

## COMMITTEE REPORT

**Date:** 25 October 2017      **Ward:** Acomb  
**Team:** Major and      **Parish:** No Parish  
Commercial Team

**Reference:** 15/00524/OUTM  
**Application at:** British Sugar Corporation Ltd Plantation Drive York YO26 6XF  
**For:** Outline application for the development of the site comprising up to 1,100 residential units, community uses (D1/D2) and new public open space with details of access (to include new access points at Millfield Lane and Boroughbridge Road and a new link road, crossing the Former Manor School Site) and demolition of the Former Manor School buildings  
**By:** British Sugar  
**Application Type:** Major Outline Application (13 weeks)  
**Recommendation:** Refuse

### 1.0 PROPOSAL

#### INTRODUCTION

1.1 This report is brought to committee in order to confirm the Council's position at the forthcoming appeal. Whilst matters continue to be discussed, the applicant's appeal against the non-determination of the outline application is scheduled to be heard at a public inquiry starting on 16 January 2018. The appeal has been called-in and will be determined by the Secretary of State.

1.2 The matter is therefore reported to Planning Committee to enable Members to resolve how it would have determined the application had no appeal been made. The views of Planning Committee will then form the basis of the Council's statement of case which has to be lodged with the Planning Inspectorate shortly.

1.3 As Members will note from this report, although officers objections to the scheme since the appeal was made have, through negotiation, been reduced (specifically the design of the main street is now agreed), there are still a number of important matters that are still unresolved. In the light of this, it is recommended that the application would have been refused had it been before the Committee for decision for the reasons set out at the end of this report. The Committee is asked to decide matters regarding the current position, and to note that it may yet be possible to resolve some matters further.

1.4 The Committee recently approved the related permission for the construction of a development platform, comprising engineering works and remediation and reclamation of the site. Although the Applicant has not yet formally withdrawn their

appeal regarding the non-determination of the parallel application for this, it is anticipated that they will do so. There are no remaining issues on that application of which the Council is aware.

## APPLICATION SITE

1.5 The application relates to the British Sugar site which is located to the north of Boroughbridge Road (A59), between Ousearces and Millfield Lane. The application also includes part of the former Manor School site, through which a vehicular access route is proposed.

1.6 The British Sugar ('BS') site during the 20<sup>th</sup> Century was used for sugar beet processing. The factory opened in 1926 and it was extended in the 1950's. The access points into the site were from Millfield Lane and Plantation Drive.

1.7 The factory closed in 2007. The redundant buildings have been demolished and the site has been largely cleared. Features that remain on the BS Site consist of soil settlement and wastewater treatment lagoons, a sports field and bunds.

1.8 The operations which formed part of the sugar beet refinery resulted in significant changes in levels across the BS Site. The existing topography comprises a higher northern part, containing a series of former soil settlement and wastewater treatment and storage ponds / lagoons, enclosed by earth embankments, and a lower-lying southern part which accommodated the refinery buildings, product storage tanks and another wastewater treatment facility.

1.9 The northern part of the site is subject to an Environmental Permit held by British Sugar and regulated by the Environment Agency (EA). This area is now in a state of 'Definitive Closure', and its condition has been monitored annually since 2009. Monitoring of groundwater quality and ground gas in soils has also been carried out as part of this. Definitive Closure is a term used by the Environment Agency to describe a permitted facility that has ceased receiving waste and/or has ceased operating the process which the EA has permitted, is in a managed stable state and is being managed by the relevant operator in such a manner that the Environment Agency considers that it requires reduced ongoing regulatory management. This was the subject of the detailed planning permission (14/02798/FULM) that was recently approved on 15 September 2017 for the construction of a development platform, engineering works and the remediation and reclamation of site. Further remediation work will be required in order to enable the residential use that is now intended.

1.10 Manor School has relocated to a site to the west, on Millfield Lane. The old buildings have since accommodated a nursery (Muddy Boots) which is itself due to move to a new site further west along Boroughbridge Road (The Gardens, where permission was granted under application 15/01836/FUL). The site is now closed.

1.11 The BS site is bounded by the railway line and by housing and industrial sites, the latter situated on Millfield Lane and at Pyramid Court (off Ouseacres). Trees align the edge of the former school grounds along Boroughbridge Road and Low Poppleton Lane.

## PROPOSALS

1.12 This application (14/02789/OUTM) is for outline permission for residential development and community uses on the site (community hub, pre-school, primary school and open space). The access points and the alignment of the main road proposed are detailed as a reserved matter at this stage.

1.13 Since the original submission the scheme has been revised and the access from Plantation Drive would be for cyclists, pedestrians and emergency vehicles only.

1.14 There is a companion planning application - 14/02798/FULM which details the proposed remediation and finished ground levels/profile of the site to enable the residential use. The application was determined by members at committee and approved in September 2017.

1.15 Since the application was made the detailed design of the access roads into the site, including works at the junction of Low Poppleton Lane, Beckfield Lane and the A59 and the design of the road through the former Manor School site have also been approved under application 17/01072/FUL.

1.16 Planning permission is sought for up to 1,100 dwellings. The exact number, size and type of which would be approved through subsequent reserved matters applications.

1.17 The application also designates 1.5ha of the site defined on plan as a community hub. The area would accommodate a primary school (with 210 places), a building for community use (of 300 sq m floor-space), and pre-school facilities (2 facilities each with 63 places).

- Construction of the community hub and primary school would commence after completion of 300 dwellings. The Council would be responsible for delivery.
- The intent is for the pre-schools to be delivered by the developer, the 1<sup>st</sup> before 100 homes are completed and the 2<sup>nd</sup> before 550. However if the developer is unable to find an operator for either facility, responsibility would fall to the Council to deliver.

1.18 The proposals show 9.18ha of on-site Green Infrastructure, of various typologies. The infrastructure will be delivered in phases, with the majority provided at an early stage. The relevant parameter plan illustrates the phasing of GI.

1.19 The proposed central amenity space, sports pitches, and landscaping around the Tangerine Factory will be provided at the outset of development. The proposed allotments in the northern corner of the site, children's play areas and corridors of green infrastructure, which will thread through the site, will be provided when later phases of the development come forward.

1.20 The main street which would run through the development and its associated landscaping is shown in detail on drawings provided by Aecom and DTA.

1.21 The main street would be constructed in 2 phases. The first phase would provide access to the community hub area and the public open space, from the A59 and through the Former Manor School site.

1.22 In future it is envisaged a bus service would run through the site. Contributions to secure the service would be secured through 106.

1.23 To inform the design of the scheme submitted for approval are a set of parameter plans which identify development parcels, ground levels and maximum building heights, the extent and type of on-site open space and a movement strategy which details pedestrian and cycle permeability through the site. The development would be guided by the design parameters and principles document (revised version submitted October 2017) which supports the application.

1.24 As a consequence of negotiation, the following key documents now support the application -

- Location plan
- Contour plans showing site levels
- Phasing plan of on site infrastructure (provided October 2017)
- DTA plans of the main street (plans submitted September 2017 with October 2017 updates)
- Aecom plans of landscaping (plans submitted September 2017 with October 2017 updates)
- Plans of off site highway works
  
- Parameters and Design Principles REV H October 2017
- Arboricultural Method Statement dated August 2017, Ref: IJK/6810/WDC
- Construction Environmental Management Plan Version 1.1 dated 27.6.2017
- Transport Assessment (a revised assessment undertaken by DTA associates)

1.25 Through a legal agreement the intent is to provide a contribution to enable the Council to increase the capacity of the outer ring road, at roundabouts connecting into Boroughbridge Road and Wetherby Road. The legal agreement would also allow the Council undertake best endeavours to deliver a new cricket ground on Millfield Lane, to the North-West of the existing sports pitches.

1.26 The scheme underwent public consultation carried out by the applicants prior to submission in November 2013, which is summarised in the applicants design statements.

1.27 Key messages taken from the consultation were as follows -

- Support for both a large central green space and smaller green spaces distributed throughout the Site;
- Natural and semi natural green spaces, child and youth play spaces, informal leisure spaces and outdoor sports facilities identified as most needed;
- Community facilities should be accessible to existing and new community. Community / sports hall, educational facilities and doctors facilities identified as most needed;
- Provision of pedestrian and cycle routes within the site and ensuring easy access to public transport is key to reducing traffic impact;
- Development should ensure that mix of housing types and styles are provided; and
- Sustainability and a consideration of the environmental impact of development should be an integral component of the planning process.

## RELEVANT SITE HISTORY

1.28 The redevelopment of this site for a residential-led use has been the subject of considerable discussion since the sugar beet factory closed in 2007.

1.29 The Council identified the site as being appropriate for residential use through a Supplementary Planning Document, which was prepared for the site following closure of the sugar beet factory, approved by Members and published in April 2012. The site included the former Manor School site and according to the document the allocation was to provide:

- Around 1295 dwellings;
- Open space;
- Local centre/community hub incorporating health, education, leisure and community facilities to meet local needs and 1,000 to 1,500 sq m gross floor-space for retail, services and food and drink uses, including local convenience retail of between 200 and 600 sq m gross, subject to a retail impact assessment.

1.30 The site is allocated, along with the former manor school site, in the draft Local Plan as a strategic housing site – reference ST1 – to deliver approximately 1,200 dwellings.

1.31 It is in the Poppleton Neighbourhood Plan as a housing site.

1.32 The following recent planning applications are relevant to the case -

Application 13/03048/EIASP

1.33 Prior to the submission of this application, an Environmental Impact Assessment (EIA) scoping opinion for proposed residential-led development of the Site was submitted to the Council in September 2013. The scoping opinion was issued by the City Council on 18th October 2013. It confirmed that an EIA was required as the development would have significant environmental effects, in particular considering the proposed residential population, traffic generation and land contamination.

1.34 An Environmental Statement has been submitted in support of this application.

14/02798/FULM

1.35 This application is for the proposed remediation strategy for the site and the associated change in levels to form a development platform. The application was approved in September 2017.

17/01072/FUL

1.36 An application for the access roads into the British Sugar site, which included associated demolition of the former Manor School buildings, was considered by members at planning committee on 17 August and approved in September 2017.

15/00523/FULM and 15/00524/OUTM

1.37 These are duplicate applications of this application and 14/02789/OUTM submitted March 2015. The applicants appealed to the Planning Inspectorate against non-determination of these applications in June 2017. The Council have been advised the appeal against 15/005236/FULM will be withdrawn when the 2014 permission becomes free from legal challenge.

## **2.0 POLICY CONTEXT**

### **POLICY CONTEXT**

2.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no adopted Local Plan in York. The Development Plan currently comprises of only the Yorkshire and Humber Plan Regional Spatial Strategy to 2026 (May 2008) unrevoked policies YH9 (T) and Y1 (C1 & C2) relating to Greenbelt and is not therefore relevant to this Appeal.

2.2 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the NPPF and it is against this Framework and the statutory duties set out below that the application proposal should principally be considered.

2.3 The draft development plans are only relevant as material planning considerations, and do not have statutory authority. Given the stage it has reached in

the adoption process, the Upper and Nether Poppleton Neighbourhood Plan is now to be treated as part of the development plan.

## NPPF

2.4 Paragraph 14 of the National Planning Policy Framework (NPPF) says that at the heart of the NPPF is a presumption in favour of sustainable development. As the development plan is absent, silent and relevant policies are out-of-date, this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. This is not a site that is located in an area where the specific policies in the NPPF indicate that development should be restricted (for instance, in areas of Green Belt or flood risk).

2.5 The sections of the NPPF that are most relevant to this application are as follows:

1. Building a strong, competitive economy
4. Promoting Sustainable Transport
6. Delivering a wide choice of quality homes
7. Requiring good design
8. Promoting healthy communities
11. Conserving and enhancing the natural environment

## “Development Control Local Plan” 2005 (DCLP)

2.6 Although there is no formally adopted local plan, the “City of York Draft Local Plan Incorporating the Fourth Set of Changes” (DCLP) was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of s.38(4), its policies are capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. However, the weight to be attached to such policies is very limited.

2.7 Policies considered to be compatible with the aims of the NPPF and most relevant to the development include:

SP6	Location Strategy
SP8	Reducing Dependence on the Car
GP1	Design
GP6	Contaminated Land
GP9	Landscaping
GP13	Planning Obligations
H2a	Affordable Housing
GP15a	Development and Flood Risk
L1c	Provision of New Open Space In Development
L2	Allotments

T2b	Proposed Pedestrian/Cycle Networks
ED4	Developer Contributions Towards Educational Facilities
C1	Community Facilities
H4a	Housing Windfalls
NE1	Trees, Woodlands and Hedgerows
CYNE6	Species protected by law
CYNE7	Habitat protection and creation

### Emerging Local Plan

2.8 The pre-publication draft of the Local Plan is currently undergoing public consultation until 30 October 2017. A public consultation on the Publication version of the Local Plan is expected to start in February 2018.

