

COMMITTEE REPORT

Date: 7 January 2021 **Ward:** Wheldrake
Team: East Area **Parish:** Wheldrake Parish
Council

Reference: 20/01546/FUL
Application at: North Selby Mine New Road Deighton York YO19 6EZ
For: Variation of condition 4 of permitted application 19/00078/OUTM (redevelopment of the former North Selby Mine site to a leisure development comprising of a range of touring caravan and static caravans with associated facilities) to remove limit of 28 nights occupation in any one calendar year
By: Mr Peter Massie
Application Type: Full Application
Target Date: 18 December 2020
Recommendation: Approve

1.0 PROPOSAL

1.1 The application is made under Section 73 of the Town and Country Planning Act 1990 (as amended) and seeks to vary condition 4 of planning permission 19/00078/OUTM granted on 7.8.2020 for a leisure development of touring and static caravans at the former North Selby Mine site. Condition 4 imposed an occupancy restriction of a 28 day duration of stay in each year for each individual, family or group of people to prevent the caravans being used for permanent residential accommodation. It currently reads as follows:

“The static and mobile caravans shall be occupied for holiday letting purposes only and not as a person's sole or main place of residence. For the purpose of this condition, "holiday letting" means letting to the same person, group of persons or family for period(s) not exceeding a total of 28 nights in any one calendar year.

No individual caravan, motor home or tent (whether occupied or otherwise) shall be located on the site hereby permitted for a total of more than 28 nights in any one calendar year.

The site owner/operator shall maintain an up-to-date register of the names and main home addresses of all occupiers of the accommodation on site, including dates and

durations of each stay by each occupier, and shall make this register available for inspection at all reasonable times when requested by the Local Planning Authority.

Reason: This condition is imposed to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation. The site is not considered appropriate for full time residential use due to its position in the Green Belt.”

1.2 The application is supported by a Planning Statement, which sets out the reasons for the request to vary the condition. The applicant considers that the wording of condition 4 is overly restrictive and not in accordance with other similar sites in the locality and suggests a less restrictive form of wording, namely:

“The caravans on the site shall not be occupied otherwise than in accordance with the following terms:

- (i) the caravans shall be occupied for holiday purposes only;
- (ii) the caravans shall not be occupied as a person’s sole or main place of residence; and,
- (iii) the owners/operators shall maintain an up to date register of the names of all owners/occupiers of individual caravans on the site, and their main home addresses, and shall make this information available at all reasonable times to the local planning authority.”

1.4 The application has been called-in to Committee by the local ward member, Councillor Vassie. This is on the basis that the site is of major strategic importance to the whole city as a potential source of renewable energy and should not be used as a caravan park.

1.5 The original outline application was accompanied by an Environment Statement as it was considered to be ‘EIA development’ following the publication of a screening and scoping opinion by the local planning authority. This Section 73 application, whilst related, would not have any significant further environmental impacts over and above those considered as part of the original application. Also, given the short passage of time since the original application was considered and determined, there has been no substantial material change to the local environment or policy that requires the submission of further environmental information. The original EIA remains valid.

2.0 POLICY CONTEXT

2.1 Yorkshire and Humber Regional Spatial Strategy policies:

YH9(C)

Y1(C1 and C2)

2.2 City of York Draft Local Plan Incorporating the 4th set of changes – Development Control Local Plan (Approved April 2005) – relevant policies:

V5 – Caravan/Camping Sites

2.3 City of York Local Plan – Publication Draft February 2018 (Regulation 19 Consultation) (“2018 Draft Local Plan”) – relevant policies:

EC4 – Tourism

EC5 – Rural Economy

3.0 CONSULTATIONS

INTERNAL

Strategic Planning

3.1 The overall principles of the development, particularly in relation to the proposed development in the Green Belt and impact on the rural economy, were established through the granting of planning permission 19/00078/OUTM, and therefore do not form part of the policy analysis of this application.

