
- Newton Mask SSSI

3.15 These sites are designated for a range of features including flood meadows and associated species, the most mobile of which are otters, and breeding and wintering birds. The River Derwent is c.350m from the site at the closest point, 560m at the furthest.

3.16 The EIA is informed by specific ecology surveys covering; a desk top study, an Extended Phase 1 Habitat Survey which included consideration of bats, badgers, water vole, otter and amphibians, and an Ornithological Walkover.

3.17 There was no evidence of any Lower Derwent Valley SPA birds using the site during the surveys or through the desk study and habitat for these species is considered unsuitable at the site. The desk study information provides evidence that there is some connectivity between the wider area surrounding the site and the designated sites, but it is not considered to be a key resource. The site is already subject to a certain level of background noise and vibration from the adjacent water treatment works and construction of the development is not considered to add significantly to these background levels. The EIA concludes that no significant effects are predicted to arise on features of ecological value as a result of the development.

3.18 Barn owls were recorded on site and mitigation has been proposed to increase roosting and foraging opportunities on the site for this species. This mitigation forms part of a Biodiversity Management Plan proposed for the site and which should be secured through condition.

3.19 Overall, therefore there are no objections to the proposed development, subject to the attachment of conditions relating to the Biodiversity Management Plan, use of native species, a construction and environmental management plan, a decommissioning and land restoration plan, and updated ecology surveys.

Planning and Environmental Management (Archaeology)

3.20 This site is located on previously undisturbed land situated within a wider landscape which contains evidence of Prehistoric and Romano-British activity. A desk based assessment has revealed that the site may contain archaeological remains of an unknown nature.

3.21 It is possible that groundworks associated with this proposal may reveal or disturb archaeological features particularly relating to the prehistoric-medieval period. It will be necessary to undertake a strip, map and record exercise across the site prior to the start of any construction work on site. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences. Two archaeological conditions are proposed to strip, map and record an archaeological deposits found on the access road, substation/kiosk areas and temporary haul road and to place a watching brief on the cable trenching between the arrays and the HV kiosks and to the grid.

Planning and Environmental Management (Sustainability)

3.22 As a general principle, the proposed development presents an opportunity for viable renewable energy generation within the city and contribute towards cutting city-wide greenhouse gas emissions. Subject to all other impacts of this proposed development being deemed (or can be made) acceptable, the development will help meet York's Climate Change Priorities, which includes a commitment to tackle climate change in York and to better prepare and adapt to a changing climate. It also commits the city to aim to reduce city-wide carbon emissions by 40% by 2020 and 80% by 2050. One of the major ways the city can meet these targets is through the generation of low carbon energy generation.

3.23 The Renewable Energy Study (2014) is an evidence base document to inform the emerging Local Plan. It identified that the City generates an estimated 40 MWh/yr from renewable energy sources. This is just 1.6% of the city's total energy demand. It also illustrates that solar PV has the greatest potential of all the low carbon technologies considered in this study to save carbon emissions.

3.24 The proposed development will contribute to generating local renewable energy, reduce energy demand and carbon emissions, and supply the site with a secure local source of energy. This development will also support the Climate Change Act 2008 and EU Renewable Energy Directive policies.

Highway Network Management

3.25 Highways have no objections to the proposed development. The impact on the local highway network will be negligible. The access to the field is from an unadopted access road.

Flood Risk Management

3.26 Part of the proposed development is in medium and high risk Flood Zones 2 and 3, and therefore a Flood Risk Assessment should be submitted for approval to the EA. The EA have responded that providing the site's infrastructure is located outside of the small area of Flood Zone 3, the EA have no objections to the development. There should be no land raising in this area of Flood Zone 3.

3.27 With regards to surface water discharge, officers have no objections to the development in principle but if planning permission is to be granted, details should be provided through the addition of a suitable condition to protect the local aquatic environment and public sewer network.

Public Protection

3.28 For similar applications at other water treatment sites Public Protection raised concerns over the potential for noise associated with equipments (inverters) which would be provided with any electricity generating development. Due to the nature of the proposals the equipment will only operate during daylight hours. The applicant has provided information on sound power levels and predicted noise levels at the nearest property. Compared to background noise levels, the anticipated noise levels from the invertors is lower and thus public protection has no concerns about a loss of amenity from the development.

3.29 Whilst there may be a short term impact on amenity from the construction period of 12 weeks, it is considered acceptable. With regards to noise and vibration from the installation of the photovoltaic cells, mounts etc no objections are raised, although a condition to limit the hours of construction is proposed.

3.30 Whilst there is the potential for a small amounts of loss of amenity for limited durations (15 minutes per day) on a maximum of nine properties, public protection have no concerns on these grounds.

EXTERNAL

East Riding of Yorkshire County Council

3.31 No response.

Elvington Parish Council

3.32 The Parish Council has no objection to the application but would like confirmation that the Green Belt status of the land (on which the panels sit) would be unchanged by the development, i.e. in future this would not be considered a 'brownfield' site. They also request that the Council should consider seeking a goodwill gesture from Kelda to the village, as a condition for the temporary loss of a Green Belt area.

Natural England

3.33 Natural England reference the Conservation of Habitats and Species Regulations 2010, as amended (The 'Habitats Regulations') and Wildlife and Countryside Act 1981, as amended.

3.34 The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Lower Derwent Valley Special Protection Area (SPA) and Special Area of Conservation (SAC) and the River Derwent SAC which are European sites. The Lower Derwent Valley is also listed as a Ramsar site¹ and is notified at a national level as Newton Mask, Derwent Ings and Melbourne and Thornton Ings Sites of Special Scientific Interest (SSSIs).

3.35 However, Natural England have no objections to the proposal. They do advise that a Habitats Regulations Assessment is undertaken. They also state that the proposal is not necessary for the management of the European site and that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment. The SSSIs do not represent a constraint in determining this application. However Natural England have not assessed this application and associated documents for impacts on protected species.

Ouse and Derwent Internal Drainage Board

3.36 The IDB maintain Horse Dyke: a watercourse currently running at capacity, and would therefore like to mitigate any negative impact that may arise from development. This watercourse also flows into Elvington, an area prone to flooding and reliant upon a pumping station. Where practicable, the risk of flooding should be reduced and surface water should be managed in a sustainable manner. Prior consent is required for any structures or planting within 9.00m of the bank top of any watercourse within or abutting a site. Any proposal directly affecting the watercourse, including any discharge, will also require the Board's prior consent. A detailed drainage strategy should be prepared. A drainage condition is proposed.

National Planning Casework Unit

3.37 No response. The NPCU is the mechanism for advising the Secretary of State that a planning application has been received accompanied by an ES.

Yorkshire Water

3.38 The applicant is Yorkshire Water's sister company Kelda Water Services Ltd (KWS) and YW comment in support of the proposals. The project is part of Kelda's drive for significant reductions in energy demand and to increase renewable energy capabilities so as to further reduce their carbon footprint. Given this and the wider benefits of the solar farm's contribution to a sustainable public water supply system and carbon reduction, "very special circumstances" do apply in this case with regard to the WTW's location within Green Belt, especially as the WTW was included as a "major developed site" in York's 2005 draft local plan.

Environment Agency (EA)

3.39 Providing that the site's infrastructure is located outside of the small area of Flood Zone 3, the EA have no objections to this development. There should be no land raising in this area of Flood Zone 3.

3.40 Site notice expired: 15.02.2016

3.41 Neighbours: No comments have been received from neighbours.

4.0 APPRAISAL

KEY ISSUES

4.1 The key issues are considered to be:

- Whether the application adequately considers the environmental impacts of the scheme;
- Green Belt;
- Flooding and drainage;
- Ecology within the site and any indirect impact on any international, national or local protected sites along the River Derwent (RAMSAR, SPA, SAC, SSSI);
- Impact on landscape;
- Impact on historical assets;
- Impact on visual amenity;
- Site decommissioning and restoration; and
- Whether any very special circumstances have been demonstrated to balance the harm to the Green Belt and any other harms.

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.

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 developed land, provided that it is not of high environmental value. 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 The Government attaches great importance to Green Belts with the fundamental aim of Green Belt policy being 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; to assist in safeguarding the countryside from encroachment and to preserve the setting of historic towns (paras. 79 and 80). 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 (paras. 87 and 88).

4.6 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.

4.7 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, applicants should not need to demonstrate the overall need for renewable energy. Local planning authorities should approve the application, unless material considerations indicate otherwise, if its impacts are (or can be made) acceptable.

4.8 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 must be appropriately flood resilient and resistant. Priority should be given to the use of sustainable drainage systems (paragraph 103).

4.9 Section 11 states that valued landscapes should be protected and enhanced, recognising the wider benefits of ecosystem services, minimise impacts on biodiversity and providing net gains 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.

4.10 Development on land outside a SSSI likely to have an adverse impact on it should not normally be permitted. Wildlife sites, including SPAs, SAC, Ramsar sites should all be given the same protection as European sites. The presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined (para. 119).

Planning Practice Guidance

Renewable and low carbon energy (updated 18.06.2015)

4.11 The PPG sets out the Government's commitment to increasing the amount of energy from renewable and low carbon technologies. Renewable energy developments should be acceptable for their proposed location. The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. Large-scale solar farms should preferably be located on previously developed and non agricultural land, provided that it is not of high environmental value. If proposed on greenfield land, lower grade agricultural land should be used in preference to higher quality land. Solar farms are normally temporary structures which can be limited in duration by condition and land subsequently restored. Glint and glare and cumulative landscape impacts and cumulative visual impacts should be considered.

Saved policies from the Regional Spatial Strategy

4.12 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 Figure 6.2: 'York sub area context diagram' of the RSS.

Draft Local Plan adopted for Development Control Purposes (2005)

4.13 The City of York Draft Local Plan incorporating the 4th set of changes, April 2005, (DCLP) has been adopted for development control purposes. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

4.14 Policy SP2 explains that the primary purpose of the York Green Belt is to safeguard the setting and historic character of the 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. Policy GB10 'major development sites in the Green Belt' identifies Elvington WTW as having a preferred use for water treatment operations. However the site is outside this major developed site.

4.15 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 circumstance why they should be located here rather than elsewhere in the city.

4.16 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. 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.

4.17 Policy NE2 seeks to protect river and stream corridors, development should be resisted that would have an adverse impact on their natural features. 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.

4.18 Policies NE4a protects international and national conservation sites explaining that where development would have an adverse effect, directly or indirectly, where the reasons for the development clearly outweigh the special nature conservation value of the site.

4.19 Elvington Conservation Area (no.25) lies to the south of the site and is centred on the main street, extending eastwards to the Grade II* listed Sutton Bridge (also an ancient monument). The CA description includes the Riverside Meadows as being essential to the setting of the village, and are tranquil and pastoral in character. Policy HE2 explains that development affecting the setting of listed buildings, scheduled monuments and nationally important archaeological remains should maintain and enhance such features which contribute to the character or appearance of the area.

Emerging Local Plan - Publication Draft (2014)

4.20 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 capable of being a material consideration in the determination of the planning application.

4.21 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 reasserts the presumption against inappropriate development in the Green Belt but does note that renewable energy schemes, where they can be proved that the location is necessary for technical reasons and wider environmental benefits can be demonstrated, may be considered appropriate. However 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 and therefore very little weight can be attached to it

4.22 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; nature conservation sites and features, the road network and other land based activities.

Historic Character and Setting Evidence Base (June 2013)

4.23 The Historic Character and Setting evidence base identifies swathes of land across the city, which are of most importance for preserving York's historic character and setting. These areas are used as a factor which shapes growth within the emerging Local Plan Spatial Strategy in recognition of the role it plays in preserving the historic character and setting. The evidence base underpinning the Green Belt in terms of areas important for the Historic Character and Setting for the city do not include this as a location of importance.