2.9 The emerging Local Plan policies can only be afforded limited weight at the present time, given the stage that they have reached in the statutory process. The National Planning Policy Framework provides that weight may be given to relevant policies in emerging plans according to: the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency with the Framework.

2.10 The main draft policies that are relevant to matters raised by this application are:

DP2	Sustainable development
DP3	Sustainable communities
SS6	British Sugar/Manor School
EC2	Loss of Employment Land
H1	Housing Allocations
H10	Affordable Housing
D1	Place-making
D2	Landscape and Setting
D6	Archaeology
HW2	New Community Facilities
HW3	Built Sport Facilities
HW4	Childcare Provision
HW7	Healthy Places
ED6	Preschool, Primary and Secondary Education
ED8	Community Access to Sports and Cultural Facilities on Education Sites
GI1	Green Infrastructure
GI2	Biodiversity & access to nature
GI3	Green Infrastructure Network
GI4	Trees and Hedgerows
GI5	Protection of Open Space and Playing Pitches
GI6	New Open Space Provision
CC2	Sustainable Design and Construction of New Development
ENV1	Air Quality

ENV5	Sustainable Drainage
ENV3	Land Contamination
T4	Strategic Highway Network Capacity Improvements
T5	Strategic Cycle and Pedestrian Network Links and Improvements
T6	Development at or Near Public Transport Corridors, Interchanges and Facilities
T7	Minimising and Accommodating Generated Trips 223
T8	Demand Management

### Upper and Nether Poppleton Neighbourhood Plan

2.11 The Upper and Nether Poppleton Neighbourhood Plan was approved following a referendum vote in favour of the plan which took place on 23 August 2017. It is to be treated as part of the development plan, in accordance with the amendments made to the Planning and Compulsory Purchase Act 2004. This applies even before the plan is formally 'made' by the Council, which is expected to happen on 19 October 2017. The Neighbourhood Plan therefore now has statutory status as part of the development plan for York. It will sit alongside the Local Plan once the Local Plan has been adopted. The Neighbourhood Plan contains a series of policies that will be used when determining planning applications that are located within the designated Neighbourhood Area.

2.12 The north part of the appeal site is within the designated Neighbourhood Plan area. The appeal site is designated for housing in the plan: allocation H1. The policy in section 7 of the plan: Housing is a material consideration in assessment of this application. Paragraphs 7.5-7.9 and Policy PNP 6E relate specifically to the appeal site.

2.13 With regards the site the plan states as follows –

Proposals for residential development of the site will be supported subject to the following criteria –

- They include a mix of housing types
- They provide amenities, outdoor sport and recreational facilities
- They provide a principle access point off Boroughbridge Road

The background text to the policies adds –

- The plan supports development with a wide variety of housing types to meet the needs of York's population expansion and which is in compliance with NPPF paragraphs 56-68.
- It is important to provide public transport to serve the residents.
- The main entrance would be from the A59.
- The plan supports the preservation of mature trees where possible and landscape screening on Millfield Lane.

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- The neighbourhood plan requires developer's to use BFL12 and schemes should ideally score 12 out of 12 in compliance of BFL criteria.

## 3.0 CONSULTATIONS

### INTERNAL

#### Design, Conservation and Sustainable Development

##### Urban Design

3.1 At the time the appeal was made officers had concerns over the design of the scheme, as presented in the plans for the main street and the overall principles for development of the site as set out in the December 2016 Design Parameters and Principles document. The revised document was submitted 12 October 2017 and therefore officer's comment on the document could not be accommodated within this report.

3.2 The specific concerns were over the lack of clarity on the elements of the scheme that were fixed and not fixed. With the supporting document there lacked examples of best practice overall and officers had issue the document could fail to deliver good design.

3.3 CYC have had experience on other sites where this type of design is presented as "outline or indicative" as a way of making an argument not to worry too much about it, but in the end it has set a precedent that has unfortunately been stuck to when considering reserved matters. So it is important and needs to be done in a way that gives us confidence that future developers will interpret it in a way that will ultimately lead to good design. The central elements of my comments of 6<sup>th</sup> Feb 2015 remain largely unresolved but I add some more condensed comments below:

##### Street types

3.4 These were presented as a range of design types for different situations, and this was a good idea because they would be building blocks around which to base the future design detail of individual plots. Officers would like all street section types to be developed more so that they provide more substantive and positive design guidance. These sections should include key green infrastructure types and edges such as principles for street trees, buffer landscape features, green edges etc. in different conditions.

##### Illustrative masterplan

3.5 Officers requested it be clarified car parking can be accommodated to a satisfactory design, and that the master plan responded to known site constraints.

##### Access & movement

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3.6 There was a mismatch with the narrative proposed by the applicant about movement hierarchies (which was good) and the form of the master-plan provided. Essentially the plan was an example of a finer grain of streets providing *more* car connectivity than best practice design or even adjacent existing neighbourhood blocks. It will be impossible for this to achieve low car dominance so a new approach is needed.

#### Character areas

3.7 It was recommended the applicant to develop plot test examples of good design plan types- the mews court, the secondary street, the primary street etc..., and important nodes (interfaces with each other) utilising the street section design types. This would demonstrate that the proposed density and therefore overall quantum can be achieved in principle, and is much more satisfactory than to trying to draw an illustrative masterplan with every little house. Officers recommended the applicants avoided making up an unnecessary narrative for plot character that doesn't really exist or is not strongly differentiated (because this site is in the main a new neighbourhood construction and in the main, all housing). The supporting design documents should focus on where there is important plot character design considerations i.e the community hub public realm, Langholme Drive, Millfield Lane gateway etc... This would ultimately allow greater developer flexibility coming forward.

#### Phasing

3.8 Officers asked for more information about the phasing. The site will be largely undeveloped for many years, so the ambitions of an overall completed and functioning plan will be many years off. We need the interim to still function well in its own right, so it would be really helpful for this to be thought through and demonstrated. This means more than an indicative phasing plan. If plots are sold off on the market then a developer might take a liking to different plots in different places, so how does this relate to the main street; how much of this will be built to start with; when does public transport kick in; how will desirable main street landscaping be factored in so it is not bleak for many years; will they define and build secondary access points off the main street from the start in order to allow street landscaping to be developed from the start etc...

#### Landscape Officers

3.9 Officers have commented on the detailed planting scheme for the main street, the over-arching principles for the site and provided recommended conditions.

3.10 Officers have raised concerns that details of utilities and street-lighting are yet to be specified and such infrastructure could impact on the tree planting strategy for the main street. The future growth of trees needs consideration and that they will be compatible with utilities and residents houses and gardens.

3.11 In the interests of place-making it is desirable the community hub has a strong connection with the central open space. The landscape treatment at the junction

between the 'entrance green' and the community hub requires a sense of arrival and of being the heart of this new community. The addition of trees on this corner would be welcomed (although the introduction of grass was not necessary). There needs to be free movement across this space and a slightly more formal design approach to this area (in conjunction with the 'entrance green'). There needs to be a greater sense of spatial connectivity in the hard and soft landscape treatment between the central hub and the entrance green.

3.12 Whilst the main open space provision is suitable, there needs to be additional small pockets of space and/or significant streetscene features, such as strategically placed 'incidental' pockets of space and large-species specimen trees, e.g. at junctions, wide verges, shared surfaces with street trees and benches etc. Officers recommended that the parameters plan for GI includes some markers/conceptual dots for pocket spaces or nodal spaces/landscape features to reinforce this concept which should then be picked up in the design guide.

3.13 It is regrettable the trees by the Millfield Lane entrance are all being removed to accommodate the scheme.

3.14 Conditions are recommended to cover tree protection and for detailed landscaping schemes to be submitted with each reserved matters application.

### Ecology

3.15 Ecology surveys of the site have been undertaken from 2007 through to September 2014 and have included extended Phase 1 Habitat surveys, specific surveys for great crested newts, badgers and bats (including activity, emergence and trees) and invertebrate surveys.

3.16 Officers ask for a condition, which would secure an ecological management plan. The condition would protect the Bee Bank within the site, which is a designated site of regional importance and secure replacement planting to mitigate for that lost.

3.17 With regards bats, which are a species protected by law as previous surveys were undertaken at least 4 years ago, officers request for updated surveys to be undertaken at the former school buildings, where bats were found and within the British Sugar site, before trees which were assessed as having bat roost potential, are felled.

3.18 The British Sugar Railway Sidings SINC 'the bee bank' is located on the eastern boundary of the site. It is a sandy bank with scrub, qualifying for designation because of the presence of nationally and regionally scarce invertebrate. A survey in 2013 confirmed it remains a valuable resource for invertebrates and is assessed as being of county importance and a medium value as a receptor.

3.19 The remainder of the habitats on site are agreed to as being of negligible to local value and therefore low value as receptors.

3.20 The former 'nature conservation' area to the rear of Plantation Drive is an area dominated by young broadleaved trees with a grassland and tall ruderal field layer and scrub on the top of the banks. The proposed mitigation for the loss of this area is new landscape planting with native species, and replacement woodland planting that will be greater than that lost.

### Archaeology

3.21 Officers advise that a watching brief will be required on groundworks within the former school site and within the car park at the British Sugar site.

### Sustainable development

3.22 When originally consulted officers asked that the development commit to at least a Code for Sustainable Homes rating of 3\* & BREEAM V Good standard for the community hub buildings. Officer note - Code for Sustainable Homes is no longer a national standard.

### Education

3.23 It is estimated that a development of 1100 dwellings would require the following facilities:

- Primary - An additional 1 form entry primary school catering for 210 places, provided on-site
- Secondary - Approx 157 additional Secondary (ages 11-16) places required based on current capacity assessed in August 2017. These places would be funded through developer contribution and provided off-site at existing local secondary schools. An option would be to secure payments on a phased basis, by apply the Council's formula to calculating need as development comes forward over time.
- Pre-school - The existing local childcare market would not be able to absorb the additional children resulting from this development. As such the development should include two new 63 place day nurseries. These can occupy the same building as the primary school.

3.24 The school and preschool building footprint would need to be around 0.17ha within a total site area of approximately 0.94ha. 0.42ha of this is required for dedicated school playing field provision.

### Flood Risk Management

3.25 Officers have accepted the proposed drainage strategy for the site subject to approval of site specific details.

3.26 In response to concerns raised by the IDB officers advice is that their main concern is the point of connection i.e. straight into Carr Drain. Officer view is that although the applicant cannot prove existing connected areas historically the factory buildings did discharge in the region of 95 l/sec into the drain. In addition there was further discharge, into the Yorkshire Water sewer in Plantation Drive and the now capped outlet on the eastern side of the site. The 43.2 l/sec maximum from the whole proposed development is far less the previous run off rates. Officers are content that considering the proposed run off rates and the fact that both options (610mm diameter outfall and Carr Drain) ultimately discharge to the River Ouse.

3.27 All flows are to be attenuated to the 1.4 l/sec/ha on site for all events up to the 1 in 100 year storm events using a range of SuDS methods.

3.28 Future ownership and maintenance responsibility of the culvert is yet to be agreed. Officers have assessed reports provided by Aecom for the applicants about the condition of this infrastructure.

3.29 At present officers still have many concerns over the assets long term viability and are not reassured that an asset approaching 100 years of age will not present a significant future liability. Considerable repair and potentially structural relining would be the only way to alleviate these concerns.

3.30 Officers are not at this time in a position to agree to take ownership of the infrastructure and any planning permission should be clear of this matter.

### Forward Planning

3.31 Officers' response, from Feb 2017 summarises representations made on the site's allocation for housing in the emerging local plan. It discusses relevant local policies and establishes council's current position on housing land supply, affordable housing and the background behind the housing allocation in the plan.

### Housing Land Supply

3.32 The SHMA produced by consultants GL Hearn establishes the objectively assessed need (OAN) for York as 841 dwellings per annum. This work takes into account the Government's 2014 based Sub-National Population Projections released by the Office for National Statistics 2016. This need will require land to be allocated for a minimum of 8,277 dwellings over the emerging plan period once completions, unimplemented permissions and a small site windfall allowance have been taken into account.

3.33 To satisfy the OAN the City of York Local Plan Preferred Sites consultation  
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document includes sufficient land to provide about 10,100 dwellings in total, which would effectively provide an approximate 2.2 years oversupply by year 15 of the plan period. The identified housing supply set out in the Preferred Sites Consultation (2016) includes the British Sugar site.

3.34 The Council does not currently have an NPPF compliant five-year supply of deliverable housing sites. However, considerable work on sites has been undertaken as part of the emerging Local Plan process, which has assessed over 800 sites submitted through the Call for Sites in 2012 and subsequent consultations using the Council's site selection methodology.