3.2 The 2018 Draft Local Plan supports the principle of self-catering chalet type accommodation, but aims to restrict occupancy of this type of unit to ensure that they are not used as permanent residential accommodation. Justification for Policy EC5 provides the rationale identifying that whilst self-catering holiday provision supports the local tourism economy, it may be located in areas not supported for residential development in accordance with the plan. For this reason, occupancy conditions are imposed on such developments to ensure that they are not used for permanent accommodation, and consequently, remain only available for holiday provision.

3.3 The 2019 outline application was granted consent for leisure development and considered appropriately against policy SS1 'Delivering Sustainable Growth for York'. In considering the application, the policies and analysis provided to the overarching application will have considered the temporary nature of people's stay at the site and likely activities/impacts as a result. As a leisure application and giving moderate weight to the provisions in policy EC5, permanent occupation of the site would not have been supported.

3.4 The Development Management Officer must consider whether the suggested revision to the condition wording would result in a greater risk of the caravans not being used for holiday accommodation, and potentially a greater risk of them being used as permanent residences.

Design Conservation and Sustainable Development

3.5 Development Management to assess.

Public Rights of Way

3.6 No objection.

Councillor Vassie

3.7 Raises concern at the disregard and disinterest given to the potential value of this site, which is of major strategic importance to the whole city as a potential source of renewable energy, and the approval to use the site for pitching of caravans.

- The site's significant power connection to the Grid means that it is ideally suited to be a generator of electricity.
- There are several potential renewable energy sources available on the site, from wind power to geothermal energy.
- CYC is committed to delivering a zero carbon future, as is the nation, and ensuring that all potential renewable energy sources are properly audited and exploited is key to delivering that zero carbon future.
- The University of Leeds Earth Sciences department has identified the site as a potential source of geothermal energy and discussed this with the climate change

policy and scrutiny committee in the past few weeks, and senior officers are aware of this.

- District heating derived from heat exchange systems using flooded tunnels in old mines is now an established technology exploited in British and European countries.

EXTERNAL

Natural England

3.8 No comments to make.

Highways England

3.9 No objection.

Ouse and Derwent Internal Drainage Board

3.10 As condition does not relate to drainage, the Board does not feel it is appropriate to comment.

North Yorkshire County Council

3.11 No comments.

Selby District Council

3.12 No comments.

Deighton Parish Council

3.13 Object on grounds that the original planning permission was given for residential use only and not residential use as site sits firmly within the Green Belt.

Escrick Parish Council

3.14 Qualified support in principle to amend the imposed condition. Following comments made:

- applicant agreed to the number of units being the maximum number required. Would strongly object if a further application to vary condition 3 (restricting number of caravans) was made in the future;
- supported change of use to leisure development in principle on basis that no permanent occupation of the holiday accommodation;
- no site management plan is provided to state whether the site will operate the full 12 months a year and what occupancy restriction will be imposed;
- important that accommodation is not used as use class C3 (residential) as occupants living permanently on the site would have implications for education, health and social provision;
- applicant's comment of wanting parity with other holiday parks in surrounding area is difficult to reconcile as not aware of any other holiday parks of this large scale;
- parish councillors have knowledge of local examples where children living in caravans and holiday lodges at holiday parks on a full time basis as their only home and attend schools or retired people who live full time;
- 5 of the 14 dwellings for sale in Escrick on Rightmove are for holiday lodges at Hollicarrs;
- a replacement condition is proposed which restricts use to holiday accommodation and to same person, group or family for no more than 6 months in any one calendar year with occupation restricted to 12 weeks with 4 week break period; a site management plan to be submitted; and confirmation of a continuous 4 week annual closure period.

4.0 REPRESENTATIONS

4.1 Representations from 3 local residents – comments summarised as follows:

- Leisure development should not become residential site the size of a village;
- Environmental impact needs to be reviewed;
- Massive impact on road and dangerous junction with impact on local residents.

5.0 APPRAISAL

5.1 The main considerations relevant to the determination of this Section 73 application are as follows:

- Impact on local services
- Impact on tourism and rural economy

LEGISLATIVE BACKGROUND

5.2 Section 73 of the Town and Country Planning Act 1990 (as amended) allows for development of land that has planning permission without compliance with conditions attached to the previous approval. It allows for modification of approved proposals where these are not fundamental or substantial.