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

4.24 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 of lower value (grades 3b, 4, and 5). Sites 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. The landscape / visual impact of a solar PV farm is likely to be one of the most significant impacts of such development. Existing hedges and established vegetation, including mature trees, should be retained wherever possible and be protected during construction. Any buildings should be designed to minimise their landscape and visual impact.

4.25 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. 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.

CONSIDERATION

Content of the Application

4.26 As the application is accompanied by an ES, consideration has been given to the content of the application and whether specific and fully detailed information has been presented to enable the full environmental implications of the proposal to be understood. An assumption in this regard is that the proposals for the full planning permission are detailed, precise and clear.

4.27 The screening exercise established that the any significant environmental effects were considered most likely to arise from the construction and decommissioning phases as a result of the particularly sensitive location of the

proposed development close to statutory designated sites of the River Derwent, Lower Derwent Valley, Derwent Ings and Newton Mask.

4.28 Overall, a high level of detail has been submitted within the ES, which also includes a Biodiversity Management Plan in the Appendix. However, concerns were raised in particular regarding the original plans submitted with the application which were ambiguous and key information on the existing site and retained landscape elements was absent from the proposed plans. , Revised plans have now been received which include an existing site plan with existing vegetation and contour lines and scrub/young trees to be removed; a revised site layout plan and landscape planting plan which show existing retained landscaping as well as proposed. The actual line of the ditch and hedgerow on the southern boundary has not been agreed and some doubt remains about whether the applicant has control over the hedgerows on this southern boundary. The applicant has undertaken a search of their legal records (title deeds, covenants and land registry document) and cannot confirm the landownership of the boundary and hedgerows. However it has not been deemed necessary to amend/update the ES nor reconsult, as the overall impact of the proposals is not significantly changed by the ownership/ management of the hedge.

4.29 The ES has been reviewed by internal and external consultees and it has been concluded that the planning application with ES is comprehensive and robust now that precise landscape plans have been received that can be referenced in appropriate conditions with confidence.

Principle of Renewable Energy Development

4.30 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.

4.31 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 renewable energy development is over-ridden by the presumption against inappropriate development within the Green Belt and also because the development requires appropriate assessment under the Birds or Habitats Directives.

4.32 PPG and BRE Guidance direct solar farms to previously developed land and to poorer grade agricultural land. Referencing the glossary in annex 2 of the NPPF, whilst broken areas of hardstanding are visible in the site, it is not believed to be the remnant of any structures, but storage areas uses by the WTW historically which have generally blended into the landscape in the process of time. Therefore the site cannot be considered to be previously developed, but a greenfield site. The site is generally within agricultural classification Grade 3b (moderate value) and surrounding fields are used for a combination of pasture for sheep and equine grazing and cultivated crops. The site itself has not reportedly been used for farming for many years. That and the temporary permission of 25 years applied for does not result in specific objections on these grounds as the solar farm needs to be co-located with the WTW and there are no realistic alternatives. Therefore, the proposals are not found to conflict in this situation with the general principles set out in PPG on renewable and low carbon energy which seeks previously developed land and land of lower agricultural quality over green field sites.

Green Belt

Inappropriate development

4.33 Saved policies from the RSS, together with the proposals map from the DCLP (2005), confirm that the site is located within the general extent of the York Green Belt. Renewable energy development does not fall within the forms of development identified by the NPPF as not inappropriate 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.

4.34 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

4.35 Paragraph 80 of the NPPF sets out five purposes of the Green Belt which include checking the unrestricted sprawl of urban areas; to prevent neighbouring towns merging; assist in safeguarding the countryside from encroachment; to preserve the setting of historic towns and to assist in urban regeneration by recycling derelict land. The site is considered to fulfil several of these Green Belt

purposes. It contributes to the important open gap of countryside between Elvington village and the WTW as a major developed industrial site. The proposed solar farm will bring development closer to the village and outside the visual boundary of the WTW provided by the bund and therefore clearly encroaches into the countryside. It may also affect the setting of Elvington as a historic village, although to a limited extent in this location. It is a green field site outside the WTW boundary so it does not assist in urban regeneration or use derelict or underused land within the WTW. It is agreed the proposals would not impact on the setting of York and this, as set out in the evidence base (historic character and setting evidence base).

4.36 In addition to the harm by reason of inappropriateness, consideration also needs to be given to any other harm to the Green Belt. 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 WTW to the north and Elvington village to the south. Whilst the WTW itself is identified as a 'major developed site' in the Green Belt in the DCLP (2005), the designation is on the part of the WTW which includes the buildings only and not the pools and other non-built elements. The site clearly falls outside this designation on plan but also on site. The green bund forms a physical and visual edge to the WTW and the site follows the base, to the south of the bund and therefore clearly outside the WTW. Whilst the site is bounded on two sides by existing hedgerows, and an earth mound to the north together with the WTW, the site is not considered to be enclosed nor comprise infill. With 29 rows of solar arrays, a maximum of 2.5m in height across much of the 4.1ha site plus two inverter/generator structures, 2m high deer fence and twelve 4m high poles with security cameras and audio equipment, the proposals have an impact on openness which is a key aspect of Green Belt policy. This is mitigated a little however as the solar arrays are in rows, between 3m and 7m apart, rather than a constant mass and by the restricted height of the panels.

4.37 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, with a maximum height of 4m. A second structure, the switch gear kiosk, is also proposed and is of a similar size. Arguably they are rectangular structures rather than buildings but they impact on the openness of the site. Overall, the solar farm will appear as a solid manmade infrastructure to a height of a single storey building at 2.5m with various elements extending to a maximum of 4m in height. 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 which are key principles of Green Belt policy (DCLP 2005 policy GB1 and paras. 79 and 80 of the NPPF).

4.38 The development has a construction programme of 12 weeks and will include a temporary construction compound with storage of materials and equipment. The construction will include stripping of vegetation, topsoil and subsoil (to a depth of 1m for the trenches) and stockpiling of these elements, plus imported rock fill for the access tracks. Frames, panels and cables will also need to be stored on site together with sand which will be placed around the cables for protection. The

applicant has advised the storage of materials will be in mounds a maximum of 2m in height. The excavated soils would be reinstated and compacted. This construction phase and a similar decommissioning phase would have a notable, but temporary impact on the openness of the Green Belt.

4.39 Regarding the applicants' argument presented that the development is for a temporary period of 25 years, it has been considered whether this is materially 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. Therefore there would be a permanence in terms of impact on the Green Belt set by the proposed development.

4.40 The proposed development causes harm to the permanence and openness of the Green Belt in addition to the harm caused by reason of inappropriateness. The NPPF advises that substantial weight should be given to any such harm to the Green Belt. Development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. Any other harms, and the assessment of other material planning considerations are discussed below and the section concludes with an assessment of whether very special circumstances exist.

Flooding and Drainage

4.41 Originally the proposals showed a section of the deer fence and one CCTV pole within the high risk Flood Zone 3 adjacent to the ditch and sections of the solar arrays within medium risk Flood Zone 2. Following advice from officers that according to NPPF policy and PPG, the proposals would need to pass the sequential test and it appeared that they could be relocated to areas at low risk of flooding (Flood Zone 1), the applicant has submitted revised plans which shows a reduction in the number of solar arrays, but with all panels within Flood Zone 1. The proposed deer fence and CCTV pole, retained blackthorne and additional trees are still within Flood Zones 2 and 3, but it is not necessary for these elements to pass the sequential test as they are considered to be 'minor development' and flood waters will just flow around/through them. As such, the sequential and exception tests do not need to be applied and no concerns are raised. However, it will be necessary to ensure that during the construction/decommissioning/restoration phases that there will be no altering of the topography, and specifically no raising of land. A suitable condition is proposed.

4.42 The ES contains a detailed chapter on hydrology. It identifies a field drain on the southern boundary which discharges into Horse Dyke and then to the River Derwent. Unlike in the ES, at the time of officers site visit, the drain contained fast flowing water. The ES proposes a number of measures to ensure that the any surface water does not discharge sediments or pollutants into the drain and from there to the River Derwent as these are identified in the proposed condition for the Construction and Environmental Management Plan which should be prepared. These include drainage ditches, silt fencing, designated material storage areas and compacting, overburden stockpile matting, interception bunds and cut-off drainage ditches, swales and perimeter drains around the construction compound.

4.43 The technical appendices to the ES propose the general principle of using swales to control surface water run-off from the panels. No objections have been raised by the Council's flood risk engineer or the IDB to the proposals, although both have proposed detailed conditions to agree drainage.

Ecology within the site and any indirect impact on any statutory designated sites

4.44 The land within the site is dominated by semi-improved grassland with isolated areas of dense and scattered scrub. There was no evidence of any Lower Derwent Valley SPA birds using the site during the surveys or through the desk study and both the applicant and the Council's countryside and ecology officer agree that habitat for these species is considered unsuitable at the site. However the desk study information provides evidence that there is some connectivity between the wider area surrounding the site and designated sites, but it is not considered to be a key resource.

4.45 Guidance from Natural England and the RSPB states that solar arrays could result in direct habitat loss, habitat fragmentation and/or modification and disturbance/displacement of species. There is currently no evidence of direct impacts to birds during operation. Therefore it has been concluded that despite the proximity of the statutory designated sites, no specific concerns are raised about the proposed development, specifically during the operation phase.

4.46 The operational phase of the development was scoped out of the EIA and the assessment specifically focuses on the noise, vibration and soil disturbance effects arising from the construction and decommissioning of the development on statutory nature conservation sites. However the site is already subject to certain levels of background noise and vibration from the adjacent WTW and levels anticipated are relatively low. Therefore the Council's countryside and ecology officer has expressed no concerns about any significant indirect impacts from the development on protected flora and fauna associated with the statutory designated sites of the River Derwent, Lower Derwent Valley, Derwent Ings and Newton Mask.

4.47 Several conditions are proposed, including referencing the applicants Biodiversity Management Plan which includes measures to protect wildlife during the construction phase, protect trees and hedgerows, nesting birds and to provide bird and bat boxes and planting of ivy and honeysuckle in 25m sections along the deer fence.

Impact on landscape

4.48 The site lies within two landscape character areas, the 'River Derwent Floodplain' and 'Vale Farmland with Plantation Woodland and Heathland'. The site is not physically part of the traditional Ings meadows, although it is related to this landscape by its proximity and openness, which has the potential to be returned to pasture. The development presents an extension of structures into the open countryside, which is part of the open Green Belt and character of Elvington Village. The proposals will significantly alter the natural landscape character on the site by covering it with man-made structures, including the solar arrays and not insignificant ancillary structures. However, due to the nature of the landscape, it would be over a fairly limited area.

4.49 Due to the modern (20th century) development of the village in particular, the site is heavily screened from the Main Street. Views of the site from public vantage points is limited. A number of properties will have views of the development from upper floors. The context of the WTW is also a mitigating factor, as despite the grassed bunding, the WTW is industrial in appearance.

4.50 Revised plans now show existing hedge trees, particularly on the western boundary of the site retained. This hedgerow is unmanaged and tall and provides significant screening of the development from properties at the western end of the village and no impact on landscape is discernible.

4.51 To the east of the site, the River Derwent Corridor is identified as an extremely important green infrastructure corridor for biodiversity, recreation and landscape character. A public footpath is located on the east bank of the river, and whilst some views of the site would be identified, distance and vegetated field boundaries provide some natural visual mitigation. The new hedgerow proposed on the eastern flank of the site together with new tree planting (English Oak) will lessen the impact on the landscape through screening/distraction. Dauby Lane to the north of the site provides private access to the WTW so is of little concern.