### Affordable Housing

3.35 The SHMA (2016) analysis indicates that 573 net additional households per year will require support in meeting their housing needs (using a 30% income threshold). The identified need for affordable housing also includes existing households who need alternative size or tenure of accommodation but would release their current home for another household by moving. Policies for what proportion of homes should be affordable need to take account of evidence both of housing need and the viability of residential development. This work on viability and deliverability against the policies in the emerging Local Plan will be undertaken to inform the revised Publication Draft Local Plan.

### Site selection in the emerging Local Plan

3.36 The site selection paper (2013) that accompanied the preferred options plan indicated that site 295 (call for sites reference) was an established strategic development site and that the Council is continuing to work with relevant parties to bring the site forward for residential development, to be allocated as site ST1: British Sugar/Manor School.

3.37 Following ongoing work on how development could be arranged on the sites in relation to strategic sites delivery, a number of boundary revisions were submitted to the Council for consideration through the preferred options consultation. It was concluded in the further sites consultation (2014) for ST1 that a revised boundary should be included in the Local Plan to reflect the comprehensive masterplan approach which includes the former Manor School site and the existing and former open spaces. Appendix 5 of the FSC Main Document states that the proposed boundary allocation has been extended to include the whole of the former Manor School site (previously it just included the building footprint) plus the sports facilities associated with the British Sugar site. This reflected the comprehensive masterplan approach provided by site promoters/landowners. The document makes it clear that significant levels of open space should be provided as part of the re-development of the site and that these could include both new and retained spaces dependent on the site masterplan approach. Provision of open space should include a range of typologies including sports provision.

3.38 The planning principles for the site, which will be used to set the bespoke Local Plan policy for the site states that the site should create a balanced mix community with appropriate mix of housing informed by the SHMA, provide new social infrastructure to serve the needs of the new community and existing community including local retail, health, community space, educational facilities and sport provision, provide a new nursery and primary school and appropriate off-site contributions for secondary education, create new public realm/public spaces/routes to encourage pedestrian and cycle movements, have a high quality of design to create a sense of place and reflect the local history and heritage of the site, create linked multi-functional green infrastructure to maximise linkages to the wider green infrastructure network and optimise integration, connectivity and access through new pedestrian, cycle and public transport routes to ensure sustainable movement into , out and through the site.

3.39 The technical officer comments throughout the local plan site selection process have highlighted that the site contains a SINC bordering the railway line. The 'British Sugar Sidings' is 500m long and is designated for species of aculeate hymenopter (Bees and wasps). It is noted that this site may be impacted through the construction of the site and it would be necessary to ensure the limiting of disturbance to avoid adverse impact on the bees and wasps. Significant buffering would be required to ensure the integrity of this nature conservation site. This could be incorporated into the Green Infrastructure scheme on site.

3.40 It is also noted that the site is part of Acomb/River Ouse green infrastructure corridors. The site will require substantial natural open space. The site would require a tree survey with particular reference to mature trees along Boroughbridge Road frontage. The site has views across the flat landscape toward the Minster and northwest, which need to be incorporated through the design to ensure views are achieved across the flat landscape. An archaeological desktop survey has also revealed that onsite archaeology is likely to be low but further investigation may be required.

### Highway Network Management

#### Development Transport Assessment

3.41 The application has been supported by Transport Assessment and Travel Plan reports, which have been reviewed by officers and subject to considerable dialogue, negotiation and amendments.

3.42 As with all applications these assessments follow an approach looking at a base situation without the development and one with full occupation, to gauge likely changes. It is important to emphasise that with a development of this scale the impacts predicted through the traffic modelling and complimentary analysis are anticipated to be generated over a considerable period will not be realised for many

years. A key example being the outputs of vehicular traffic generation (additional trips) and the predicted implications for the operation of the road network. Given the timeframes envisaged it is advisable to regard some aspects as worst case estimations, which it is reasonable to suggest will be positively influenced over time by changes in travel patterns, choice and increasing options, some of which are already impacting on the highway network and transportation within York.

3.43 The estimations of travel by all different forms of transport: walking, cycling, public transport and car have been established using the accepted range of tools, using for example current data on actual transport choices people take (census surveys) through to trip generation data from other housing sites and the nationally recognised TRICS database.

3.44 Traffic Generation – as above this has been estimated using data from existing housing sites (subject to travel surveys); for British Sugar this predicts that when fully built out, the additional vehicle trips in the AM & PM peak hours (weekday) will be circa 600-700, this being based upon 1110 houses generating approximately 0.6 vehicle trip each.

3.45 This traffic has been distributed and assigned in the normal way using the Council's SATURN model. The development traffic has been assigned initially at the site: being 60% access/exit at the modified Boroughbridge Road/Low Poppleton Lane junction and 40% to the Millfield Lane access point. The wider distribution and assignment of the traffic past those points has been assigned using the SATURN model, which then provides an indication of percentage change and thus establishes the need for more detailed analysis of those junctions.

The assessments have not included a discount (netting off) of traffic previously associate with the site, as such the traffic is considered a wholly new to the road network.

3.46 Operational Impacts - the individual junction assessments covering several junctions (Outer Ring Road and A59 corridor) has indicated that the full impact on both the A59/A1237 and Wetherby Road/A1237 roundabouts are to a degree which warrants mitigation. With regards to both these roundabouts the future year (2022) model shows a moderate deterioration of the performance with an increase in queuing at peak hours which should be addressed. It has been agreed that with both locations a Section 106 contribution will be secured, which can then be utilised in the future by CYC to undertake an improvement scheme to ameliorate the additional traffic impacts. However, in respect of the Wetherby Road roundabout, it is envisaged that the funding will be utilised to contribute towards a scheme to be designed and built as part of the Outer Ring Road major transport scheme package.

3.47 The impact on the operational performance of other junctions is within an acceptable range for an urban traffic environment. It is reasonable to expect that within the peak hours some junctions would see small to moderate additional queue

lengths, particularly on the Boroughbridge Road corridor towards the city. But given the lengthy build out period and many changes in travel that are credible over the next decade, such changes may not be realised. A worst case scenario may be that the traditional peak hours will extend over a longer period (peak hour spreading). However an alternate view would be that changes in typical commuting patterns are likely, such as via increasing flexible working policies, commerce via technology, transfer to sustainable modes and emerging but rapidly developing mobility options, e.g. Transport as a Service (TaaS), which will transfer traditional individual (car) journeys/ownership, to shared, autonomous and transport network companies.

3.48 Clearly the greatest traffic change will be at the two site access points. At Boroughbridge Road, the existing junction will be modified, as shown on DTA drawing main street alignment 1 of 3. This will incorporate Low Poppleton Lane, as a priority junction onto the main street serving the development. This junction will operate under signal control. The additional traffic demands on the A59 junctions will be managed by the operating strategies of the Council's Urban Traffic Control (UTC) system.

3.49 The City is currently deploying optimised vehicle actuation using the MOVA system at junctions throughout the City, and if required, this can be introduced on the A59 to better manage off peak performance. The A59 is also the location of a research project looking into the opportunities for using vehicle data to further optimise UTC and provide proactive switching between VA and fixed time operation. This has the potential to offer additional efficiencies and further increase junction performance.

3.50 The future year model predicts that the average maximum queues on the new access will be just over 10. Based upon the fixed signal cycle time of 90 seconds (e.g. 40 green stages per hour) in place for the busiest times, this is a realistic but worst case estimation of queues.

3.51 The Millfield Lane access will be used by slightly less traffic, with this distributing to the Great North Way/A1237 roundabout. The SATURN model has shown that only a very limited number of vehicles would assign to Millfield Lane towards Poppleton village. This being based upon the redistribution predictions the model derives from traffic flow, journey time and congestion. Basically meaning there is negligible demand or advantage in using that route. As an individual junction the roundabout at Great North Way has capacity in design and operational terms and is predicted to be able to accommodate the additional BS traffic with only marginal changes in delay and length of queues. The wider impacts upon the A1237 in this location and linking to adjacent roundabouts has been reviewed by CYC and it is considered that the predicted impacts are realistic and no mitigation is required. As above, the Outer Ring Road will be subject to major improvements as part of the West Yorkshire Transport Fund package, comprising improvements to 7 roundabouts in total.

3.52 Travel by other modes - the proportion of journeys/trips by all modes has been considered. The most recent census gives a flavour of how people travel and in the area local to British Sugar the percentages are:

Bus 8%  
Train 2%  
Motorcycle 2%  
Cycle 14%  
Walk 11%

3.53 This confirms that the site is within a sustainable location with many people choosing to travel to work (and for other journeys) by means other than the private car.

3.54 For journeys on both foot and by cycle the environment connecting with the site provides good quality routes, with connectivity to local amenities, education and employment. Footways, paths, shared and segregated routes connect both along the Boroughbridge Road corridor, in both directions, through to Beckfield Lane and also along Millfield Lane. The current infrastructure including controlled and uncontrolled crossing points is to a good standard. A range of facilities including schooling and employment areas are within a 1-2km, which is recognised as being an acceptable distance. Travel by cycle to much of the city including employment areas, education and the city centre is all within an acceptable range of the BS site.

3.55 With regards to public transport, buses specifically, the basis of the discussion and negotiation (and internal layout/design) has been to ensure that bus services can and will travel through the new development, This will mean that the maximum walking distance from the significant majority of the new houses will be within 400m, which the nationally recognised benchmark. A number of bus stops will be provided within the main street. At this point it is envisaged that the current Service 10 will divert through the development. Discussion has been undertaken with the operator in this respect. A section 106 contribution will be secured to provide the necessary financial support to cover costs associated with diversion and secure a credible service from the early stages of occupancy.

#### Road Safety

3.56 As part of the transport assessment, as is standard practise, a review of current accident data at a number of junctions surrounding the site has been undertaken. Whilst this recorded a number of accidents at several locations, the circumstances did not highlight causation factors attributable to the highway layout/design and as such the increase in traffic anticipated to travel through them does not warrant mitigation.

#### Internal Highway Design

3.57 The application seeks approval for the primary means of access within the development, which comprises the access from Boroughbridge Road, the provision of a Main Street, which also connects to Millfield Lane. The design of the access has

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been subject to considerable review with a series of iterations. The layout and design presented is commended. It strikes the right balance between the provision for movement and creation of sense of place. The approach follows Manual for Streets principles to ensure that motor vehicle speeds are low, it will have a 20mph limit but design speeds will be less. Such that the environment is conducive to residents and visitors walking and cycling within the development and encouraging external trips to local amenities, education, work and leisure.

3.58 The street design incorporates changes to the horizontal alignment, controlling forward visibility and using central features, wide verges and soft landscaping in particular, to constrain vehicle speed and set the foundations for a pleasant residential environment. Footways are provided throughout along with a wide shared pedestrian-cycle path on key sections of the Main Street. The area adjacent to the planned community building - school has been designed on the same theme. Throughout the street and at the community area the requirement for some managed on street parking space has been anticipated and shown within the layout. This will also serve as a natural traffic calming measure.

3.59 The design has been checked for bus movements throughout in both directions and has been subject to a stage one road safety audit - no issues presented.

3.60 Whilst much more detailed design will follow with subsequent applications (and highway adoption processes) the basic design and principles are considered robust and set the framework to establish a hierarchy of movement consistent with the councils transport agenda and instil high quality, safe, street design, with environmental benefits for the new community. The internal layout and design principles will create an environment which is unlikely to be advantageous for any non development traffic simply travelling through from one end to the other. The strategic modelling has also considered this and the benefits in journey time are not evident. As it will be many years before the site is fully built out, monitoring of traffic patterns will be ongoing and it is always feasible that at some future point further demand management could be considered appropriate.

#### Travel Plan

3.61 A Travel Plan compliments the overarching assessment, focusing upon how travel by sustainable modes can be maximised such that the proportions of people using the bus, walking and cycling can be achieved at a level above the current percentages within the local area. This will be influenced by a combination of measures and incentives. A programme of personalised journey planning will be funded (via s106), under which the Council will provide a resource to encourage new residents (and users of the community facilities/school) to make travel choices which are beneficial environmentally and from a health perspective. CYC has seen very positive outcomes in the city where personalised journey planning has been provided, with noticeable changes in journey type and mode. In addition to this, incentives to use the bus service will be encouraged by the provision of 'free' tickets for each household plus discounts on the purchase of a cycle. The integration of the city car

club will also be achieved, with funding both for vehicles and membership incentives. All of these measures are to be funded through the S106 obligations. A total sum of £625,000 is agreed which will be used to support bus services and all of the travel planning items above. It is considered that this package will help to ensure that the new community adopt travel choices and patterns which are beneficial to the development itself but also to the wider highway network.

