

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