4.52 The main visual impact on the landscape will be from the south of the development from the properties on Riverside Close. The southern boundary of the site comprises mature managed hedgerow and it is proposed that this be allowed to grow to a height of 2.4m with additional tree planting comprising oak, crab apple, field maple and holly. The existing blackthorne is to be retained. Revised plans now show this extending in clusters along the full extent of the southern boundary and this is welcomed to aid blending/screening and distracting from the solar arrays and

associated infrastructure. From outside the site, the impact on the landscape is minimised by foreshortening and alterations in perspective created by the topography.

4.53 Overall, no specific objections are raised regarding the proposed development subject to the preparation of a detailed landscape plan which would follow the schematic proposals of the submitted revised 'Landscape Planting' Plan. The proposals are considered to conserve the environmental and amenity value of the local landscape as required by policy NE2 of the DCLP (2005) and general principles of Chapter 11 of the NPPF.

Impact on heritage assets

4.54 During the screening process for the EIA, concerns were expressed about the potential impact of the proposals on Elvington conservation area and on the setting of the Grade II* listed Sutton Bridge. The Planning (Listed Buildings and Conservation Areas) Act 1990 states that in determining planning applications the Local Planning Authority should have special regard to the desirability of preserving a listed building and its setting, or any features of special architectural or historic interest. It also has a statutory duty to pay special attention to the desirability of preserving or enhancing the character of any conservation area. Having now received the full details of the proposals, the photomontages and other information submitted with the application, in conjunction with the detailed site visit and assessment undertaken by officers, it is concluded that there would be no harm to the setting of the conservation area or Sutton Bridge as a result of the proposals as the development would be unlikely to be visible.

4.55 In terms of archaeological heritage, officers do not agree with the conclusion from the assessment in the submitted application and consider that features may be disturbed due to the digging down for the construction of the panels and inverters. However this can be controlled by condition and two are proposed, as the site comprises previously undisturbed land situated within a wider landscape which contains evidence of Prehistoric and Romano-British activity. The first is a strip, map and record on the access road, haul road and HV kiosk areas. The second is a watching brief on the cable trenching between the arrays and the HV kiosks and to the grid. Therefore overall, no harm is identified that cannot be controlled through conditions.

Impact on visual amenity

4.56 The applicant has submitted assessment and photomontages from five key points to illustrate the impact on visual amenity with existing, year 1 and year 5 images. These are good representations of the arrays of solar panels, but there would be additional visual impact associated with the twelve 4m high CCTV poles, deer fencing and kiosks (maximum 4m in height).

4.57 From the site there are clear views to a minimum of 10no. properties, to the east end of the village centred on Riverside Gardens, including views to both ground and first floor rear windows and gardens. However, from Riverside Gardens, the perspective and perception is that the depth of the site is foreshortened, and it is anticipated that the solar panels would form a relatively thin visual strip at a distance, which is in itself and mitigating factor. Further they would be seen within the side context of the immediate setting of the gardens (although open in aspect with low fencing from these 10no. properties), arable landscape and importantly the WTW. Whilst the bunding does provide some visual screen, the industrial landscape of the buildings and works is clear above the mound and the panels, dark and recessive, would be viewed within this context.

4.58 The most visible and open part of the site is the northern half and additional screening in the form of small trees and the retained blackthorne has been agreed with the applicant to soften the visual impact of the structures. It is this relatively small number of properties in the village that may be affected, although the impact is considered relatively minimal. No objections have been received from neighbours. Moreover, case law has shown that private individuals do not have a right to a view from private property. Whilst the applicant has been unable to confirm the ownership of the hedgerow through reference to legal documents, the proposed tree planting in the eastern section is within the site. Should the western section of hedgerow on the southern boundary be outside the applicant's control, and maintained at a lower height by the neighbouring farmer, then the (limited) visual impact would be for individuals from private properties and little weight can be attributed to private views, particularly at a distance.

4.59 . Much greater weight is normally afforded to impact on visual amenity from the public domain, such as the public footpaths along the east bank of the River Derwent. However, it is considered that the proposals are barely visible from the Wilberforce Way to the south of the village which its nearest point is when it crosses Sutton Bridge. Similarly there would be no visual harm from the PRow to the north which terminates near the WTW. It has also been concluded that there would be no harm to visual amenity from the footpath on the far (east) side of the River Derwent (the Jorvik Way) when seen in the wider landscape context and with the additional screening proposed.

4.60 No objections have been raised to the proposals from the Parish Council nor local residents (6no. site notices have been posted and 59no. residents informed by letter).

4.61 Weight can be given to any harm to the setting of the conservation area or Grade II* listed Sutton Bridge. However, the views of the Riverside Meadows in the CA appraisal are to the south of the village rather than the north and the setting of the bridge is not considered to be affected.

4.62 In conclusion, no harm to visual amenity is considered to arise from the proposed development, subject to the retention of existing landscape features and additional screening/ landscaping shown on the plans.

Site decommissioning and restoration

4.63 Whilst some information has been supplied on the construction of the solar farm, none has been supplied on the site decommissioning at the end of the 25 year lifespan and subsequent restoration. This information was requested from the applicant but was not supplied. It was agreed it could be secured by a pre-commencement condition.

Any other harm

4.64

4.64 In addition to the harm caused to the Green Belt, the above analysis has identified that there is some harm to the established landscape character of the River Derwent Floodplain and Vale Farmland with Plantation Woodland and Heathland through the industrialisation of an open green grassland site. Some change in character will also result in the removal of approximately 30no. scrub/young trees which would serve to provide some screening / distraction in existing views of the bund and WTW from the village. However the retention of existing mature species rich hedgerows and mature trees, together with additional landscaping will minimise the overall harm to the landscape.

4.65 No other specific harms have been identified which significantly, includes any indirect or direct impact on the statutory designated nature conservation sites of the River Derwent and Lower Derwent Valley.

Very Special Circumstances

4.66 . The application should not be approved unless very special circumstances have been demonstrated to clearly outweigh any harm to the Green Belt and any other harms identified. Case precedent from other local planning authorities together with principles in the NPPF state that such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable resources.

4.67 In summary, the applicant argues that there are several other considerations to weigh against the harms identified above in this report:

- Benefits of renewable energy generation in securing a reduction in green house gas emissions;

- Benefits to the WTW in providing renewable energy (cost savings), avoidance of transmission losses with energy generated on site and increase security of supply (and prices for the business and customers);
- The need to co-locate the solar farm with the WTW and therefore alternative sites are not available;
- Biodiversity and landscape improvements; and
- Lack of impact on the openness and permanence of the Green Belt and no conflict with the purposes of the Green Belt.

4.68 The final argument is not agreed with the applicant, as has been demonstrated, the development will have a discernible impact on the openness and permanence of the Green Belt in addition to the harm caused by definition due to its inappropriateness. However, whilst the impact on the landscape is also harmful, and for which some mitigation is proposed through landscaping, , there are no other Green Belt harms identified should all proposed conditions be complied with.

4.69 In the overall balancing exercise, it is considered in this instance, it may be argued that the wider environmental benefits from renewable energy development are sufficient to clearly outweigh the harm to the Green Belt in this location and other identified harms, even when substantial weight is attached to the harm to the Green Belt. It is considered that the reduction in CO2 emissions is key, and not whether it is financially beneficial to a utility company and whether these savings are passed on. Whether the renewable energy consumption is for the local community or a business is not the issue, but the benefits for the environment and contribution to reducing the impacts of climate change through the reduction of green house gases. Whilst only 15% savings of the total energy consumption could be offset by renewable energy, this is still a substantial reduction as the WTW is energy intensive. The overall saving is anticipated to be a minimum of 645 tonnes of CO2 emissions per year from entering the atmosphere (equivalent to electricity usage of approximately 460 homes) and it is considered that the very special circumstances necessary to justify the development exist in this instance.

5.0 CONCLUSION

5.1 In conclusion, the application with ES is for the development of a solar farm capable of generating 1.8MWp renewable energy on a 4.1ha site to the south of the Elvington WTW. This will comprise a reduction of a minimum of 645 tonnes of CO2 emissions per year (15% of the electricity usage of the WTW) or the equivalent energy use of approximately 460 homes in York per year.

5.2 The site is within the Green Belt and therefore the presumption in favour of sustainable development does not apply as the proposals comprise inappropriate development in the Green Belt with additional impact on openness and permanence being the key facets of Green Belt policy. In the overall balancing exercise, substantial weight should be given to the harm to the Green Belt. There is

additional harm to the landscape character of the site, although mitigated by the retention of key hedgerows and trees and additional landscape planting and some loss of visual amenity, but overall in this instance, the benefits of the generation of significant amount of renewable energy is considered to clearly outweigh the identified harms. These therefore amount to very special circumstances necessary to justify the inappropriate development in the Green Belt. The proposals are therefore found to accord with Green Belt policy in the NPPF, specifically paras 87, 88 and 91 which identify that VSC may include the wider environmental benefits associated with renewable energy generation as very special circumstances which clearly outweigh any harm to the Green Belt and any other harms.

5.3 Furthermore, specialist advice from Natural England and the Council's countryside and ecology officer have commented in support of the application, despite the proximity of the site to statutory nature conservation sites of international and national importance. Therefore whilst the presumption in favour of sustainable development does not apply, as no harms have been identified in these respects, the application can be considered favourably subject to other material planning considerations a set out above.

5.4 The application is therefore recommended for approval subject to adherence to the following proposed conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Planning Statement (November 2015);

Environmental Statement including Non-Technical Summary, Technical Appendices and Figures (November 2015);

Site Location Plan ref. 1858/REP/016, received 18.11.2015;

Block Plan ref. 1858/REP/038, received 18.11.2015;

Typical Elevations Inverter Kiosk ref. 1858_DR_P_005, received 18.11.2015;

Typical Elevations HV Kiosk ref. 1858-DR-P-006, received 18.11.2015;

Typical Elevation Security Fence ref. 1858-DR-P-001, received 18.11.2015;

Typical Elevation Security Cameras ref. 1858-DR-P-002-P1, received 01.04.2016;

Typical Elevation Array ref. 1858_DR_P_007, received 18.11.2015;

Typical Access Track Profile ref. 1858-DR-P-003, received 18.11.2015;

(Revised) Existing Site Plan ref. 1858/REP/040, received 01.04.2016;

(Revised) Site Layout Plan (Planning Drawing 2) ref. 30/03/2016, received 06.04.2016;

(Revised) Landscape Planting Plan (Planning Drawing 11) ref.1858-DR-P-3000-

P15, received 06.04.2016;;
Biodiversity Management Plan (Volume II, Technical Appendices), received 18.11.2015; and
Additional construction details and confirmation of no change in topography contained in Arcus letter of 26.02.2016.

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

3 Within 6 months of the 25th anniversary of the date of first export, or within 6 months of the cessation of the solar farm, whichever is the sooner, all solar panels, associated equipment, fencing and other infrastructure shall be removed and the ground re-instated in accordance with details to be approved in writing by the local planning authority.

Reason: To ensure that the site is appropriately restored.

4 Within one month of the date of first export of electricity from the solar farm, the local planning authority shall be notified in writing of that date.

Reason: To establish a date of commencement for the development and to assist in the effective monitoring of the site.

5 Prior to the development commencing, a detailed decommissioning and site restoration scheme, including detailed plans, shall be submitted to and approved in writing by the local planning authority. The statement shall include details of the timescale and management of the decommissioning works; the removal of all equipment including solar panels, mounting frames, buildings, fencing and all other associated structures; and the reinstatement of the land to its former condition. The works shall be carried out in accordance with the approved details. There shall be no raising of ground levels in identified flood zones 2 and 3 (Environment Agency sourced data).