### Construction Traffic

3.62 A management plan has been submitted covering all aspects of environmental impact generated by the site remediation and actual new construction, including the access points and new highways, this being the CEMP. The CEMP includes a number of measures which will address the highway implications of such works, including construction traffic routing and signage; surveys to detect any impact/damage to the public highway occurring during the development period (dilapidation) and securing remediation; addressing any material/detritus deposited on the highway; contractor parking. The site manager will be responsible for acting upon any issues arising and responding to the reasonable requirements of the council throughout the works period.

### Public Health

3.63 Officers have provided assistance in response to the Sport England objection to the loss of the cricket and football pitches which were previously on site. The Council identified the site at Millfield Lane, Poppleton which they have promoted through the emerging plan. The site is designated to be new open space in the emerging Local Plan (policy GI6). The aspiration is to provide a cricket pitch at this site. Officers have provided feasibility work to show the site is deliverable. The applicants have been advised as to how they can contribute towards delivery of the facility, to address the Sport England objection. The contribution to enable delivery of the site would be secured through legal agreement.

3.64 Officers are content with the amount of open space on site and the mix of typologies. The Council have very limited resources to manage and maintain open space but if necessary a commuted sum could be secured to enable such. Officers have provided the applicants with their open space maintenance costs, which includes costs per hectare and future maintenance regimes.

### Property Services

3.65 In respect of the former Manor School site officers confirmed that the proposals for the link road and the demolition of the buildings which are on the site are in accordance with an option agreement dated 2<sup>nd</sup> August 2013 between the Council and British Sugar plc and therefore the Council have no objections to what is being proposed for the link road.

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## Land contamination

3.66 Elevated levels of ground gas, ammonia, petroleum hydrocarbons, polycyclic aromatic hydrocarbons, asbestos and heavy metals have all been detected at the site. This contamination originates from a layer of made ground (up to 13 metres thick) present across the surface of the site.

3.67 The Environmental Statement and the Remediation and Reclamation Strategy propose that all of the made ground will be excavated, sorted, treated (as necessary) and reused onsite. Bioremediation will be used to treat material containing high levels of contaminants, high levels of organic matter (i.e. more than 3% total organic carbon) or hydrocarbon/chemical odours.

3.68 Once contaminant levels fall below the remedial target values (RTVs), the material will be re-laid and stabilised to create a development platform. In addition, a one metre thick clean cover layer, to be sourced from appropriate onsite materials, is recommended for areas which would become gardens and areas of soft landscaping.

3.69 Gas monitoring of the original monitoring wells will be undertaken before and during the remediation works. New monitoring wells will be installed after the works, as the original wells will have been destroyed by the works, and a minimum of 12 months post remediation monitoring will be carried out prior to commencement of construction.

3.70 The strategy states that 'the objective of the remediation and reclamation works will be to reduce ground gas concentrations and flow to a level compliant with the Amber 1 level of the NHBC traffic light system, with the proviso that conditions following remediation and reclamation will be no greater than Amber 2.

3.71 Following the completion of the remediation strategy and confirmation target values have been met, to make the site suitable for residential development gas protection measures will be required. Gas protection would be incorporated into the building construction. The specification can be approved by condition. It must also be ensured that any imported soil be free from contamination.

## Air Quality

3.72 As a result of updated traffic data associated with the scheme and access arrangements there is the potential for air quality impacts to occur at locations that are different to that reported in the original air quality chapter of the Environmental Statement. Air quality modelling has been revised to take into account the revised traffic flows, updated vehicle emission factors, DEFRA assessment tools, and national guidance on the assessment of air quality in relation to planning applications.

3.73 Annual mean and short term mean concentrations of pollutants (NO<sub>2</sub> and PM) were predicted to be below the relevant air quality objective values in all baseline and with-development scenarios considered (years 2022 and 2037). Air quality impacts were therefore not considered to be significant and the conclusions of the previous Environmental Statement are still considered valid.

3.74 Whilst concentration changes within the immediate vicinity of the site (the area that has been modelled) are not expected to result in increased local exposure to air pollutants above the national air quality objectives the development will still have an overall emission impact on the wider city which will contribute towards the cumulative impact of development on background air quality. It should be noted that increases in nitrogen dioxide concentrations of around 3µg/m<sup>3</sup> (as predicted in the current study) could have implications for areas of the network that have not been modelled explicitly in the current assessment (for example, further down Poppleton Road leading onto Holgate Road, where CYC do currently monitor exceedances of health based objective levels). To address this issue, it is recommended that an air quality / emissions mitigation package is provided for the site and that the measures within this package should be secured by means of planning conditions.

3.75 In line with the Council's Low Emission Strategy (adopted October 2012) and the National Planning Policy Framework (NPPF), developers are required to demonstrate that they are making all reasonable efforts to minimise total emissions from development sites during both construction and operational phases. This will include ensuring the energy choices for heating and powering the buildings are the right ones for both carbon/CO<sub>2</sub> and local air quality emissions (NO<sub>x</sub>/Particulate Matter) and requirements to promote and incentivise the use of low emission vehicles on the site to reduce the overall emission impact of development related traffic (e.g. provision of electric vehicle recharge points). Low emission construction vehicles and machinery should also be a consideration during construction phases of development.

#### Noise and future residents

3.76 The applicants have assessed and detailed the impact of current noise sources on the future residents of the site and the impacts on existing residents as a consequence of the proposed development.

3.77 Details of mitigation measures proposed are within the latest environmental statement - an earth bund and 3 metre high acoustic fence will be provided around the tangerine factory. In addition mitigation measures to reduce plant noise at the factory have been agreed between British Sugar and the Tangerine site. Based upon these proposed mitigation measures a noise impact assessment was undertaken. The assessment showed that predicted levels at ground and first floor façades would comply with recommended criteria of 34 dB(A) during the daytime and 40 dB(A) at night (this being able to achieve an internal level of 30dB(A) allowing for open windows).

3.78 No mitigation was found to be needed with regard noise from the railway and the electricity sub-station (the latter being beyond the north end of the site).

#### Road traffic

3.79 The applicants modelling showed that by the time the development is completed, it is estimated there would be a gradual increase in noise levels. The greatest increase would be in the garden of 27 Millgates, where noise levels would increase between 5dB to 8 dB. Currently the average noise level has been measured as 45dB.

3.80 Officers are satisfied the impact would be acceptable on the following grounds –

- A gradual increase would occur over a significant time;
- Noise levels do not include the construction of buildings within the community hub area of the application site. Such development would lead to reduced noise from road traffic;
- The former playing fields adjacent Millgates is allocated for housing in the emerging Local Plan. Such development would again reduce noise levels from traffic.

3.81 The modelling undertaken demonstrated that the increase in road traffic noise, as a consequence of the development, would have a negligible affect on dwellings along Millfield Lane and Low Poppleton Lane.

#### Site Development Traffic

3.82 During the proposed land preparation works it is anticipated that all construction vehicles will access the site via Millfield Lane until the new FMS link road has been constructed. In practice it would appear that the applicant proposes that all remediation traffic will access the site via Millfield Lane with up 169 HGV and LGV movements per day being anticipated during this developmental phase. The submitted noise assessment indicates that the impact of this will be negligible upon existing residential receptors.

3.83 Upon completion of the site preparation it is anticipated that up to 100 HGV and LGV movements per day will occur during the building construction phases, with 55 movements being on Millfield Lane and 45 movements on the newly constructed FMS link road. No construction traffic will access the site via Plantation Drive. During this part of the development the submitted noise assessment indicates that the increase in noise due to construction traffic will be in the order of between 0.1 and 0.2 dB which is classified as negligible.

3.84 Officers have approved the construction management plan submitted by the applicants which aims to mitigate the impact on noise, dust and odour and details measures to deal with complaints.

## EXTERNAL

### Environment Agency

3.85 The agency made comments with regards land contamination and drainage.

- The Agency asked for conditions to secure the proposed remediation and confirmation that targets within the remediation and reclamation strategy be met. They initially asked also for a programme of long-term monitoring and contingency measures until the target groundwater remediation values had been achieved. However in later correspondence (letter dated 5.8.2015) the Agency advised that the requirement to potentially undertake longer term monitoring was not necessary as part of the planning process as groundwater is regulated by the Agency under the Environmental Permitting Regime.
- The Environment Agency have no objection to the drainage strategy, but note this must be agreed to by the Local Planning Authority and the IDB, if there is surface water run-off to an IDB maintained watercourse.

### Highways Agency

3.86 No objection

### Internal Drainage Board (IDB)

3.87 IDB comments date from March 2017. CYC have requested an update as the IDB have now written to the applicants confirming they have withdrawn their objection to the applicant's drainage strategy. Formal comments from the IDB to the Council are pending.

3.88 The IDB was not in support of the strategy for overall drainage of the site due to the amount of surface water run-off proposed into the Carr Drain which passes through the south end of the site and is within the board's drainage district. The IDB position is that the overall surface water run-off rate applied should be that applied to Greenfield (rather than brownfield) sites i.e. 1.4 litre/sec/ha. This position is maintained because the applicants are unable to prove the previous surface water run-off rates into the drain. The board would also prefer no development over the drain or within its easement.

3.89 The applications for mixed use development and remediation works and associated level changes will enlarge the impermeable area and remove existing storage lagoons on site. Works have the potential to increase the rate of surface water run-off from the site if this is not effectively constrained and managed.

3.90 The Carr Drain is in a deep culvert and has limited drainage connection to the British Sugar site. This is because the site previously had a formal discharge and treatment facility for controlling the industrial process with a direct connection for the treated effluent and surface water to the River Ouse. The area, as a system of lagoons, appears to have historically catered for surface water and rainfall because of the nature of the terrain and process being carried out. In the applicants report the pipe used previously for this discharge is reported as capped off (610mm pipe). The Board believes this should be reinstated and reused for the proposed surface water discharge.

3.91 The area previously being drained to this location is not insignificant and it appears unreasonable to burden the Carr Drain with this additional flow, even if attenuated, as the traditional route is not being sustained.

3.92 In order for the IDB to allow discharge into Carr Drain, discharge would need to be able to mimic the surface water flows arising from the site prior to the proposed development. The original Flood Risk Assessment reported that 2.8 ha of previously developed site discharged to the Carr Drain. The Board acknowledges that the site was previously developed with impermeable areas. However the applicant has been unable to demonstrate any positive remaining drainage due to the existing routes being abandoned. Because previous run off rates cannot be proven, the Board can only accept the agricultural rate at 1.4 l/sec/ha from the land that was previously drained by the Carr Drain.

3.93 In relation to the Carr Drain culvert, in the development plan layout the Board is concerned about the two proposed access road crossings. The culvert is at significant depth and the construction of the roads would limit the ability to repair and replace it in the future. In view of this the Board would be unlikely to grant consent to these crossings

#### National Grid

3.94 No objection.

Note that the site is in close proximity to a High Voltage Transmission Overhead Line and in close proximity to a High Voltage Transmission Cable. The line/cables are situated parallel to the railway line to the north of the site, and run into the transformer station.

#### Natural England

3.95 No objection.

Note that comments do not assess and consider the other possible impacts resulting from this proposal on the following:

- local sites (biodiversity and geodiversity)
- local landscape character
- local or national biodiversity priority habitats and species.

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3.96 The inclusion of green infrastructure (which can assist with flood risk management and provide recreational space) and biodiversity enhancements, such as the provision of roosting facilities are recommended.

### Network Rail

3.97 Report concerns over the increased use of the Nether Poppleton Millfield Lane Level Crossing as a result of the proposed developments and subsequent increased risk. The crossing's rating based on current traffic census data is the 17th highest risk crossing out of 1854 crossings in the region. From the projected traffic census data at the end of the development construction period the crossing risk (without any mitigations installed) would be the 15th highest risk crossing.

3.98 Contributions are requested to improve safety at the crossing -

- Vehicle Activated Signage (VAS), two signs on either side of crossing. Cost: up to £30,000
- Application of anti-skid surfacing and re-application of thermoplastic lining as per original. Cost: up to £20,000

### Police Architectural Liaison Officer

3.99 Officers have made recommendations, detailing secure by design measures that should be accommodated within a residential development of this scale.

- Habitable rooms orientated to provide natural surveillance of public areas.
- Car parking over-looked and in-curtilage is strongly recommended. The avoidance of car parking courts is recommended.
- Front doors over-looked.
- Rear gardens should lock into each other, reducing the potential for an offender to gain access to the back of properties without being witnessed. Rear access alleys should be avoided.
- Motion sensitive lighting to entrances/car parking areas.
- Land ownership should be obvious and a maintenance regime for public open space, to prevent a decline in quality.
- Play areas to be over-looked but a reasonable distance from homes so residents aren't disturbed.
- Cycle parking should be provided for residents and this should be covered and secure.

### Sport England

3.100 Sport England have commented on two aspects of the scheme, at a non-statutory level - on the amount of proposed sports facilities to serve the proposed

development and on the proposed re-provision of the sports facilities which used to be at the British Sugar site.

3.101 New developments should be required to contribute towards meeting the demand they generate through the provision of on-site facilities and/or providing additional capacity off-site. The level and nature of any provision should be informed by a robust evidence base such as an up to date Sports Facility Strategy, Playing Pitch Strategy or other relevant needs assessment.

3.102 The indicative layout shows an area of accommodating 3 small sided football pitches. If this area was constructed and drained in accordance with the methodology set out in Sport England's design guidance 'Natural Turf for Sport' then Sport England would value this investment at approximately £100,000. The proposals also provide a dual use community and sports hall of 300sq.m. Whilst Sport England has not seen the designs of such a facility it could represent an investment into sport to the value of £750,000.

3.103 If the Primary School were to also include community accessible sports facilities (either indoor or outdoor) then Sport England would be satisfied that the development had made sufficient provision for sport. Sport England would wish to seek the imposition of conditions regarding the design of the proposed sports facilities.

3.104 Sport England object to the loss of the playing field on site because the applicants are unable to commit to providing alternative provision prior to the commencement of the development.

3.105 The application site contains 2.7 Ha of playing field, which aerial photos suggest has been used for football and cricket. The playing field is to be lost as part of the development.

3.106 The proposed replacement playing field area; a cricket pitch which is proposed on council owned land along Millfield Lane, which would provide 2 junior football pitches on the outfield would satisfying Sport England requirements for securing replacement facilities, provided the replacement playing fields are available (and ready to use) prior to the existing site being lost.

3.107 The programme to provide the replacement facility causes concern as it is only to commence following commencement of development. There are some significant risks associated with the delivery cricket pitch facility at Millfield Lane (such as securing planning permission, and formal agreement from the football club for the shared use of facilities). While such risks remain there is a real danger that the replacement facility at Millfield Lane might not be realised.

3.108 Sport England asked to be re-consulted on revisions to the programme if there were further clarity within the 106 as to when the sports facility would be provided.

## Yorkshire Water

3.109 No objections. Officers recommend conditions should the scheme be approved and make comments about existing drainage infrastructure.

- The site should be developed with separate systems of drainage for foul and surface water; details to be agreed. Foul water domestic waste should discharge to the 450 mm diameter public combined water sewer recorded in Pyramid Court.
- No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed.
- Surface water from vehicle parking and hard-standing areas of over 50 spaces to be passed through an interceptor of adequate capacity prior to discharge.
- Note the presence of sewers which run through the site and that they have various easement requirements.

## Parish Councils

### Holgate Planning Panel

3.110 Support the application.

### Nether Poppleton Parish Council

3.111 In Feb 2017 the Parish Council advised they do not object to the scheme but reported the following observations:-

#### Highway Network Management -

- The current infrastructure surrounding the area and the road proposed through the site cannot cope with potentially 2,000 additional cars in the morning.
- Concerns were made regarding the design of the road layout. Corners on the maps were considered as too sharp to allow large vehicle traffic such as delivery lorries and buses through the site.
- Access and egress from the site must be limited on to Millfield Lane given that it currently discharges onto the A1237 by-pass at a roundabout that has four entry points within 180 degrees of the roundabout. All traffic will need to pass a large secondary school and traverse a railway crossing.

#### Development typology

- Support for brownfield development with a mix of housing types. Different stages of house requirement related to age should be considered. Bungalows would be appreciated within the designation of the housing zones.
- Concerns were raised about the lack of provision for amenities, such as doctors, dentist, shops, schools and churches. The site map indicates that these facilities may be found within a 1-2 km radius but not within the site per se.

#### Biodiversity

- Tree preservation and wild life preservation should be a major consideration at all times during the development of the site. Substantial trees should be preserved to give a mature vista to the site during and after construction.

### Rufforth with Knapton Parish Council

3.112 While supporting in general the need for new houses on this brownfield site, the parish council have the following concerns -

3.113 The requirement to fill the land where the former wash pits were sited will mean that the new base height before building will be well above the adjacent ground. The proposed development would therefore be over-dominant.

3.114 It is suggested that to avoid the soulless environment that mixing houses and business has produced in Poppleton Park, that the area immediately between the present business premises on Millfield Lane and the Tangerine factory is developed solely as business premises and not housing.

3.115 Nearby business premises have concern they would need to relocate, as their associated processes would be incompatible with residential development. For example one business is involved in catering with associated food cooking smells at all times of the day and night. Another uses industrial sawing machines at night.

3.116 The proposed exit onto Millfield Lane will create a rat run to avoid the junction of the A 59 and A 1237 roundabout which at peak traffic times causes up to a 20 minute delay. It is suggested traffic from the proposed development should not be allowed to exit and travel west towards the outer ring road and Poppleton.

### Councillors Gilles & Steward

3.117 The issue of increased traffic on Millfield Lane remains a real concern and one that though repeatedly raised with the developers by ward councillors, Parish Councillors and residents has not been addressed. The exit as proposed will be a rat run. We have previously advocated an exit alongside the railway line and in the direction of Landing Lane and Ouse Acre, but this would require a greater tie-up with the main York Central proposals. One option would be a bollard preventing access to Millfield Lane – as advocated by the parish councils. However we believe it would be best to have an access crossing the railway line and linking the site to the access to Great North Way on York Business Park. We understand Network Rail's reluctance for level crossings and would support a bridge, or underpass (the latter less visually obtrusive) to cross the railway and facilitate this.

3.118 The increase in the height of parts of the site and the height of the buildings will threaten the views of the Minster, which are so rightly prioritised in York's planning consideration.

3.119 We also urge the emerging Neighbourhood Plan for Poppleton to be fully taken into account when considering this application.

## PUBLICITY

3.120 In addition to the original consultation, re-consultation was undertaken in January 2017 when revisions were formally submitted which no longer proposed vehicular access from Plantation Drive. Some 50 representations have been made.

### Summary of comments

3.121 Approximately 20 of the residents in Langholme Drive have made representation on applications for the British Sugar site referring to proposals to re-profile the site and remove the bund and much of the vegetation behind the houses.

3.122 Comments include that residents were of the understanding they had been assured previously by local councillors the bund would remain. The feature is regarded to be a local landmark. If it were removed residents would suffer a loss of privacy and outlook; there would be a loss of ecological value, mature trees and wildlife, as a consequence of removal of landscaping behind Plantation Drive

3.123 Vegetation by the Millfield Lane access (areas previously supported by a grant by the Forestry Commission) would also be removed and this has been met with objection.

3.124 Other comments made were as follows -

### Procedural Matters

- The original publicity lacked time for residents to comment & when the application was validated not all reports were available.
- There were no site notices placed on Princess Drive, Sovereign Drive or Millgates.
- Lack of information relating to the rail halt or the proposed attenuation ponds for surface water

### Amenity

- Loss of amenity during construction / remediation

### Highway Network Management

- Increased traffic on the local network is a concern, commuting is already time consuming, and the network cannot cope. In particular the A59 is heavily congested already.
- Concern over increased traffic on Millfield Lane and the associated safety of school children.
- Why are two lanes and a central reservation proposed for the access through FMS, is such provision necessary?

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- Plantation Drive previously provided access for the BS site. There have been comments that it could accommodate more than 10% of cars associated with this development. However there have been more comments to the contrary, that extra traffic and parked cars on Plantation Drive will bring highway safety issues.
- Lack of car parking for the playing fields

## **4.0 APPRAISAL**

### KEY ISSUES

- Principle of the proposed development
- Design, including design of the main street
- Affordable housing
- Land contamination and remediation
- Highways; proposed site access points and off site impact
- Drainage and flood risk
- Residential amenity
- Green Infrastructure
- Education provision
- Biodiversity

### **Principle of the proposed development**

#### Loss of employment site / proposed residential development

##### Policy background

4.1 NPPF paragraph 22 advises local planning authorities avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. In such cases proposals for alternative uses of land should be treated on their merits, having regard to market signals and the relative need for different land uses to support sustainable local communities.

4.2 The use of the site for housing is supported by national policy. The NPPF expects the Council “to boost significantly the supply of housing”. As paragraph 47 then states, the Council should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing ... as far as is consistent with the policies set out in the Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period”. It goes on to advise in paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development (set out in paragraph 14), and that any relevant policies for the supply of housing “should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”

4.3 The Strategic Housing Market Assessment produced for the Council by consultants GL Hearn has established the objectively assessed need (“OAN”) for York as 841 dwellings per annum. The OAN is an unconstrained figure, unaffected by other policy issues and it is often referred to as a “policy-off” figure. Nevertheless, in the absence of an adopted Local Plan, this figure must be used as the starting point for any discussion about the requirement for housing land in the area.

4.4 Given housing need, the Council does not currently have an NPPF compliant five-year supply of deliverable housing sites and no adopted Local Plan. NPPF paragraph 14 is applicable to decision making which states Local planning Authorities should granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- specific policies in the NPPF indicate development should be restricted.

4.5 Following closure of the factory the council identified the site as being appropriate for residential use through a Supplementary Planning Document, which was prepared for the site following closure of the sugar beet factory, approved by members and published April 2012. The site is allocated for residential development in the latest draft of the emerging Local Plan (pre-publication version September 2017) and the Poppleton Neighbourhood Plan.

4.6 The allocation in the emerging plan (policy SS6) allocates the British Sugar / Manor School site to deliver some 1,200 dwellings and to create and provide -

- New social infrastructure to serve the needs of the new community and surrounding communities including local retail, health, community space, educational facilities and sports provision.
- Appropriate education provision subject to detailed viability and deliverability work
- Be of a high design standard to give a sense of place and distinctive character reflecting the sites historic use and social heritage.
- Create linked multi-functional green infrastructure including existing landscaped areas to maximise linkages to the wider green infrastructure network.
- Deliver new and improved green infrastructure to meet the needs for formal and informal recreation and leisure use.
- Create a framework of public realm/spaces/routes to encourage pedestrian and cycle movements into and through the site.

Assessment

4.7 The loss of employment land and a predominantly residential re-development of the site in this case is policy compliant in principle. There is no evidenced need for the site to remain in an employment/industrial use (in whole or in part). Such a re-use also would not necessarily be compatible with surrounding houses.

4.8 NPPF policy weighs strongly in favour of the proposed re-use of the site. There is an identified need for the homes proposed and re-development of the site to provide such is strongly encouraged by the aforementioned policies with the NPPF and its core principles; to encourage the effective re-use of previously developed land, proactively drive and support sustainable economic development to deliver homes in accordance with housing need and to focus significant development in locations which are or can be made sustainable.

4.9 The re-development of the site as proposed is reasonably consistent with local aspirations as detailed in the supplementary planning document prepared for the site and in the emerging local plan. The amount of housing proposed, ancillary uses and the proposals for pedestrian and cycle movement are acceptable in principle, considering the aspirations of the site in the emerging local plan and the provision of infrastructure reasonably needed to serve the development.

#### Former Manor School Site

4.10 Demolition is proposed for the former Manor School buildings; the site was designated as an education facility in the 2005 Draft Local Plan. It was also used as a community facility.

4.11 The proposals do not conflict with NPPF paragraph 70 which states that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs or Local Plan policy ED3 (which relates to proposals affecting educational facilities).

4.12 The school (and associated sports facilities) have been re-located in the locality, along Millfield Lane and a new day nursery will be re-provided at a new site further west along Boroughbridge Road (The Gardens, permission granted under application 15/01836/FUL). The site is now vacant and it has been identified for re-development for housing in the emerging local plan.

#### Former British Sugar playing fields

4.13 The BS site formerly accommodated a cricket pitch and football pitches. In the Councils 2017 Open Space and Green Infrastructure Update (which is part of the evidence base that informs the emerging local plan) the site (referred to as the Craven Sports Ground) is identified as being an outdoor sports facility of 2,916ha.

4.14 Section 8 of the National Planning Policy Framework and 2005 Local Plan policy GP7 require the re-provision of playing fields / sports facilities, unless it can be demonstrated the facilities are surplus to requirements or equivalent or better provision is proposed. Policy GI5 of the emerging local plan: Protection of Open Space and Playing Pitches states the loss of such spaces may only be permitted when suitable replacements are secured also.

4.15 The designation in the evidence base is challengeable because the site is private and has not been publically used/accessed for over 5 years. The NPPF requirements are only applicable to publicly accessible sites (the BS site is private and no longer has public access). Sport England has objected to the loss of the playing fields unless alternative provision is delivered.