Reason: So that the Local Planning Authority can be satisfied with the means and method for site restoration once the solar farm has finished operation. It is necessary for the plan to be prepared and submitted prior to the commencement of development as detailed topographical information has not been submitted with the application and site survey work will be necessary.

6 No development shall take place until details of the proposed means of surface water drainage, including details of any balancing works and off site works, have been submitted to and approved in writing by the Local Planning Authority.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

The applicant should provide a topographical survey showing the existing and proposed ground levels to ordnance datum for the site and adjacent land. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

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

7 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 residential amenity

8 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority, which specifically includes a watching brief on cable trenching between the arrays the HV kiosks and to the grid. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

9 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences and shall include:

Strip, map and record on Access Road, HV Kiosk areas any haul roads, which also includes any temporary roadways cut across the site to deliver panels to their final position.

Reason: The site is located on previously undisturbed land situated within a wider landscape which contains evidence of Prehistoric and Romano-British activity. The development may affect important archaeological deposits which must be recorded prior to destruction.

10 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which during the life-time 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.

11 All ecological measures and/or works shall be carried out in accordance with the details contained in the Biodiversity Management Plan prepared by Arcus Consultancy Services and dated November 2015 as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To secure construction and implementation measures for biodiversity in line with NPPF.

12 Where it is intended to create semi-natural habitats, all species used in the planting proposals (Landscape Planting, Planning Drawing 11, 30/03/16) shall be locally native species of local provenance unless otherwise agreed in writing with the local planning authority.

Reason: To conserve and enhance biodiversity by protecting the local floristic gene pool that has evolved within the local landscape, and to prevent the spread of non-native species and those of no local provenance. This plan includes recommendations that should be incorporated into a Construction and Environmental Management Plan (CEMP).

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

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Identification of water management measures to control surface water run-off during construction and operation of the development.
- d) Pollution Prevention Plan including Incident Plan (to control surface water run-off and should include drainage ditches, silt fencing, designated material storage areas and compacting, overburden stockpile matting, interception bunds and cut-off drainage ditches, swales and perimeter drains around the construction compound.)
- e) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method

statements).

- f) The location and timing of sensitive works to avoid harm to biodiversity features.
- g) The times during construction when specialist ecologists need to be present on site to oversee works.
- h) Responsible persons and lines of communication.
- i) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- j) Use of protective fences, exclusion barriers and warning signs.

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

Reason: For the control of surface water run-off, pollution and protection of biodiversity during the construction phases.

14 No decommissioning of the development or site restoration shall take place (including demolition, ground works, vegetation clearance) until a decommissioning and land restoration plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Identification of water management measures to control surface water run-off during construction and operation of the development.
- d) Pollution Prevention Plan including Incident Plan (to control surface water run-off and should include drainage ditches, silt fencing, designated material storage areas and compacting, overburden stockpile matting, interception bunds and cut-off drainage ditches, swales and perimeter drains around the construction compound.)
- e) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- f) The location and timing of sensitive works to avoid harm to biodiversity features.
- g) The times during construction when specialist ecologists need to be present on site to oversee works.
- h) Responsible persons and lines of communication.
- i) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- j) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the decommission and land restoration period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: For the control of surface water run-off, pollution and protection of biodiversity during the construction phases.

15 Pre-construction surveys to establish if there have been any changes in the presence and/or abundance of notable or protected species and identify any likely new ecological impacts that might arise from any changes are required prior to any site clearance or construction works. These surveys should be agreed and approved in writing by the local planning authority prior to being undertaken and results provided to the local planning authority.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: To conserve and enhance biodiversity by taking account of the potential for changes in the distribution or abundance of mobile protected or notable species on site.

16 Prior to their erection on site, details of the colour and materials of all ancillary structures shall be submitted to and approved in writing by the local planning authority. The structures shall be built as approved.

Reason: To ensure the satisfactory appearance of all ancillary structures and preserve the character of the countryside.

17 Unless agreed in writing with the local planning authority, the maximum height of the following infrastructure as set out in the submitted ES shall be:

- Maximum height of the solar arrays from the ground: 2.5m
- General height of the inverter kiosk and switchgear house to be no more than 2.6m with a maximum height of 4.0m;
- CCTV camera poles to be a maximum of 4.0m in height; and
- Deer fence to be a maximum of 2.0m in height.

Reason: To protect visual amenity and landscape character and to ensure any impact on the openness and permanence of the Green Belt is as set out in the application.

18 Unless agreed in writing with the local planning authority, the installation of the solar photovoltaic arrays shall be through the use of vibratory piling and vibratory compaction methods of construction.

Reason: To be in accordance with the submitted Environmental Impact Assessment of the development which assessed the impact of the construction and decommissioning phases on the environment using these rather than other methods of construction.

7.0 INFORMATIVES: Notes to Applicant

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

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

- Undertook a detailed screening exercise.
- Requested and agreed revised existing, proposed and landscape plans to ensure proposals were robust, precise and clear.
- Agreed the removal of development with flood zones 2 and 3 as proposed it would not pass the sequential test.
- Agreed additional screening of the development shown on revised plans.
- Requested construction and restoration plans for comprehensiveness, but it was subsequently agreed these elements could form conditions to any permission.

2. DRAINAGE

The applicant should be advised that the Foss Internal Drainage Board's prior consent is required for any structures or planting within 9.00m of the bank top of any watercourse within or abutting a site. Any proposal directly affecting the watercourse, including any discharge, will also require the Board's prior consent.

3. DRAINAGE - DETAILED DESIGN

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 (SuD's). 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 i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the

surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuD's methods can be proven to be unsuitable then in accordance with City of York Council's Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak surface water run-off from Greenfield developments must be attenuated to that of the existing rate (based on a greenfield run off rate of 1.40 l/sec/ha).

Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

Contact details:

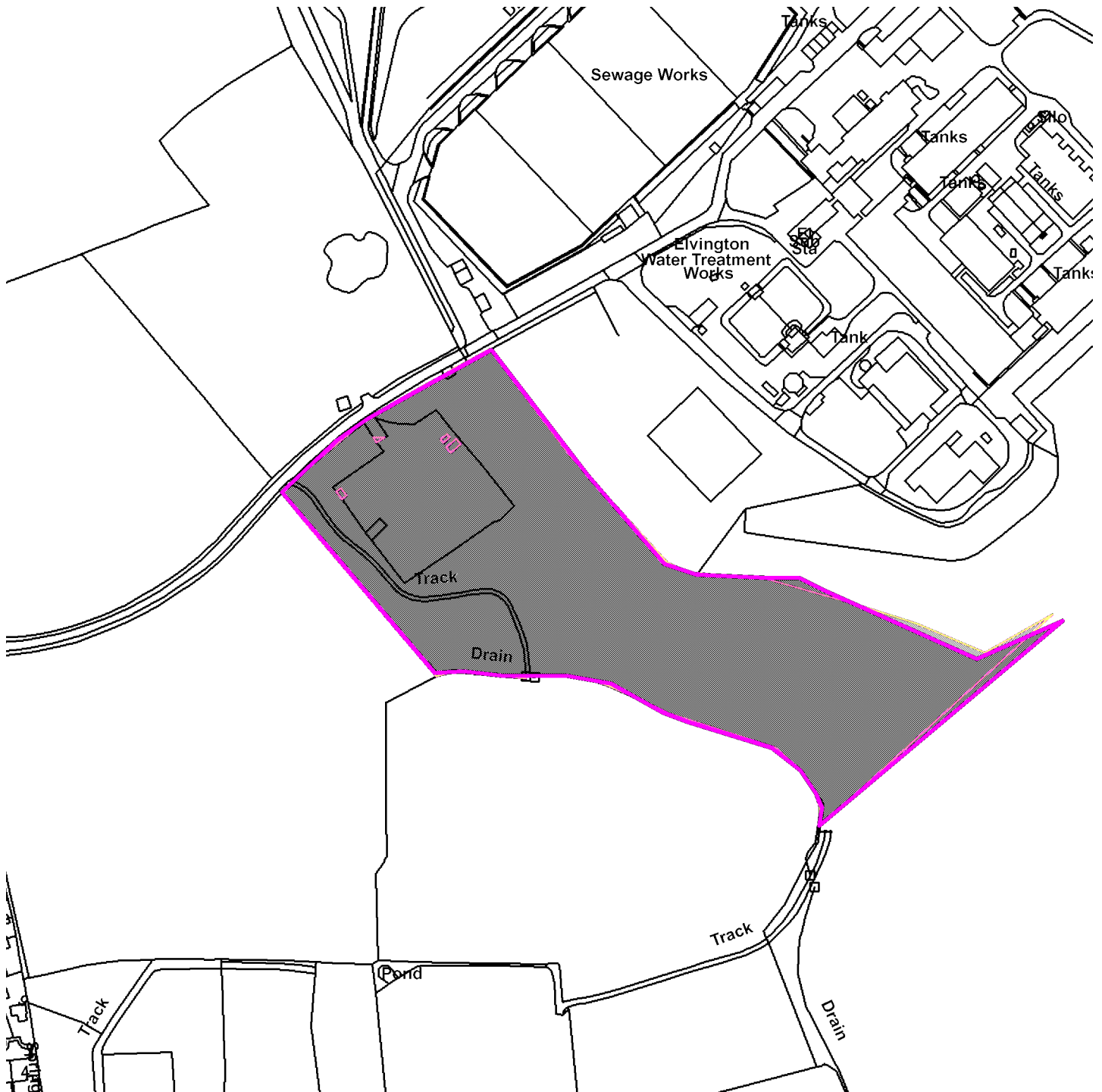
Author: Sophie Prendergast, Development Management Officer.

Tel No: 01904 555138

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15/02639/FULM

Elvington Water Treatment Works Kexby Lane



Scale : 1:3470

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Organisation	City Of York Council
Department	CES
Comments	Location Plan
Date	11 April 2016
SLA Number	Not Set

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Historic (1852)

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COMMITTEE REPORT

Date: 21 April 2016 **Ward:** Rawcliffe And Clifton
Without
Team: Major and **Parish:** Clifton Without Parish
Commercial Team Council

Reference: 15/02856/FULM
Application at: Former Grain Stores Water Lane York
For: Erection of food store with car park with access off Water Lane
By: Mr Jason Stowe
Application Type: Major Full Application (13 weeks)
Target Date: 22 April 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 The Grain Stores, Water Lane , Clifton comprises a large derelict area of hard standing forming part of a former military airfield which has been subject to an Outline Planning Permission for a mixed use development granted on appeal reference 11/00860/OUTM. The housing element of the proposal has been partially implemented and planning permission is now sought for construction of a 1,742 sq metre Aldi Grocery Supermarket on part of the remainder of the site adjacent to the junction of Water Lane and Green Lane.

2.0 POLICY CONTEXT

2.1 Draft Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

City of York Draft Local Plan adopted for Development Control Purposes in 2005 (DCLP).

Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

CYGP1 -Design

CGP15A - Development and Flood Risk

CYS2 - Out of centre retail warehouse criteria

3.0 CONSULTATIONS

INTERNAL:-

3.1 Public Protection raise no objection to the proposal subject to any permission being conditioned to require the remediation of any land contamination and to control noise and other disturbance associated with construction.

3.2 Highway Network Management raise no objection to the proposal subject to the details of the access and parking arrangements being conditioned in details as part of any planning permission.

3.3 Planning and Environmental Management (Landscape) express concern with regard to the nature and layout of the proposed landscaping to the external boundaries to the site.

3.4 Planning and Environmental Management (Forward Planning) initially expressed concerns in respect of the retail impact of the proposal upon the Haxby District Centre and the City Centre and also the robustness of the submitted Sequential Test. A revised Sequential Test and a detailed Retail Impact Assessment has subsequently been submitted which addresses these concerns in their entirety.

EXTERNAL:-

3.5 Clifton (Without) Parish Council raises no objection in principle to the proposal but wish to see additional cycling provision within the site.

3.6 Yorkshire Water Service Limited raises no objection to the proposal.

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

- i) Concern in respect of the impact of the proposal upon road safety and traffic generation in the locality;
- ii) Concern that the proposal will lead to an increase in on-street parking in the locality;
- iii) Concern that the proposed opening hours would give rise to conditions prejudicial to residential amenity of properties in the vicinity;
- iv) Concern that sequentially preferable sites in the near vicinity have been discounted.

3.8 Two letters of support have been received highlighting the number of elderly residents in the locality and the proximity of the Redrow housing development in the process of construction.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the vitality and viability of the City Centre and Local District Centres;
- Loss of employment land;
- Impact upon the visual amenity of the wider street scene;
- Impact upon the safety and convenience of highway users.

PLANNING POLICY CONTEXT:-

STATUS OF THE EMERGING LOCAL PLAN:-

4.2 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only limited weight. Where relevant and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

4.3 The NPPF is the most up to date representation of key relevant policy issues and the proposal should principally be assessed against this policy Framework.

4.4 Retailing:- Central Government planning policy as outlined in paragraphs 24 to 27 of the National Policy Framework indicates that Local Planning Authorities should seek to ensure that planning applications for main town centre uses that are not in existing centres and not within an up-to-date development plan should be subject to a detailed sequential test demonstrating that such proposals should be located within principal centres and only in edge of or out of centre sites where suitable locations are otherwise not available allowing for flexibility in terms of format and scale. At the same time Local Planning Authorities should seek an appropriate impact assessment of all proposals for retail development outside of defined centres which are not in accordance with an up-to-date Local Plan and fall above an adopted locally defined threshold such an assessment should take clear account of committed and proposed investment in centres within the retail catchment area along with impacts upon the vitality and viability of the town centre and other centres within the appropriate catchment for a period of five years. Whilst the Policies may only be afforded limited material weight, Policies R1 and R4 of the (Emerging) Publication Draft York Local Plan(2014) seek to restrict the development of town centre uses outside of defined Town and district centres. This sets out a requirement for retail impact assessment of all developments above a defined

threshold of 1,500 sq metres and permission only be given where it can be clearly demonstrated that no sequentially preferable sites are readily available and that there would not be a significant material impact upon the vitality and viability of the town or district centre either individually or cumulatively.

4.5 Loss of Employment Land:- Central Government planning policy as outlined in paragraph 22 of the National Planning Policy Framework indicates that where there is no reasonable prospect of allocated employment sites being used for the allocated employment use then applications for other alternative uses should be judged strictly on their merits. Whilst the policy may only be afforded limited material weight, Policy EC3 of the (Emerging) Publication Draft York Local Plan(2014) sets out presumption against the loss of land allocated for employment use unless it can clearly be demonstrated that the site has been marketed for a prolonged period (a minimum of six months) for employment use without any success.

IMPACT UPON THE VITALITY AND VIABILITY OF THE CITY CENTRE AND LOCAL DISTRICT CENTRES:-

4.6 The application seeks planning permission for erection of a medium sized grocery store within the terms of the operator's business model (1,742 sq metres gross internal floorspace) for Aldi on land with an existing Outline planning permission for a mixed use development within the outer northern periphery of the City. A detailed sequential test was submitted with the proposal and a detailed retail impact assessment has also subsequently been submitted. The proposed development has been brought forward by the applicant as part of an expansion of their range of smaller and medium sized stores within the wider area.

4.7 Sequential Test:- The Sequential Test as initially submitted examined impacts upon centres within the local area including Skelton, Rawcliffe and Clifton Moor. In view of the size of the store and the nature of the applicant's business model this was judged to be unduly restrictive in terms of compliance with the requirements of the National Planning Policy Framework.. As a consequence a revised sequential test was subsequently submitted looking at sites within the wider City notably the Acomb and Haxby District Centres, edge of Centre sites such as York Central and sites within the City Centre itself such as Castle Piccadilly and Stonebow House. The result of the Sequential Tests defined narrowly and broadly is that no sequentially preferable sites are presently available. Three sites within the City Centre area (Stonebow House, York Central, Castle Piccadilly) were of the requisite size and configuration but were otherwise not deliverable. Stonebow House is on multiple levels which would have created unreasonable difficulties in terms of stock delivery and management and access for customers and York Central and Castle Piccadilly are not otherwise deliverable within the time frame required by the developer due to landownership and infrastructure difficulties.

4.8 A third party has raised a site at Lysander Way within Clifton Moor. This again is an allocated employment site with evidence of continuing employment interest and it is poorly related to the surrounding road network. The site is therefore not felt to be sequentially preferable.

4.9 Retail Impact Assessment:- The submitted Retail Impact Assessment examines potential impacts upon a range of small, medium and large grocery stores within the wider area using the household data from the evidence base used to support the 2014 retail report prepared in support of the Emerging Local Plan. The issue of comparison goods sales has also been examined in the light of the available net retail floor space(1,254 sq metres) and the operator's business model.

4.10 In terms of overall retail impacts, significant impacts have been identified in respect of the operator's own premises at Monk's Cross, Tesco Extra at Clifton Moor and notably the recently opened Iceland premises at Clifton Moor, where the impact would be of the order of 20% in terms of trade. However, each of the affected stores lies outside of the City Centre or the Haxby and Acomb District Centres and so do not enjoy any policy protection in terms of the National Planning Policy Framework.

4.11 In terms of the split between convenience and comparison goods, Aldi has only a minimal offer in terms of comparison goods and the retail impact assessment assumes an 80/20% division between the sale of convenience and comparison goods within the store. As a consequence the assessment indicates that there would not be a material impact in terms of the sale of comparison goods for other within the wider locality. The maximum area in terms of net floor space devoted to comparison goods within the store would be some 249 sq metres which would fall within the definition of ancillary sales applied to other similar grocery operations and would be acceptable if conditioned as part of any planning permission. The proposal is therefore felt to be acceptable both sequentially and in terms of its retail impact.

LOSS OF EMPLOYMENT LAND:-

4.12 The application site has an Outline planning permission for a mixed use scheme incorporating elements of leisure and employment use as well as the residential development currently in the process of construction to the west and north west. The application site lies within the area set aside within the Outline permission for employment and leisure use and has been included within the Emerging Local Plan as a Draft employment land allocation. Both the National Planning Policy Framework at paragraph 22 and the Emerging Local Plans set out a clear requirement in terms of loss of employment land for evidence to be brought forward that a site is no longer required for employment purposes and that active and meaningful marketing of the site for a prolonged period of usually more than six months without success. The submitted Planning Statement with the proposal clearly indicates that the wider site has been marketed for employment purposes since December 2003 with limited interest and no firm offers and as such the requirements of paragraph 22 of the NPPF have been met. Furthermore the

evidence in terms of marketing the site for employment use was considered in detail in respect of the previous appeal in relation to the application for Outline planning permission and felt to be acceptable by the previous appeal Inspector in determining the application.. The store would also of itself generate a measure of direct employment with the creation of the equivalent of 30 full time jobs. As such the proposal is felt to be acceptable in terms of the loss of employment land.

IMPACT UPON THE VISUAL AMENITY OF THE WIDER STREET SCENE:-

4.13 Concern has been expressed in terms of the impact of the proposed development on the visual amenity of the wider street scene, specifically in terms of the treatment of the outer facing boundaries to Water Lane and Green Lane where a mature hedge has become established over the period since the site has ceased to be used a military airfield. The scheme as submitted envisaged the planting of a band of light tree and shrub ground cover around the site boundaries with the area of car parking appearing prominent in views in from the north and east. Further negotiation has enabled the car parking layout to be re-organised to facilitate a wider landscaped planting area adjacent to the junction of Water Lane and Green Lane incorporating an element of hedge planting and more clearly defined native tree planting which is felt to be acceptable and will be reported to Members at the meeting. Subject to the landscaping of the site being resolved in detail through condition attached to any planning permission, the proposal is felt to be acceptable in terms of its impact upon the visual amenity of the wider street scene.

IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.14 Concern has been expressed in relation to the access arrangements and parking layout for the proposal based upon the anticipated usage of the store with the potential for associated traffic congestion on the surrounding road layout. A detailed Transport Assessment has been submitted with the proposal and further clarification has subsequently been given in respect of accessibility for delivery vehicles, levels of patronage and the level of associated parking provision in order to address the concerns. Subject to the further clarification it is felt that the access alignment is acceptable as is the level of parking provision. The site is at the same time easily accessible by public transport and adequate cycle parking has been provided. The proposal is therefore felt to be acceptable in terms of its impact upon the safety and convenience of highway users.

5.0 CONCLUSION

5.1. The proposal has been subject to a detailed sequential test and retail impact assessment. It is concluded that there are no sequentially preferable sites and the proposal is found to be acceptable in terms of its impact upon the vitality and viability of the City Centre. At the same time the applicant has been able to convincingly demonstrate that the site has not been successfully marketed for employment use.

5.2 The levels of parking and access arrangements have been demonstrated to be acceptable and subject to the detailed landscaping of the site being conditioned as part of any planning permission the proposal is felt to be acceptable in planning terms and approval is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing Refs:-3851-SKA; 1439 210 E; 1439 214B; 1439 213; 1439 215; 1439 211; 1439 212; W635 E200 P1.

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

3 VISQ8 Samples of exterior materials to be app

4 VISQ4 Boundary details to be supplied

5 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees , shrubs and 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: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

6 ENVA1 Surface water drainage through oil inter

7 No development shall take place until details of the proposed means of surface water drainage including details of balancing and off site works (surface water discharge to not exceed 10 litres per second) have been submitted to and approved in writing by the Local Planning Authority. There shall be no piped discharge of surface water from the development prior to completion of the surface water drainage works in accordance with the approved details.

Reason:- To ensure that the site is safely and efficiently drained and to secure compliance with paragraph 103 of the National Planning Policy Framework.

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

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

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

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

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

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to

complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses public.protection@york.gov.uk and planning.enforcement@york.gov.uk

Reason:- To safeguard the residential amenity of nearby properties and to secure compliance with paragraph 17 of the National Planning Policy Framework.

9 NOISE7 Restricted hours of construction

10 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval. These details shall include maximum sound levels (L_{Amax}(f)) and average sound levels (L_{Aeq}), 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 retained and appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason. To protect the amenity of local residents

11 LC1 Land contamination - Site investigation

12 LC2 Land contamination - remediation scheme

13 LC3 Land contamination - remedial works

14 LC4 Land contamination - unexpected contam

15 Before the occupation of the retail accommodation two (2) Electric Vehicle Recharging Point shall be provided in a position to be first agreed in writing by the Council and thereafter retained. Within 3 months of the first occupation of the accommodation, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging

Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point .