4.16 To compensate for the loss of the sports ground on site the applicants have agreed to make a financial contribution towards re-developing predominantly council owned land by Millfield Lane and Poppleton sports club and providing a cricket pitch. The pitch could accommodate junior football pitches outside of the cricket season (at no extra cost) although the applicant's position is they are only willing to contribute towards a replacement cricket pitch. The Council and Sport England are content that delivery of the replacement facility would compensate for the loss of the playing fields.

4.17 The applicant's legal agreement provides the Council a financial contribution and requires it to deliver the cricket pitch (or return all the contribution). The Council has agreed to use best endeavours to deliver the facility but does not have full control of the project given the involvement of third parties – including the football club. The legal agreement to enable delivery of this facility is not yet satisfactory to the Council, as explained later in this report under Green Infrastructure.

#### Housing typology

4.18 The application is for up to 1,100 dwellings. The house types and size are not fixed at this stage, to allow flexibility given that the site is expected to be developed in phases over a number of years. This is an agreed approach and will allow to the development to meet demand and market trends over time, in accordance with section 6 of the National Planning Policy Framework.

#### **Design, including design of the main street / primary access route**

4.19 The NPPF advises that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.20 The NPPG provides further guidance on good design and how it can be achieved. It advocates the use of design codes for schemes such as this, where applications are in outline form. It states well designed new places should:

- be functional;
- support mixed uses and tenures;
- include successful public spaces;
- be adaptable and resilient;
- have a distinctive character;
- be attractive; and
- encourage ease of movement.

4.21 For residential developments there is further national guidance within Building for Life 12. In particular for this development, the guidance flags the need to consider

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- Connectivity
- Local context
- Street hierarchy
- Legibility
- Distinctive character
- Are streets designed in a way that encourage low vehicle speeds and allow them to function as social spaces?
- Is resident and visitor parking sufficient and well integrated so that it does not dominate the street?
- Will public and private spaces be clearly defined and designed to be attractive, well managed and safe?

## Assessment

4.22 The proposals will be guided by the design parameters and principles document and the parameter plans. The parameter plans detail the composition of uses distributed over the site, phasing of the main street and green infrastructure, ground levels and building heights and the movement strategy and street hierarchy.

4.23 There are also detailed plans showing the design of the main street and landscaping; along the street and around the factory. Acceptable plans were submitted in September 2017, with minor amendments being provided October 2017.

4.24 The design parameters and principles document will inform detailed design, it adds structure, and in particular explains –

- Pedestrian and cycle routes through the site and connectivity into the surrounding area
- How the site will interface with its surrounds and provide a sense of arrival at Millfield Lane, the former Manor School site and Plantation Drive

- Street hierarchy and how sense of place will be achieved, considering the relationship between buildings and the main street and green corridors, and the use of play spaces, public spaces and the community hub as focal points for residents
- How the site design has been informed by consideration of neighbouring uses; specifically the tangerine factory (there will be a noise barrier and landscaping to screen the factory site) and neighbouring residents along Plantation Drive and Langholme Drive (no vehicle access from Plantation Drive, and the provision of replacement tree planting and deep gardens behind Langholme Drive to compensate for the removal of the bund and its associated planting), the culvert which runs through the site (the culvert and its easement will be public open space) and the Bee Bank by the railway line, which will be separated from housing areas by landscaping and swales/attenuation pond areas associated with the site drainage.
- The design parameters and principles document mentions car parking, but does not seek to fix any specific approach. Reasonable levels of car parking and its design would need to be decided at reserved matters phases.

4.25 Housing will be a mix of 2 and 3 storey, with a commitment to 2-storey maximum adjacent Langholme Drive and the bee bank SINC. Taller 3-storey development would be within the centre of the site, and there would be 2.5 storey houses along the main street and surrounding a formal square towards the north end of the site. The massing would give the site hierarchy and subsequently sense of place.

4.26 For an outline application officers are content with the plans for the main street, the parameter plans and the October 2017 version of the design parameters and principles document. The documents provide adequate master-planning principles; to give the site an established character, movement strategy and connectivity with its surrounds and to inform how to deal with constraints and respect neighbouring land uses. It has been agreed the detailed landscaping by the community hub and how it merges with the central green infrastructure could be approved via a planning condition.

### **Affordable Housing**

4.27 NPPF paragraph 47 requires planning authorities “use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area”.

4.28 Paragraph 50 states that where planning authorities have identified that affordable housing is needed; set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified.

4.29 The current local affordable housing target for brownfield sites in urban areas is 20% with an 80:20 split between social rent and discount sale. The targets are detailed in the interim position paper and policy H10 Affordable Housing of the pre-publication draft Local Plan. The allocated sites in the emerging local plan have been subject to viability testing, to show they are viably deliverable considering the application of local planning obligations.

4.30 Local affordable housing targets are informed by the Affordable Housing Viability Study (2010), the get York Building Programme (2014), the Arup evidence base documents on housing requirements in York, last updated September 2014 and the GL Hearn Strategic Housing Market Assessment dated June 2016 and its 2017 update.

4.31 In discussing viability, the NPPG states that “viability can be important where planning obligations or other costs are being introduced. In these cases decisions must be underpinned by an understanding of viability, ensuring realistic decisions are made to support development and promote economic growth. Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible”. It goes on to state that “Local Plan policies should reflect the desirability of re-using brownfield land, and the fact that brownfield land is often more expensive to develop... To incentivise the bringing back into use of brownfield sites, local planning authorities should:

- look at the different funding mechanisms available to them to cover potential costs of bringing such sites back into use
- take a flexible approach in seeking levels of planning obligations and other contributions to ensure that the combined total impact does not make a site unviable”.

4.32 Viability work undertaken in 2015 and the Council’s own work, by Peter Brett Associates, looking at viability for sites allocated for housing in the emerging plan – “Local Plan and Community Infrastructure Levy Viability Assessment (2017)” both concluded that the site could be delivered and provide affordable housing.

4.33 The applicants provided a viability appraisal in May 2017. The appraisal allows for a 20% developer profit (on cost / 16.67% on GDV). The amount of profit has been agreed as being reasonable by the Council, taking advice from the Homes and Communities Agency. The outcome of the applicants’ appraisal was that in order to ensure viability the development could not provide any affordable housing.

4.34 The applicant’s construction costs are been assessed independently by Turner & Townsend for the Council. This work will inform the viability assessment currently being carried out by the district valuer (VOA). An up to date assessment is anticipated by the end of November.

4.35 The Council is not satisfied with the developer costs included in their 2017 appraisal, in particular the following items -

- Professional fees
- Site management & security since closure
- Groundwater contingency
- Site remediation
- Contingency fees for house-building were significantly lower when assessed independently by Turner & Townsend

4.36 Professional fees are deemed to be high and costs relating to the general upkeep of the site since closure of the factory and required works to satisfy the Environment Agency because of the environmental permit are unreasonably factored into the viability appraisal.

4.37 Officers currently disagree with the developer's appraisal which concludes that affordable housing is not viable. Further review and discussions are required before the Council can be satisfied with the affordable housing provision. As such officer's recommendation at this time is that the lack of affordable housing proposed, being contrary to local targets, is grounds to refuse the application.

4.38 Should, following advice from the VOA, officers decide that the position on viability should change this would be reported back to committee prior to the appeal hearing.

### **Land contamination and remediation**

4.39 Paragraphs 120 and 121 of the National Planning Policy Framework states that 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'. Planning decisions should also ensure that sites are suitable for their new use, taking account of ground conditions, in particular those arising from previous uses.

4.40 Elevated levels of ground gas, ammonia, petroleum hydrocarbons, polycyclic aromatic hydrocarbons, asbestos and heavy metals have all been detected at the site. This contamination originates from a layer of made ground (up to 13 metres thick) present across the surface of the site. Remediation is therefore required to reduce the contamination to an acceptable level so it will not pose a risk to people or the environment.

4.41 The approach to remediation is detailed within the Environmental Statement and the Remediation and Reclamation Strategy (dated February 2015) and summarised by officers in section 3. This procedure and the associated changes to ground levels has been approved in the companion full planning application which was before members in September.

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4.42 The objective of the remediation and reclamation works will be to achieve the Amber 1 level of the NHBC traffic light system (national standards), with the proviso that conditions following remediation and reclamation will be no greater than Amber 2.

4.43 Planning conditions will ensure the target values in the remediation and reclamation strategy are met and that suitable gas protection measures are installed before houses occupied. Officer advice is that the proposed strategy is acceptable in principle and will need to be secured through planning conditions.

4.44 The site is also subject an Environmental Permit, administered by the Environment Agency. The current status is "Definitive Closure". This status is applied to sites which have either ceased receiving waste and/or has ceased operating the process which the EA has previously permitted and are in a managed stable state.

4.45 The applicant's intent is that the permit be surrendered before construction on the site commences. The applicants have permission to vary the permit, which allows the remediation strategy to take place.

4.46 The Environment Agency will need to be satisfied with the remedial targets and that these have been met before they allow surrender of the permit. The Environment Agency requirements are under different legislation to planning and differ in that planning is concerned primarily with human health whilst the Environment Agency's remit extends to include contamination of controlled waters.

### **Highway network management**

4.47 NPPF paragraph 32 states that developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment.

4.48 Plans and decisions should take account of whether -

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people;
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.

4.49 Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

4.50 Paragraph 34 states developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Paragraph 36 goes on to advocate the use of

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travel plans and 38 states that in particular for larger schemes a mix of uses should be promoted to provide facilities required on a daily basis such as schools and local shops within walking distance of houses.

4.51 With regards highway design paragraph 35 states developments should be located and designed where practical to –

- accommodate the efficient delivery of goods and supplies;
- give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;
- create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;
- incorporate facilities for charging plug-in and other ultra-low emission vehicles; and
- consider the needs of people with disabilities by all modes of transport.

4.52 Policy T18: Highways of the 2005 Draft Local Plan advises as to when it is considered that development to increase road capacity will be supported. This scheme accords with the criteria primarily because it would –

- facilitate the Council's economic programme;
- open up vacant land for development;
- reduce conflicts between vehicle and pedestrian / cyclists;
- incorporate public transport facilities.

4.53 Policy T18 is consistent with section 4 of the NPPF, paragraph 29 of which states "transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives... The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel".

#### Impact on the road network

4.54 The requirements within the NPPF in this respect are to mitigate significant impact and only to prevent development when the impact would be severe.

4.55 The impact on the highway network has been modelled using the council's agreed methodology (using the SATURN model and looking at impact during peak hours).

4.56 The assessment is made on the presumption of 60% traffic from the development using the proposed FMS access, 40% the Millfield Lane access.

4.57 Modelled vehicle movements as a consequence of development at the site would be as follows

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## AM Peak

## PM Peak

	Arrivals	Departures	Arrivals	Departures
Total	164	613	544	298

4.58 Junctions have been assessed for their future operation as a consequence of predicted growth in general and housing development at the application site. The assessment covered the ring road, traffic flow into Poppleton, junctions along the A59/Boroughbridge Road, the Water Lane / A19 junction and the Holgate Road / Acomb Road junction.

4.59 The assessment has led to mitigation schemes being proposed as part of the application at –

- On the outer ring road (A1237) works at the roundabouts with Boroughbridge Road (A59) and Wetherby Road (B1224)
- Former Manor School access into the site where a new junction to accommodate the access is proposed

4.60 The schemes are shown in appendix I of the DTA assessment dated Jan 2017.

#### A59 Boroughbridge Road / A1237 Roundabout

4.61 Already delays are experienced at this junction, in particular at the PM peak period. Future modelling (with the proposed development) showed up to 25 vehicles queuing at the junction at the PM peak.

4.62 The application proposes an improvement scheme at the roundabout which consists of widening 30m stretches of the approach road to the roundabout along the outer ring road. The results of the assessment with mitigation are summarised in Table 5 of the applicants Transport Assessment. The junction queuing levels would be reduced significantly with a maximum mean queue of 3 vehicles estimated.

#### B1224 Wetherby Road / A1237 Roundabout

4.63 The junction is operating at capacity already. The ratio of flow to capacity is not significantly changed as a result of growth or the addition of development traffic. There is however a projected increase in queue lengths. Minor widening on all approaches is proposed which would enable extra traffic, as a consequence of the proposed development, to have a neutral impact on the operation of the roundabout.

#### Site Access through former Manor School Site and associated signalised junction with the A59 / Beckfield Lane

4.64 The existing junction is currently operating at over capacity at peak times. Modelling shows that the proposed junction could accommodate the proposed development and operate more efficiently, without exceeding capacity.

4.65 Assessment of the junction indicates that it may be desirable in future to add a left turn filter lane on Beckfield Lane. It has been agreed the council will monitor this over time (10 years following first occupation) before it is decided whether such works are necessary. Ideally this work would be avoided (or an alternative devised) because widening of Beckfield Lane would lead to a loss of mature trees and have a detrimental impact on the linear tree lined character of the street. However if the works are deemed necessary by the Council, these would be funded by the developer, implemented by the Council.