REASON: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

- 16 HWAY14 Access to be approved, details reqd
- 17 HWAY18 Cycle parking details to be agreed
- 18 HWAY19 Car and cycle parking laid out
- 20 HWAY31 No mud on highway during construction
- 21 HWAY35 Servicing within the site
- 22 HWAY40 Dilapidation survey

23 The development shall not be first brought into use until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerb/footway to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

24 The site shall not be used for the purpose of food retail until the following highway works (as shown indicatively on drawings; 210 Rev E and 3851-SK6 Rev A) have been implemented in accordance with the aforementioned approved plans or arrangements entered into which ensure the same;

- 1) Widening of the existing footway to 3m along the Water Lane frontage from the Toucan crossing to the pedestrian/cycle access to the store (save for a localized pinch point around the BT cabinet)
- 2) Formation of a new bus stop on Water Lane consisting of a bus half layby with associated footway and kerb works,

Reason; In the interests of providing a safe means of access to the site by all modes of transport and to, minimise disruptions to the free flow of traffic.

Reason: In the interests of the safe and free passage of highway users.

25 Prior to the commencement of any works on the site, 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 LPA. All works on the site shall be carried out in accordance with the

approved works statement. Such a statement shall include as a minimum the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

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.

26 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended or any order amending, revoking or re-enacting that Order, or the description of development associated with this permission, no more than 249 square metres or 20% of the net floor space (whichever is the lower figure) of the retail development hereby authorised shall be used for the **display and sale of comparison goods**.

Comparison goods are defined as follows:-

- i) Clothing, footwear and fashion accessories(including jewellery and watches);
- ii) Music, Video/DVD recordings and computer games;
- iii) Cameras(including camcorders) and other photographic equipment;
- iv) Electronic Goods(incl TVs, Video, DVD, PC's and hi-fi equipment;
- v) Toys;
- vi) Books, magazines and stationery;
- vii) Household Textiles;
- viii) Sports Goods;
- ix) Gardening Equipment and Furniture;
- x) Camping Equipment and tents;
- xi) Luggage;
- xii) Mobile phones and communication equipment.

Reason:- To safeguard the vitality and viability of the City Centre and to secure compliance with paragraphs 24 to 26 of the National Planning Policy Framework.

7.0 INFORMATIVES:

Notes to Applicant

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

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

- i) the submission of a supplementary sequential test and retail impact assessment;
- ii) submission of an amended highway layout and clarification in respect of trip generation rates;
- iii) submission of a more detailed and robust landscape layout.

2. 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:

Works in the highway - Section 278 /Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

3. STATUTORY UNDERTAKERS:-

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.

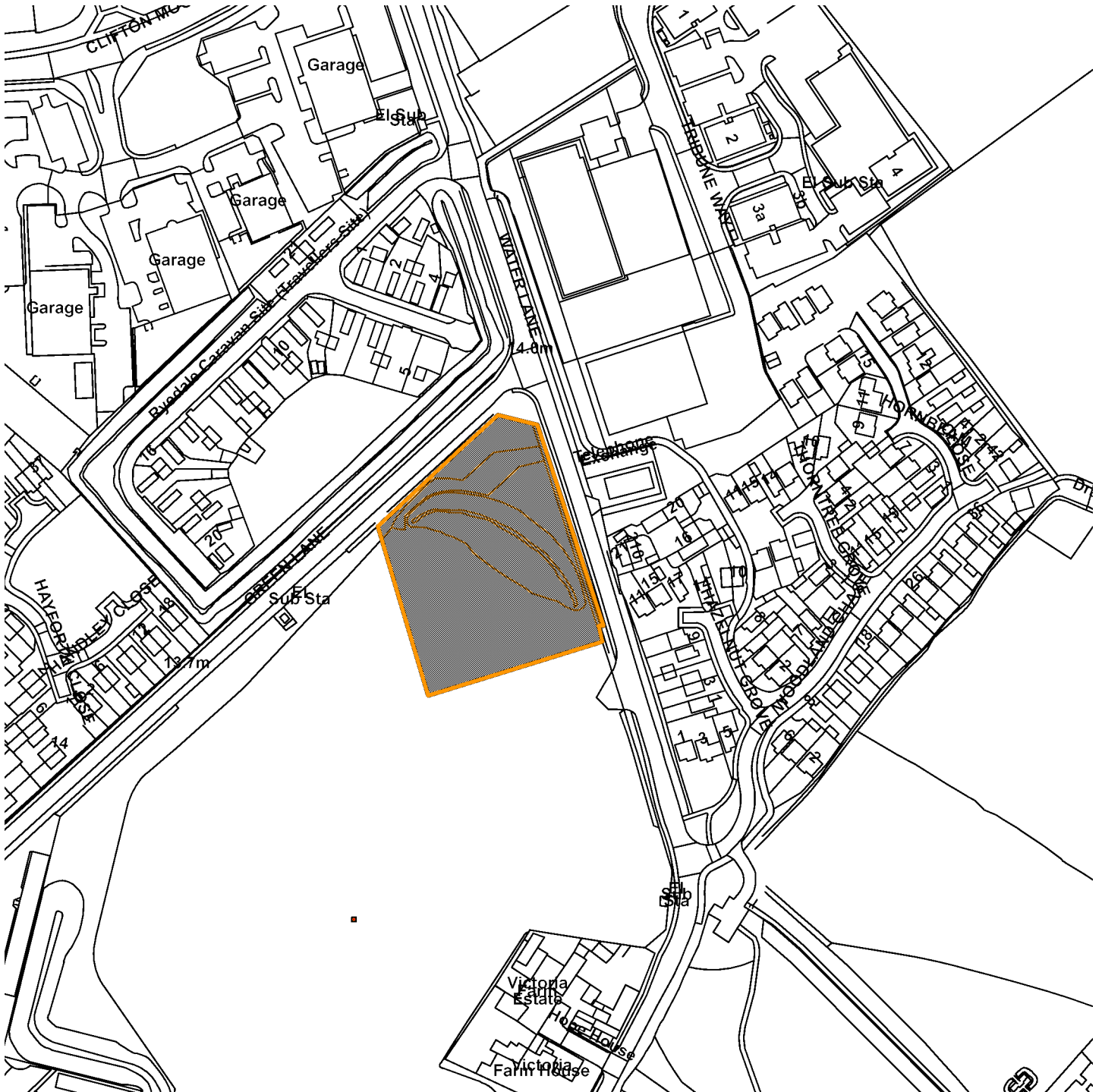
Contact details:

Author: Erik Matthews Development Management Officer

Tel No: 01904 551416

15/02856/FULM

Former Grain Stores Water Lane



Scale : 1:2479

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Organisation	City Of York Council
Department	CES
Comments	Location Plan
Date	11 April 2016
SLA Number	Not Set

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COMMITTEE REPORT

Date: 21.4.2016
Team: Major and Commercial Team
Ward: Micklegate
Parish: Micklegate Planning Panel

Reference: 15/01256/FULM
Application at: Hudson House Toft Green York YO1 6JT
For: Conversion of first, second and third floors of wings A and B and all floors of wing C from offices to 82no. flats (use class C3) and external alterations
By: Signal Property Investments LLP
Application Type: Major Full Application (13 weeks)
Target Date: 6 May 2016
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL**APPLICATION SITE**

1.1 The application relates to the office block known as Hudson House. The building was completed in 1968 and was intended to be the new headquarters for British Rail, Eastern Region. It was designed by Laings (chief architect Sydney Greenwood).

1.2 The building is concrete framed, and in the Brutalist style. It has 4 wings and is referred to as being pin-wheel in plan. The two blocks nearest Toft Green are 6 storeys in height; the two nearer the City Wall are 4 storeys. The building's scale is relative to the City Walls and buildings fronting Micklegate.

1.3 The building is positioned between a late C20 office block - George Stephenson house and the C21 Hilton Hotel. The City Walls are to the west. On the opposite side of Toft Green are a mix of commercial buildings, including offices and the York Brewery.

1.4 The site is within the Central Historic Core Conservation Area and is prominent from the grade I listed City Walls.

PROPOSALS

1.5 The building has not been fully occupied for sometime. At the time the application was submitted, it was 50% full and occupied by numerous companies, most on short-term leases.

1.6 Proposed is a change of use of part of the building to 82 residential units (29 1-bed, 53 2-bed). The remaining office space; 4,794 sq m gross/3,510 sq m net, would be refurbished to 'grade A' standard. The applicants are not proposing any affordable housing. The development has been subject to an independent viability assessment and this position has been accepted.

1.7 The building would be used as follows -

- Office - at ground floor in 3 of the 4 wings and on the upper floor of the wing facing Toft Green
- Residential - on the upper floors of the remaining 3 wings and the ground floor wing on the George Stephenson House side would be used as ancillary space for the residents (access/storage/gym)

1.8 External changes are also proposed and these would be as follows -

- Entrance canopies removed and associated works to improve the prominence and visual quality of the entrances
- Windows replaced, including use of spandrel panels to give privacy where required to residential areas. Spandrel panels would be in metalized colours (gold, silver, bronze and copper) with an additional texture/pattern; a subtle appearance which will allow the concrete structure to remain prominent.
- New lift for residential aspect of the scheme, located on the SW side of the building.
- Roof-lights to ground floor space, which is adjacent to, and set below, Toft Green.
- Replacement soffit (with a glazed metal finish).

1.9 Landscaping alterations are proposed also, including reconfiguration of the car parking area (with less spaces overall and tree planting) between the host building and West Offices.

Planning history

1.10 A prior notification application (15/02965/ORC) has been made to change the use of the building to residential. As such the change of use from offices to residential aspect of the scheme can occur as permitted development under Schedule 2 Part 3 Class O of the 2015 General Permitted Development Order.

2.0 POLICY CONTEXT

2.1 Legislation and National Policy

Planning (Listed Buildings and Conservation Areas) Act 1990

- Section 66 Statutory duty to have special regard to the desirability of preserving the setting of listed buildings.
- Section 72 Statutory duty that within a Conservation Area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

National Planning Policy Framework (NPPF)

The NPPF is the most up to date representation of key relevant policy issues and it is against this policy Framework that the proposal should principally be addressed:

- Chapter 1 Building a strong competitive economy
- Chapter 2 Ensuring the viability of town centres
- Chapter 4 Promoting sustainable transport
- Chapter 6 Delivering a wide choice of high quality homes
- Chapter 7 Requiring good design
- Chapter 12 Conserving and enhancing the historic environment

2.2 Draft 2005 Local Plan (4th set of changes) (DCLP)

This was approved for development management purposes in 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

Most relevant policies:

- GP1 Design
- GP4A Sustainability
- HE2 Development in historic locations
- HE3 Conservation Areas
- H4A Housing Windfalls
- E3B Existing and Proposed Employment Sites
- T4 Cycle parking standards

Emerging Local Plan

The planned consultation on the Publication Draft of the City of York Local Plan, which was approved by the Cabinet of the Council in September 2014, has been halted pending further analysis of housing projections. The emerging Local Plan policies can only be afforded limited weight at this stage of its preparation, in accordance with paragraph 16 of the NPPF. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

3.0 CONSULTATIONS

CITY DEVELOPMENT

Policy Background

3.1 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.

Employment

3.2 Policy EC3 (Loss of Employment Land) continues the approach to existing employment land set out under E3b in the Draft Local Plan. When considering proposals uses which involve the loss of buildings which are currently used or were last used for office or other employment uses, the council will expect developers to provide a statement to the satisfaction of the council demonstrating that the existing building is demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and the proposal would not lead to the loss of a deliverable employment site that that is necessary to meet employment needs during the plan period.

Housing

3.3 Policy H3 (Balancing the Housing Market) sets out that proposals for residential development are required to balance the housing market by including 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 (SHMA). This includes flats and smaller houses for those accessing the housing market for the first time, family housing of 2 to 3 beds and homes with features attractive to older people.

Affordable housing

3.4 For brownfield sites, where more than 15 dwellings are proposed, the affordable housing target is 20%. Given the conclusions reached in the Affordable Housing Viability Study, developments within York should be able to provide the target levels of affordable homes. The developer has the right to submit an open book appraisal to justify circumstances where the target is not considered to be viable.

Assessment

3.5 The application site was submitted for housing through the Call for Sites in 2012 and subsequently assessed through the Site Selection Paper (2013) as Site 163. The site was not allocated for housing. The key issue related to the existing employment use. Consultants Deloitte undertook a separate assessment of employment sites. As set out in Appendix 17, this concluded that the application site provides office accommodation and re-development opportunities during the plan period to provide Grade-A office space in the city centre. The offices should be protected accordingly and the site was therefore not considered suitable for housing. However should the loss of the employment space be considered acceptable by colleagues in economic development then in principle, a residential use in this location would be considered acceptable.

3.6 The applicant has submitted an economic statement which includes office market analysis and viability appraisal. This concludes that Hudson House suffers from persistent under-occupancy, with the building operating below 50% occupancy for a number of years. The applicant considers that the majority of the office space is effectively redundant. A concerted marketing effort has been undertaken by the owners of the building since they took ownership, but this is said to have had little impact on occupancy levels. It is stated that the current poor condition of the building is leading to existing tenants not renewing their leases and that a viability appraisal has been undertaken which shows that the refurbishment of the entire building to Grade A standards is not a viable proposition.

3.7 As part of the application the office space in wing D and at the ground floors of wings A and B would be upgraded to Grade-A specification with a net internal area of approximately 3,510sqm (4,794sqm gross) of Grade-A office space. This is welcomed. Colleagues in Economic Development must be satisfied that the submitted economic statement satisfactory demonstrates that the provisions of emerging policy EC3 have been met and the loss of office space is acceptable.

ENVIRONMENTAL MANAGEMENT

Landscape

3.8 Officers supported the principles within the landscaping scheme. There would be an enhancement of the landscaping along the access road and the central courtyard. The latter space would appear as tranquil and landscaped, whilst currently, in views from the outside it appears dominated by parked cars and hard-standing.

3.9 It was recommended two of the proposed trees were moved more centrally, so further from windows and for retention of the cobbled access (on the City Walls side of the building). The trees have been moved accordingly. It is now proposed to re-

use the cobbles, where the drop off point is located. The cobbles will be relocated as they are not ideal surfacing for the main pedestrian access route.

EDUCATION SERVICES

3.10 There is limited pre-school provision in the locality and the primary school - Scarcroft is at capacity. The secondary school in the catchment - Millthorpe has capacity. A contribution is requested towards the project to increase school provision in the South Bank area. The contribution would be as follows -

Pre-school	£41,573
Primary	£129,855
Total	£171,448

HIGHWAY NETWORK MANAGEMENT

3.11 Recommend the travel plan should include proposals for providing extra cycle parking should demand require. The level of cycle parking for the office element of the scheme is considered to be slightly on the low side given the lack of parking and sustainable location of the site. There is no space identified for further expansion of the cycle parking should mode share increase.

3.12 The site is providing a reduced level of car parking, which is welcomed. The restrained levels of car parking are recognised as part of a package of measures to promote sustainable travel and reduce dependence on the private car. Officers also recommend a contribution of £13.2k towards the car club operating in the city. The contribution would be used towards initiatives to promote the use of the car club by residents and will include the provision of vehicles in the locality, marketing, free membership and free drive time to first occupiers.

PUBLIC PROTECTION

3.13 Officers are content that the noise assessment undertaken was adequate and that provided the recommended glazing is installed, noise levels with the building would be suitable for any future residents.

3.14 It is recommended that electric vehicle charging points are provided.

MICKLEGATE PLANNING PANEL

3.15 The panel raised concern over additional traffic accessing the site as a consequence of the proposed mixed use.

YORKSHIRE WATER

3.16 No objections.

PUBLICITY

3.17 The application was publicised by site notice, press notice and neighbour notification letters. Two objections have been received.

3.18 An objection has been received from the night-club and live music venue opposite. The noise from this late night premises (with a licence) requires attention.

3.19 The objection also raises the concern that there is a lack of car parking for the amount of housing proposed. And on architectural grounds. The approach lacks architectural integrity. The original building has futurist origins; man vs machine and the layering and separation of travel 'streets in the sky'. This is an opportunity to modernise, retain & re-energise a considered version of futurism - considering the envelope more and how it interacts with its surroundings in 2015. The concern is that the developer is seeking to maximise the residual value and profit in the site whilst failing to understand that actually people will pay more for architectural value & building quality.

3.20 The second objection suggests re-cladding this building to fit in better with its older and newer neighbours, such as the award winning West Offices development. If this building were to be given a contemporary (but sympathetic) facade treatment in local materials, it would be far less obviously a tired 1960s-70s building and fit in better between the West Offices and George Stephenson House, as well as the older buildings on the opposite side of Toft Green.

4.0 APPRAISAL

4.1 KEY ISSUES

- Principle of the proposed uses
- Impact on heritage assets
- Sustainable travel / impact on the highway network
- Amenity of future occupants
- Planning gain including affordable housing

PRINCIPLE OF THE PROPOSED USES

LOSS OF OFFICE SPACE

4.2 The proposal includes a reduction in the amount of office space within the building (2,426 sq m gross) and the loss of a certain type of office space (lower cost, non-grade A space). The application site was not allocated for housing use in the emerging Local Plan (despite a request from the site owners), because there was a preference for retention of office space in such proximity to the train station, and an aspiration that in future the building could be refurbished and provide grade A office space in a prime location. However the council's position in this respect is weakened by the Government's introduction of permitted development rights allowing offices to change into residential. A prior notification application has already been made for the site in this respect which was not objected to by the local authority.

4.3 Draft Local Plan 2005 policy E3b relates to employment sites. It states that the change of use of existing office accommodation is allowable when there is adequate alternative supply and when the alternative use(s) proposed will have economic benefits. The policy is consistent with national policy in the National Planning Policy Framework, (paragraph 22) of which states that planning 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.

4.4 The host building has not been fully occupied for some years. Despite marketing, the current operators have only been able to secure approx 50% occupancy. The building is occupied by multiple companies; on low rent and short-term leases. There is not the demand in the city for a single company to occupy the entire building and there are offices with smaller floor plates available in the city centre.

4.5 The DJD Economic and Retail Growth and Visioning report notes that only 19% of the city's office stock is grade A. The majority of space is grade B; 50%. The report recommends an increase in grade A provision, in line with economic growth, and advises there is an opportunity for grade B stock to be upgraded.

4.6 Although in floor-space there will be an overall loss, the scheme proposes improved quality office space, of which the city has a lack of supply. There is an over-supply of the type of space currently provided in the building, to a degree evidenced by the inability to gain full occupancy of the building in recent years. Economic development colleagues have been consulted on the application and not raised any objections. Because of the type of office space currently available within the building the change of use would not conflict with the spirit of local policy E3b and the NPPF, in particular one of the core principles which requires planning to

proactively drive and support sustainable economic development to meet need. Significant weight must also be given to the government position on allowing changes of use from office to residential, in particular when York does not have a 5 year housing supply.

WHETHER RESIDENTIAL USE IS APPROPRIATE AT THE APPLICATION SITE

4.7 Section 6 of the National Planning Policy Framework advises that housing applications should be considered in the context of the presumption in favour of sustainable development. It goes on to state that local planning authorities should identify and bring back into residential use empty buildings in line with local housing and empty homes strategies. They should normally approve planning applications for change to residential use and any associated development from commercial buildings where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.

4.8 The Council does not currently have a demonstrable 5-year supply of housing land. Work on the five year land supply is ongoing and cannot be concluded until a series of decisions have been made on both factors effecting housing demand and on the future portfolio of sites. Because the city does not have an adopted Local Plan or approved housing land supply national policy takes precedence over any of the housing policies in the Draft Local Plan. This is explained in the National Planning Policy Framework which states that “relevant (local) policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”

4.9 There is demonstrable housing need in the city. This application proposes part re-use of a semi-vacant building. The site is within a sustainable location, being within walking distance of the city centre and transport links. Re-use of the building for housing accords with the policies within the National Planning Policy Framework.

HERITAGE ASSETS

4.10 The site is within the Central Historic Core Conservation Area and the building is prominent from the grade 1 City Walls. The Planning (Listed Buildings and Conservation Areas) Act 1990 states that in determining planning applications the Local Planning Authority should have special regard to the desirability of preserving any listed building or its setting, or any features of special architectural or historic interest. It must also pay special attention to the desirability of preserving or enhancing the character or appearance of any conservation area.

4.11 The NPPF classes listed buildings and conservation areas as “designated heritage assets” and particular policies about conserving and enhancing heritage assets are contained in section 12. National planning practice guidance advises that in assessment of design, consideration, where appropriate should be given to

layout, form, scale, detailing and materials.

4.12 The proposed changes will improve the functionality and environmental efficiency of the building. The external changes will be subtle and sympathetic to the building and preserve the character and appearance of the conservation area -

- The lift shaft addition would be within an existing circulation area between blocks of the building and would only be noticeable from a glimpsed view on the City Walls.
- The entrance canopies are heavy and tired and it is accepted their removal would re-emphasise the buildings architecture.
- The replacement fenestration would be subtle and respectful of the character of the building.

4.13 The landscaping scheme would add greenery and tree planting to the car park between the host building and West Offices and the bleak area between the host building and Toft Green. Views into the courtyard from the access road would be enhanced, the appearance would be more of a garden, through removing vehicle access, more planting and re-location of the cycle parking. There would be an overall improvement to the conservation area in this respect.

SUSTAINABLE TRAVEL / IMPACT ON THE HIGHWAY NETWORK

4.14 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

4.15 The proposal accords with this section of the framework -

- The access and servicing arrangements for the building are unchanged and deemed to be reasonably safe. The residential entrance is from the western side of the building. The approaches from this side of the building are already heavily used by office staff on a daily basis without causing a safety issue.
- Average vehicle trip rates have been estimated using the TRICS database. The outcomes are that there would be significantly fewer vehicle movements at peak times as a consequence of the proposed mix of uses.
- A travel plan, which aims to promote and enhance sustainable travel, has been provided for both aspects of the scheme. The site is in a sustainable

location, and therefore future occupants need to travel by private car is minimised.

- Based on the 2005 Draft Local Plan standards there should be a minimum of 1 cycle space per dwelling and a minimum of 59 spaces for the offices. Spaces should be covered and secure. The proposals meet the minimum requirements in the Local Plan -
- 1 space per residential unit provided at ground floor level - all internal
- 75 spaces for the office which would be covered and secure and 10 by the Toft Green entrance (where bikes are sometimes chained to the railings currently), which would be uncovered and for visitor use.
- The spaces for cycles would all be monitored by CCTV. Improvements are proposed; changing facilities are proposed within the offices and the facilities would be more secure than the current provision (which are mostly under the building but exposed to the public). All facilities can be secured through a planning condition. A separate condition can require implementation of the submitted travel plan, within which is the commitment to monitor take up of cycle parking facilities and provide additional space if necessary.
- 106 car parking spaces total are proposed - 66 for residents, 25 for offices. This is a reduction (of 16) compared to the existing number of spaces proposed. The car parking has been re-configured and landscaping introduced. Two electric vehicle charging points would be provided.
- The applicants have agreed to finance incentives for future residents to use the city car club.

AMENITY OF FUTURE OCCUPANTS

4.16 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Local Plan policy GP1: Design requires that development proposals ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

4.17 A conversion of the existing building is proposed and the surrounding uses are commercial. There would be no material effect on amenity of surrounding developments in terms of over-looking or the building being over-bearing/over-dominant.