4.66 It is agreed that the predicted increase in traffic at other junctions, as a consequence of the proposed development, would not justify mitigation (this is irrespective of whether they are predicted to be operating within or over capacity).

#### Consideration of flows to and from Poppleton

4.67 It is anticipated that there would be 7 arrivals to the site and 26 departures from the site at AM peak towards Poppleton. At PM peak it is anticipated there would be 7 arrivals and 25 departures. This impact does not justify any mitigation.

#### Sustainable travel

4.68 The design of the main street has been negotiated by officers and there have been numerous revised plans provided since submission of the application. However officers are now content with the design.

4.69 As explained in comments by Highway Network Management in section 3 the detailed design of the main street through the site (including its landscaping) is detailed in the application. Officers are content that the design will accommodate a bus route through the site and will achieve maximum vehicle speeds of 20 mph as promoted in national design guidance Manual for Streets.

4.70 Sustainable travel is promoted through design; there will be a network of pedestrian and cycle routes through the site which are more efficient than the road network. The site has a pedestrian / cyclist access only for example from Plantation Drive and there is a dedicated shared path for pedestrians and cyclists 3.5 m wide which directly runs through the site. These movement corridors are detailed on the parameter plans and will be attractive (secured through the associated design principles document which will inform development of the site) and encourage recreation.

4.71 There will also be travel planning undertaken by the Council (funded through the 106 agreement) to promote current modes of travel, such as bus travel, car club,

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walking and cycling and flexibility to promote other measures which may come forward over the envisaged 20 year build out period.

### **Drainage and flood risk**

4.72 NPPF paragraph 100 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. It advocates the use of local Strategic Flood Risk Assessments.

4.73 The York Strategic Flood Risk Assessment (2013 version) states that Surface water flows from all sites should, where practicable, be restricted to 70% of the existing runoff rate i.e. 30% reduction (an approach agreed with the Environment Agency), Existing runoff rates are calculated as follows:

- Brownfield site = 140 l/s/ha (in accordance with The Building Regulations 2007, Part H.3) or
- Undeveloped / greenfield sites = 1.4 l/s/ha (agricultural runoff rates).

4.74 At the time the application was made the South-East corner of the site was identified as being in Flood Zone 2. In accordance with NPPF guidance no development was proposed in this area. However it is noted that on the most recent Environment Agency flood risk mapping this area is no longer classed as a flood risk zone.

4.75 The drainage strategy has two elements. When the site is remediated and the levels changed (forming the development platform) it is proposed that surface water from the site would equate to the run-off rates applied to undeveloped sites. The surface water run-off from each development parcel will be attenuated and achieve the brownfield site rates required within the SFRA.

4.76 The approach is compliant with the SFRA; because the site was formerly industrial and developed and is acceptable to officers.

4.77 Consent is required from the IDB (drainage board) because the surface water would connect into the drain at the south end of the site which is one of their assets. The alignment and extent of the drain and its easement is illustrated on the parameter plans; no housing is proposed within the easement.

4.78 The IDB had objected to the drainage scheme for the development because all surface water run-off is proposed to connect into their drain. As the previous run off rate could not be proved (due to demolition) the applicants could not prove no increase in surface water run-off into this drain. Council officers advice is that based on the evidence the developer has provided, there would be a reduced run off into the drain compared to when the factory was fully operational.

4.79 Officers understand the IDB has revised its approach and is no longer in objection to the scheme. The applicants have provided a letter from the IDB, dated 19 September 2017, which confirms IDB consent for the drainage proposals.

#### Culvert at south end of site and maintenance / how this constrains the development

4.80 There is a culvert at the southern end of the site, which, along with its required easement is shown on the Green Infrastructure Parameter Plan.

4.81 Responsibility of the culvert is currently with the applicants. The Council has been asked to adopt the culvert. The survey information provided by the applicant to inform negotiations shows infrastructure which, in the opinion of Council officers, is at the end of its life and requires replacement. Unless the infrastructure is replaced at this officer advice is that the land where the culvert is positioned (and its easement) not be adopted by the Council. As the proposals stand, the culvert would remain the applicant's responsibility.

#### Residential amenity

4.82 It is a core principle within the National Planning Policy Framework that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

4.83 The National Planning Policy Framework paragraph 123 states that planning decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established

#### Langholme Drive Residents

4.84 There is a bund within the site behind Langholme Drive with tree planting. This feature was introduced to screen the former factory and its associated buildings from surrounding houses. The bund will essentially be removed as part of the site remediation and associated changes to ground levels. This work has been approved through the full planning application of remediation of the site. The bund is no longer needed as the proposed housing, unlike the former industrial use, is compatible with neighbouring houses.

4.85 It had been considered as an option to retain natural amenity space in this area. However design advice (Building for Life & advice from Police Architectural Liaison Officers) is for public spaces that are well over-looked and this space would be at the end of rear gardens. There were concerns amenity space in this location would not have good natural surveillance and there would be consequent crime and disorder issues.

4.86 The proposed approach is for back to back gardens by Langholme Drive which follows good design guidance considering security and to provide active frontages with good surveillance over public realm. The scheme respects the existing context in that at the southern end of Langholme Drive, where there are not changes in ground levels, the existing trees will be retained. Officers have required that where the bund is, longer than average gardens and tree planting will be provided in this location. The Design Parameters and Principles document now gives clear commentary on such and this measure could specifically be provided through planning condition.

#### Relationship with other neighbours

4.87 At the southern end of the site, adjacent Princess Drive, Rosetta Drive and Ousearces, a reasonable level of planting will remain along the site boundary and development of the application site would not harm neighbours amenity.

4.88 The appearance of the site by the Millfield Lane entrance will change significantly as a consequence of the vegetation to be removed as part of the remediation scheme (already approved). Given the separation distances proposed between housing and the maintained ground levels at this end of the site, the proposed development will not lead to harm to residential amenity.

4.89 The site will continue to be elevated in relation to the site where the electricity station is currently, to the north of the site. There will be landscaping in this corner of the site (as shown on the parameter plans) and no harm to neighbour's amenity.

#### Noise

4.90 Comments from Public Protection Officers in section 3 detail how noise impact, from traffic and construction has been assessed and that there would be no undue impact on the amenity of future residents of the site or existing residents in the locality. The scheme is informed by assessments of existing noise sources (specifically the railway line and surrounding commercial uses on Low Poppleton Lane / Millfield Lane) and houses have been positioned so adequate noise levels in gardens would be achieved. A condition can be used to ensure houses achieve adequate internal noise levels, based on WHO standards.

#### Air Quality

4.91 The NPPF states that Planning policies should sustain compliance with and  
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contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.

4.92 The site is in the urban area and re-uses brownfield land. The proposals take reasonable and proportionate steps to avoid harm to air quality.

- The scheme places an emphasis on promoting sustainable travel, through travel planning, the proposed routing of a bus service through the site and by providing attractive and efficient cycle and pedestrian routes. A package of measures, including facilities for electric vehicles, cycle parking and car club will be secured through conditions and the legal agreement.
- Monitoring has shown that extra traffic as a consequence of the development, will not have an undue impact on air quality in the local area.

### Community Facilities

4.93 NPPF Section 8 (paragraph 70) states that to deliver the social, recreational and cultural facilities and services the community needs decisions should plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

4.94 At pre-application stage the Council assessed the provision of community facilities to serve local areas city wide. Back in 2011 the provision was 1 facility per 2,350 residents. Given the 1,100 homes proposed and provision of community facilities with other developments of significant scale at the time (Derwenthorpe & Hungate) it was deemed a community facility would be necessary to serve future residents.

4.95 Of the models for community hall provision set out in the Sport England design guidance note, the smallest facility that could accommodate one hall (which would be dual purpose as an indoor sports court) together with ancillary facilities, is a building of around 300 sq m. Such a facility is proposed at the application site. It has been agreed that a management organisation will initially need to be financed before the operation would be self-sufficient (however how it will be financed is not yet agreed).

4.96 The Council would be provided with the site to build the facility. The construction costs are not agreed. The Councils estimated costs include necessary ancillary items such as hard and soft landscaping, including car and cycle parking.

4.97 The management organisation will need funding on an annual basis. However the applicants are only offering contributions linked to housing completions. This

would not give certainty to the future operators, as when they received funding would be unknown and beyond their control.

4.98 The current version of the 106 legal agreement does not give adequate certainty the facility can be delivered and established.

## **Green Infrastructure**

### Relevant policy

4.99 NPPF paragraph 73 states Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up- to- date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

4.100 The playing fields formerly at British Sugar were a private facility and have been closed to the public for over 5 years. Due to the lack of public access the former sports pitches and the grounds of the school in terms of assessment against NPPF policies do not constitute open space or sports/recreation facilities i.e. paragraph 74 of the NPPF is not applicable to this application. However the site is designated as open space in the local evidence base (referred to below) and therefore emerging policy GI5 is applicable which requires their replacement.

4.101 The site falls within the Rural West Ward and Acomb Wards (2015 boundaries).

4.102 The latest evidence base document that informs the emerging Local Plan in this respect is the September 2017 Open Space and Green Infrastructure Update. The table below shows the supply (surplus or deficit) of open space (ha) in each ward

Ward	Parks & Gardens	Natural/ Semi natural	Amenity	Children's	Young Persons	Outdoor sport	Allotments
Acomb	-1.55	-16.06	-7.92	-3.88	-1.81	-9.23	-1.72
Rural West York	-1.61	+42.92	-3.33	-3.45	-1.87	+5.8 6	-0.56

## Assessment

### On-site open space

4.103 The amenity open space proposed is shown on the green infrastructure parameter plan and would be as follows -

Parks / gardens	0.86 ha
Natural & Semi-natural	3.00 ha
Amenity	2.11 ha
Children's play	1.41 ha
Sports pitches	1.4 ha
Allotments	0.4 ha

Total 9.18 ha

4.104 In addition to these spaces there would be play space and recreational facilities within the community hub area.

4.105 In applying standards in the current Open Space in New Developments Supplementary Planning Document (SPD) June 2014 version, assuming all dwellings have 3 bedrooms, the policy requirements would be as follows –

Amenity	2.97ha
Sport	5.61ha
Children's Play	1.54ha

Total 10.12 ha

4.106 It is noted here that the requirements are on the basis that all dwellings are family houses. The application is only in outline and housing type will not be known until each reserved matters application is made.

4.107 In applying the 2014 guidance, there is a reasonable level of on site provision of amenity and children's play space proposed. However the provision for sport on site is below the target level in the SPD. However, in addition to the outside space, a community hall is proposed and would be provided through a 106. This facility will be some 300 sq m in area and could be used for indoor sport.

4.108 Sport England advised that provided the community hub (including the schools) allow community use of their facilities then there would be adequate sports facilities for the development itself. They have though maintained an objection due to loss of the cricket pitch that was previously on site and the lack of certainty the replacement can be delivered.

4.109 The applicants agree to offer funding towards provision of a cricket pitch off-site at Millfield Lane (which would be 1.9ha in area). As a package of measures officers are content that in principle (i.e. subject to a satisfactory 106 agreement) there would be reasonable amenity space provided by the development.

#### Off site provision

4.110 There were former playing fields on site, some 2.9 ha in area which included a cricket pitch and football pitches. Sport England object to their re-development before adequate replacement facilities are provided (or a suitable legal agreement to secure such within a timescale deemed to be reasonable). However the playing fields were private and not been available for use since the factory closed (over 5 years ago). As such the Sport England objection is on a non-statutory basis.

4.111 To provide local sports facilities the applicants have agreed to fund delivery of a cricket pitch, on the council owned site to the northern side of the Poppleton football club. This facility would be 1.9ha and there would be junior football pitches on the outfield.

4.112 The project would be subject to planning and require involvement from external parties. The legal agreement would have a fallback position whereby should the Poppleton project not be realised, the council could use the relevant contribution towards enhancing participation in sport at cricket clubs in the locality. Acomb, Clifton and York are the clubs within reasonable distance of the site.

4.113 The latest drafting of the section 106 is not acceptable to the Council on the following grounds –

- The cost of providing the facility is not agreed and therefore there is demonstrable risk the Council would fail to deliver the facility.
- Should the Council be unable to deliver the facility, they would be required to return the entire contribution to the developer. The Council would therefore incur costs returning any money already spent on the project.
- How the Council could in the alternative spend the contribution to increase cricket participation at local clubs (bearing in mind risk given that other third parties are involved with delivery of the Millfield Lane project) would require agreement from the applicant. This could therefore prevent such funds being utilised.