NOISE

4.18 A noise assessment has informed the scheme and this will ensure amenity for future occupants is adequate and surrounding uses would not be compromised.

4.19 The noise assessment was taken over a Friday night/Saturday morning on 15/16 May 2015. Noise levels were on average approx 50 dB and the building envelope can be constructed to ensure internal noise levels meet British Standards. The assessment took full consideration of noise from the club opposite.

PLANNING GAIN

4.20 The residential conversion triggers the need for affordable housing. Current targets for brownfield development of the scale proposed are 20%. The applicant's position is that 20% affordable housing provision makes the scheme unviable.

4.21 Contributions towards education facilities are required because local primary and pre-schools are at capacity. The council has a current project to expand Scarcroft school and provide extra places in the South Bank area. This would be the 5th contribution towards the project and the contribution would therefore not conflict with the Community Infrastructure Levy Regulations. The applicants have agreed to make the contribution.

4.22 National planning policy asks for a flexible approach in seeking planning gain. The NPPF states that *"Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled"*. National Planning Policy Guidance states *"Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible, especially on brownfield sites"*. It acknowledges that the developer should be expected to generate a reasonable profit as a consequence of development in order to make schemes viable. The guidance advocates the use of local evidence to inform the process.

4.23 The district valuer (DV) was appointed, at the applicant's cost, to independently assess the viability of the scheme, and whether a level of affordable housing would be appropriate still allowing for a reasonable profit.

4.24 The DV's assessment, in summary, considers whether planning obligations are reasonable costs on a developer, considering -

- Land value (includes the incentive to the current landowner to release the land and should be informed by comparable market based evidence)
- Costs of construction

- Gross development value, using evidence from other developments, showing sales/rental income
- Developer profit, with what is reasonable varying depending on the scale and complexity of the scheme.

4.25 The applicant's offer of zero affordable housing was originally challenged as there was disagreement over the land value of the site. It was suggested that the developer's valuation of the site was too high, given the condition of office stock in the building. Historic vacancy rates had been over 50% for the last 2 years and those who did occupy the building were on short term contracts and attracted low rental levels (circa £10.00 per sq ft). There was also some disagreement as to what was reasonable in terms of professional fees and construction costs associated with the conversion works detailed in this application to convert the building to residential and make it attractive to the market. The applicants had appointed constructors who had evidenced what the construction costs would be in this respect.

4.26 The DV originally concluded that 11% affordable housing (9 dwellings) could be achieved or (if the council were agreeable) a contribution of £700,000 towards off site affordable housing.

4.27 During negotiations the decisive evidence brought forward by the developers confirmed that the land value of the site had been under estimated. The introduction of permitted development rights to convert offices into residential (along with other market changes) appeared to be driving up land values considerably. Sales of other properties in the city since 2015, in particular Yorkshire House on Rougier Street and United House Piccadilly, gave credible evidence that the estimated valuation of Hudson House previously used was too low. Land values at the aforementioned comparable sites were well in excess of 100 per sq ft. If the value of Hudson House were taken as over 100 per sq ft, then this would wipe out the £700,000 the DV had originally regarded could be contributed towards affordable housing, whilst leaving a reasonable developer profit.

4.28 The conclusion and independent advice from the DV is that based upon current market circumstances, requiring affordable housing in the scheme makes it unviable.

5.0 CONCLUSION

5.1 The proposed development has officer support. There are no adequate policy grounds to resist the change of use of the majority of the building to residential, giving significant weight to Government priorities in this respect, and overall the external works will improve the setting. There would be no harm to designated heritage assets.

5.2 Approval is recommended, subject to completion of a S106 agreement, which would deliver -

Car club

£13,200 towards car club membership and drive time which would be offered to residents of the host building.

Education

£171,448 toward education ; to be used towards the project to expand Scarcoft school.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 Development start within three years

2 Approved plans

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

Fuse Drawings - 13039

00 002 - Location plan

20 - 000A Ground floor plan.

20 - 001 - 006 - Upper floor plans and roof plan

20 - 201-204 and 251-254 - Proposed elevations

20 - 300-302 - Sections

20 - 100, 101, 102 - Unit types

SK13- Details of cycle storage

Reform Drawings

L RF14-218L01 A Landscape General Arrangement

L RF14-218L02 Site sections 1 of 2

L RF14-218L03 Site sections 2 of 2

L RF14-218L04 Trees removal & retention plan

L RF14-218L05 A Planting strategy

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

3 Materials

Samples of the external materials of the items listed below shall be approved in writing by the Local Planning Authority prior to pertinent works on the building. The

development shall be carried out using the approved materials.

- a) New windows and spandrel panels
- b) Lift
- c) Roof-lights to ground floor office (manufacturer's details)

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

4 Large scale details

Large scale details of the new lift shall be submitted to and approved in writing by the Local Planning Authority prior to construction of the pertinent part of the development. The works shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the conservation area.

5 BREEAM

The development shall be constructed to a BREEAM standard of 'very good'. A formal Post Construction assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate shall be submitted to the Local Planning Authority within 12 months of first occupation (unless otherwise agreed). Should the development fail to achieve a 'very good' BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'very good' rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.'

Reason: In the interests of achieving a sustainable development in accordance with the requirements of GP4a of the City of York Development Control Local plan and the Interim Planning Statement 'Sustainable Design and Construction'

6 Plant and machinery

Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at the boundaries of residential properties when in use, shall be submitted to the local planning authority for approval. These details shall include maximum sound levels (L_{Amax}(f)) and average sound levels (L_{Aeq}), 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.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. It is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

Reason: To protect the amenities of residents in accordance with section 17 of the NPPF which states planning should secure a good standard of amenity for all existing and future occupants of land and buildings.

7 Travel Plan

The development shall occur in accordance with the Fore Framework Travel Plan (version 1.2 dated 5 August 2015).

As stated in the document, the plan will be updated annually and further cycle parking facilities shall be provided such there be demand.

Reason: To promote sustainable modes of transport, in accordance with section 4 of the National Planning Policy Framework, in particular paragraphs 35 and 36.

8 Electric vehicle charging points

Before the occupation of the development at least 2 electric vehicle recharging points shall be provided on-site and maintained for the lifetime of the development, to the satisfaction of the Local Planning Authority. Unless otherwise agreed the points shall be provided in accordance with the approved ground floor plan drawing.

Reason: To promote and facilitate the uptake of electric vehicles in accordance with the Council's Low Emission Strategy and the National Planning Policy Framework (paragraph 39).

INFORMATIVE: Electric Vehicle Recharging Point means a recharging unit capable of charging two electric vehicles simultaneously with the capacity to charge at both 3kw (13A) and 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point.

9 Glazing Specification

Glazing to bedroom and living room windows shall be installed which at least achieves the specifications recommended (in the design recommendations page 15 onward) in the Fisher Acoustics Environmental Noise Study PR0519-REP01-MPF dated June 2015 prior to first residential use of the building.

Reason: To ensure that noise does not harm residential amenity and that there is no

detrimental effect on surrounding businesses; in accordance with paragraphs 17 and 123 of the National Planning Policy Framework.

10 Cycle parking

Prior to first use of the development hereby permitted the cycle storage and ancillary facilities, as shown on the approved plans, shall be installed and made available for use. External cycle parking shall be provided, using Sheffield type stands or similar, as detailed in the design and access statements. The facilities shall be retained for the lifetime of the development.

Reason: 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.

7.0 INFORMATIVES:

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: gave pre-application advice, sought revisions to plans to make acceptable and through the use of planning conditions and a legal agreement.

2. 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

Contact details:

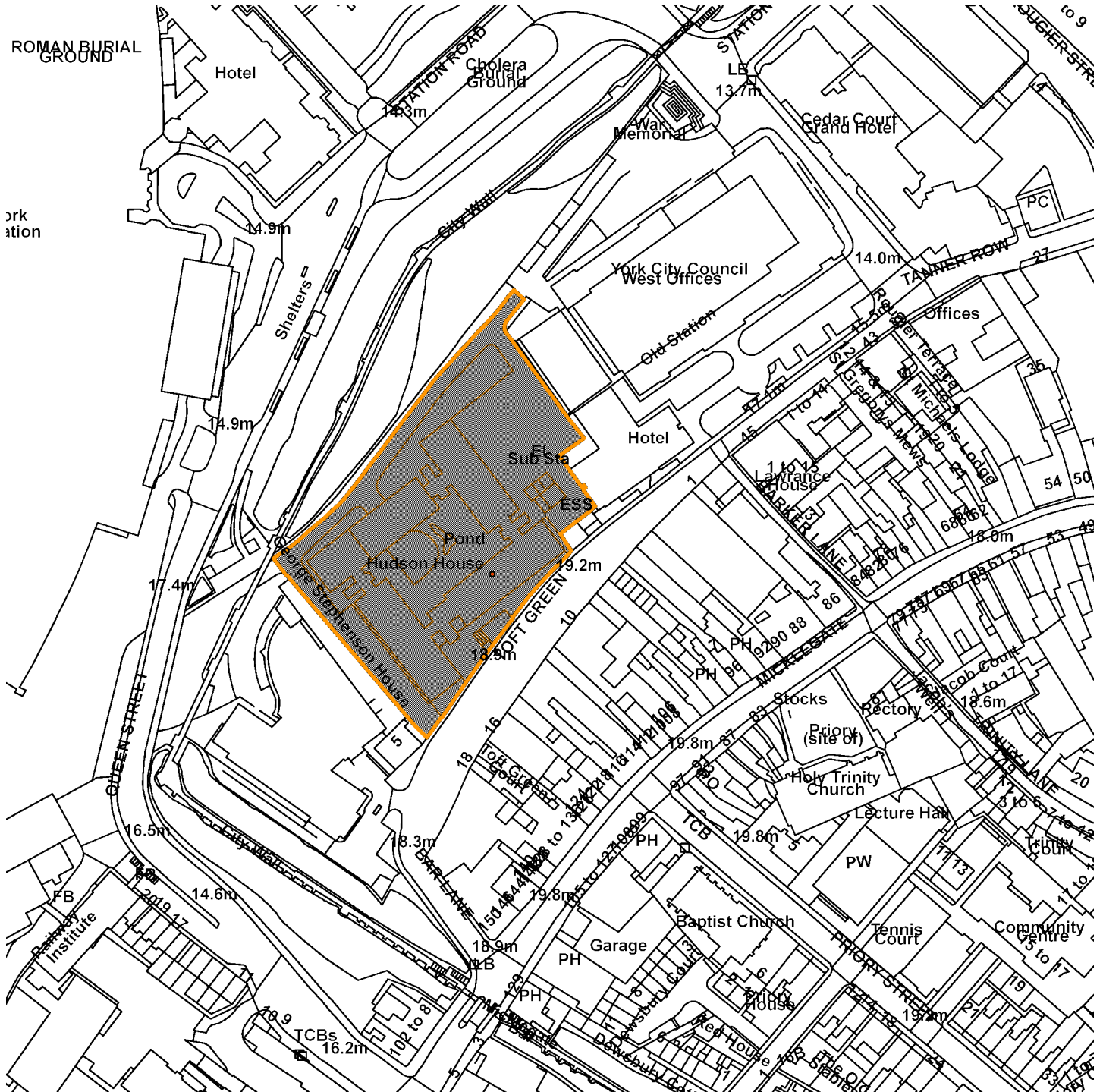
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Hudson House Toft Green



Scale : 1:1983

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Organisation	City Of York Council
Department	CES
Comments	Location Plan
Date	11 April 2016
SLA Number	Not Set

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