#### Education

4.114 NPPF paragraph 72 states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

4.115 Local Plan policy ED4 advises that where additional provision is required as a direct result of a proposal, developers will be expected to provide these facilities, typically through S106 contributions.

4.116 Because of existing capacity within primary schools and pre-schools, new facilities are required. The CYC Supplementary Planning Document for the site advised that the facilities should be provided on site. Contributions would be sought for off site secondary school places, in accordance with the Council's standard formula. Required contributions would be assessed at each reserved matters stage, when the precise amount and type of housing would be known and could be assessed considering up to date capacity within local schools.

#### Pre-schools

4.117 It is agreed that based on the housing proposed this would equate for demand for some 126 places. There is no local capacity to accommodate this demand.

4.118 Two facilities are therefore proposed on site. Phased delivery would ensure adequate quality and the facilities cater for need arising as a direct consequence of the development.

4.119 The developer wishes to have first option to develop and operate the schools. If they cannot find operator(s) then responsibility would fall to the Council. This approach is acceptable to officers and there is deemed not to be risk that operators cannot be found for the facilities.

4.120 However the section106 obligation proffered by the applicant is not acceptable to the Council for reasons including:

- The cost of providing the facilities is not agreed and therefore there is a risk the Council would be unable to deliver the necessary facilities.
- Should the Council be unable to complete the facility, they would be required to return the entire contribution to the developer. The public purse would therefore incur costs of returning any money already spent on the project.

#### Primary School

4.121 The size and type of the primary school and its means of delivery is agreed between officers and the applicants.

- The school would provide 210 places. The Council would secure planning permission and build the school, which would be designed to Education Funding Agency (EFA) baseline standards. 0.6 ha play space would be provided, which accords with national guidelines.

- The school would be run by an academy. The developer would fund a proportion of the scheme as only 172 spaces have been calculated as being needed as a consequence of the development.
- Around 2 years construction time required.
- Contribution made to council after completion of 300 dwellings.

## Secondary provision

4.122 The applicants have agreed in principle to applying the Council's formula for assessing need and deciding on contributions towards provision. The formula would be applied at reserved matters stages and the Council would, at the time, based on current national regulations, need to demonstrate no more than 5 pooled contributions to any one project.

4.123 However the applicants have not agreed to the amount (cost) that would be required per secondary school place. The costs used by the council are derived from national guidelines within the Education Funding Agency.

## **Biodiversity**

4.124 NPPF Paragraph 118 states that when determining planning applications, LPA's should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused
- opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss

4.125 In terms of biodiversity the proposals accord with NPPF policy. The bee bank SINC would be protected and accommodated within the development and there would be no loss of irreplaceable habitat.

4.126 The British Sugar Railway Sidings SINC 'the bee bank' is located on the eastern boundary of the site. A SINC is a Site of Importance for Nature Conservation, classed as being of regional importance.

4.127 The SINC is a sandy bank with scrub, qualifying for designation because of the presence of nationally and regionally scarce invertebrate. A survey in 2013 confirmed it remains a valuable resource for invertebrates and is assessed as being of county importance and a medium value as a receptor. This site would be protected during

construction and would sit within the green infrastructure within the site. Housing will be spaced an adequate distance from the bee bank so that the bank is not overshadowed.

4.128 The site has been assessed (Phase 1 Habitat Survey) as to whether it accommodates protected species, including birds, badgers, great crested newts and bats. No habitats were found. However the mature trees on the northern and western sides of the lagoons had bat roost potential. The remainder of the habitats on British Sugar site are of negligible value.

4.129 Replacement habitats and tree planting will thread through the site, arranged in a manner which allows recreational use of the site. The landscape structure plan explains the differing typologies of green infrastructure proposed. These plans are supplemented by the design parameters and principles document which will inform the scheme. The detailed planting plans, timing of delivery and subsequent upkeep are covered by conditions.

## **Planning Obligations**

4.130 The Community Infrastructure Levy Regulations 20103 generally set out regulations relating to the Community Infrastructure Levy, but Part 11 refers specifically to planning obligations (including those in S106 agreements) and is relevant to this planning application. Regulation 122 states (where there is no CIL charging regime) a planning application may only constitute a reason for granting planning permission for the development if the obligation is-

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

4.131 Regulation 123 effectively bars the collection of pooled contributions towards infrastructure projects or types where 5 or more obligations securing contributions towards that infrastructure project or type have already been entered into.

4.132 As already mentioned in this report, the nature and scale of the development proposals means that certain matters would need to be secured by satisfactory s106 planning obligations to enable planning permission to be granted. However, the S106 agreement proffered by the Applicant to provide the necessary mitigation contains a number of deficiencies and details such that it does not adequately and appropriately secure the infrastructure provision and other mitigation necessary to make the development acceptable in planning terms.

4.133 Accordingly, given the absence of a completed S106 agreement at the present time, it is important that the Council safeguards its position with respect to it until outstanding matters are properly resolved and a satisfactory S106 agreement is in place.

## 5.0 CONCLUSION

5.1 This is a brownfield, previously developed site in an urban area. Re-use of such sites, and in-particular to provide housing where there is identified need is strongly advocated in national planning policy.

5.2 Most of the detailed issues of this development can be left to the Reserved Matters stage, as guided by the Environmental Statement, the Parameter Plans and the Design Parameters and Principles Document. However at this time the development proposed is deemed by officers not to be sustainable as there is still a lack of sufficient infrastructure and other mitigation, which would be necessary to make the development acceptable in planning terms.

5.3 The required infrastructure would need to be secured by means of a detailed planning obligation, and the issues relating to the heads of terms are discussed further below.

5.4 The Appellant has continued to discuss matters with officers, and they have submitted further information since the appeal was lodged. It is expected that discussions will continue, and it may be possible to resolve some matters further. The committee is asked to consider matters as they stand at the moment.

5.5 The table at the end of the report lists planning obligations sought, the associated costs identified by the Council and where this is disagreement with the applicants.

5.6 At present the following obligations are not agreed -

### Affordable Housing

5.7 The NPPF requires that housing need is met, of all housing types. The city has an established need for affordable housing need, as evidenced by the SHMA. Affordable housing targets are based on evidenced need and taking into account viability.

5.8 The proposals are for no affordable housing. This is contrary to local policy and there is inadequate evidence (to date) that this is a reasonable offer as developer costs associated with the project are not yet agreed.

### Off Site sports

5.9 NPPF paragraphs 70 & 73 establish the need for green infrastructure and explain how facilities should be provided in accordance with evidenced local need.

5.10 The Council's September 2017 Open Space and Green Infrastructure Update identifies an under-supply of sports provision to cater for the existing population in the Acomb Ward. The scheme proposes the loss of what the Council has identified to be

an existing facility. Sport England object to the loss of the playing pitches formerly on the British Sugar site, unless replacements are provided.

5.11 It has been agreed by the applicants that the proposed off site cricket ground would meet national regulations, and be reasonable and necessary. However inadequate funds and unsuitable terms are being offered to the Council (through the applicants proposed 106 agreement) to deliver the facility.

#### Education

5.12 NPPF paragraph 72 states that the government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

5.13 There is agreement in principle over the amount of education facilities that are required to support the development. However there is inadequate provision for delivery. The applicant is requiring the Council to deliver such facilities but is providing inadequate finance to allow construction of the on site pre-school, unsuitable provision for delivery of the pre-schools and primary school and is not in agreement with the Councils required contributions towards funding off site secondary provision.

#### Community facilities

5.14 The applicant has agreed in principle to the provision of a community / sports hall on site, its size, when it will be required and the need for it to be financed by the applicant until it becomes self-sufficient.

5.15 The Appellant requires the Council to construct this facility following payment of a financial sum and proposes to finance its operation in conjunction with housing completions. However, the commuted sums payable to the Council and detailed provisions for their delivery have not been satisfactorily secured. The Council would require the management organisation to be financed annually opposed to being linked to housing completions.

#### Highway works and sustainable transportation measures

5.16 Whilst the various commuted sums have been agreed, the wording of the Applicant's proffered S106 agreement is such that the mitigation necessary has not been secured by satisfactory planning obligations.

#### Green infrastructure

5.17 Suitable S106 provisions for the delivery of on site green infrastructure/open space have not at present been agreed with the Applicant.

5.18 As mentioned in the Planning Obligations section of this report, the wording of the applicant's proffered S106 agreement contains a number of deficiencies and details (which include but are not limited to the funding shortfalls set out Table A below and the other issues specifically mentioned in this report) such that it does not adequately and satisfactorily secure the infrastructure provision and other mitigation necessary to make the development acceptable in planning terms.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION**

6.1 Officer recommendation is that the Council's case for non-determination is on the grounds that if it were required to determine the application at this time, the application would have to be refused due to the inadequate provision of necessary infrastructure and other mitigation required as a direct consequence of the development & lack of affordable housing provision.

#### Lack of Necessary Infrastructure

6.2 The need to secure sports, community and education facilities are advocated within section 8 of the NPPF. There are reasonably up to date local evidence bases which justify the requested facilities to support the proposed residents of the application site and these are agreed in principle by the applicants. Inadequate provision to deliver these needed facilities, specifically pre-schools, primary school, secondary school funding and off site sports provision, is grounds to refuse the application.

6.3 In addition to non-compliance with NPPF policy the lack of provision of such infrastructure conflicts with the following local policy -

#### Draft 2005 Local Plan policies

- GP13: Planning Obligations which states that where appropriate the Council will expect developers to enter into planning obligations to provide for infrastructure, including necessary community facilities which are relevant to planning, directly related to the proposed development in scale and kind to the proposed development, over-coming or mitigating against the effects or deficiencies resulting from the proposed development.
- ED4: Developer Contributions Towards Education which advises that where additional provision is required as a direct result of a proposal, developers will be expected to provide these facilities, typically through S106 contributions.

- L1c: Provision of New Open Space in Development which states developments for all housing sites will be required to make provision for the open space needs of future occupiers, based upon the latest planning guidance note(s) on open space.

#### Emerging Local Plan Publication Draft September 2017

- HW2: New Community Facilities requires that residential developments of more than 10 dwellings audit existing community facilities and where necessary provide for facilities to meet demand as a consequence of the development. The proposals do not accord with the policy because based on the size of the development it is not contended that community facilities are reasonable and necessary. However the proposals do not provide for delivery of such needed facilities.
- GI5: Protection of Open Space and Playing Pitches - The site includes playing pitches which are designed as such in the 2017 Open Space and Green Infrastructure Update. As such based on policy GI5 the pitches may only be lost provided it is satisfied they are suitably replaced. This is not allowed for in the applicant's legal agreement.
- GI6: New Open Space Provision which explains how residential developments will be expected to contribute to the provision of open space for leisure and amenity, giving due consideration to existing provision in the area.
- ED6: Preschool, Primary and Secondary Education requires facilities to meet identified need, in particular at strategic sites such as the application site. There is agreed need arising from the development, specifically for on site pre-school facilities and off site secondary school places. However the applicants 106 does not provide adequate funding to deliver the needed facilities.

#### Lack of Affordable Housing

6.4 NPPF section 6 requires local planning authorities use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. There is a demonstrable need for affordable housing in York, as established in the evidence base that under-pins the emerging local plan and in line with affordable housing requirements established in policy H10 of the emerging plan.

6.5 The applicant's position of no affordable housing is unacceptable. Officers are not convinced by the viability work undertaken to date that this is a reasonable position and that the scheme would be unviable if there were an affordable housing requirement.

6.6 Members are also requested to authorise the Assistant Director (Planning & Public Protection) to remove or add to the putative reasons for refusal set out in this Application Reference Number: 15/00524/OUTM Item No: 3a

report in response to new evidence, information or amendment in the run up to and during the forthcoming public inquiry and to deal with outstanding issues in relation to securing a satisfactory S106 agreement.

**Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323

TABLE A

TABLE OF PLANNING OBLIGATIONS REQUIRED

Planning Obligation	Council cost / amount	Applicants offer
Community / Sports Hall	£611,710	£544,583
Community Management	£206,000	£206,000
Pre-school	£1,225,111	£1,173,079
Primary School	£2,897,863	£2,897,863
Secondary	£15,184 per pupil (amount to be decided at reserved matters phase)	Applicants not agreed to cost per pupil
Off site cricket ground	£309,772	£232,445
Sustainable travel Measures	£635,000	£635,000
Off site highway works (confirmed)	£270,964	£270,964

Off site highway works at Beckfield Lane	£300,000	Applicants yet to confirm if agreed
Management of on site open space & drainage	Legal agreement worded in a manner that the Council may be responsible for future maintenance. If so, the means for calculating open space maintenance is agreed. The drainage maintenance has been calculated as £667,488	Applicants not confirmed if drainage management cost would be acceptable.
Affordable Housing	20% target	No affordable housing offered.