POLICY CONTEXT

Development Plan

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

Development Control Local Plan

5.4 The Development Control Local Plan Incorporating the Fourth Set of Changes was approved for development management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF. However, such policies can be afforded very limited weight. Relevant policies are listed in section 2. The site falls outside the main urban area of the City and within the general extent of Green Belt on the proposals map accompanying the 2005 Draft Plan.

Publication Draft Local Plan

5.5 The Publication Draft Local Plan ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the 2018 Draft Plan took place in December 2019. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

5.6 Relevant policies are set out in section 2 and are attributed moderate weight. The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. This evidence base includes the 2003 Approach to Green Belt Appraisal, Historic Character and Setting Technical Paper (Jan 2011) and update (June 2013) and the Green Belt Topic Paper TP1 Addendum (March 2019), which confirm that the site is within the general extent of York's Green Belt. As such, the site is shown on the proposals map accompanying the 2018 Draft Plan as being within the general extent of Green Belt.

5.7 Relevant policies in the 2018 Draft Plan are EC4 'Tourism' and EC5 'Rural Economy'. Policy EC4 acknowledges the role tourism plays in York in contributing to a diverse economy. To encourage this, proposals that improve the choice and quality of visitor accommodation are supported, especially higher spending visitors.

5.8 Policy EC5 states that York's rural economy will be sustained and diversified through, inter alia, permitting camping and caravan sites for holiday and recreational use where proposals can be satisfactorily integrated into the landscape without detriment to its character, are in a location accessible to local facilities and within walking distance of public transport to York, and would not generate significant volumes of traffic. It goes on to advise the attaching of a seasonal occupancy condition to permissions for visitor accommodation where it is not suitable for year-round occupation by nature of its location, design or proximity to a habitat that needs extra protection at certain times of the year. The supporting text to this policy explains that whilst the provision of self-catering chalet holiday home parks will be

supported in principle where they will support the tourism industry in York. However, the occupancy of the units will be restricted to ensure that they cannot be used as residential accommodation as a sole or main place of residence and to ensure the accommodation is only available for holiday lettings.

National Planning Policy Framework

5.9 Central Government guidance is contained in the National Planning Policy Framework (NPPF), which places emphasis on achieving sustainable development. Paragraph 11 establishes the presumption in favour of sustainable development, which runs through both plan-making and decision-taking. In decision-taking this means approving development proposals without delay that accord with an up-to-date development plan. In the absence of relevant development plan policies or where they are out-of-date, permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. The footnote to Paragraph 11 lists those areas and assets of particular importance where this presumption in favour of sustainable development does not apply, which include land in Green Belt.

APPLICANT'S CASE

5.10 The proposed variation to condition 4 of the original outline approval is sought because the applicant believes that it is overly restrictive and makes the scheme unable to compete successfully with other businesses of a similar size in the surrounding area. The applicant contends that the condition is not considered to be appropriate to the size of the scheme and its use as a holiday park, which it considers is less likely to be open to abuse than units unrelated to a holiday park. An alternative condition is suggested (see paragraph 1.2 above) that reflects the essence of the original condition and thereby ensures the proposal would not result in permanent residential accommodation. This condition seeks to restrict occupation to holiday purposes only and requires a register to be kept of names and addresses of owner/occupants.

5.11 Other applications in the City's administrative area are cited that have similar worded conditions and not the restrictive wording of condition 4. Reference is also made to planning applications for developments of a similar scale and use in the surrounding area, such as Hollicarrs Holiday Park at Escrick (granted by Selby

District Council) and the Allerthorpe Golf and Holiday Park Retreat (refused by ERYC but allowed on appeal), and nationally, particularly East Riding, which have less restrictive conditions along the lines suggested by the applicant. Further, numerous appeal decisions including the wording of conditions to restrict permanent residential occupancy by Inspectors are cited, which are also similar to the wording suggested by the applicant.

5.12 It goes to state that the variation of the condition would not affect the impact of the site on openness of the Green Belt as the current wording does not restrict occupation throughout the year. Nor would it affect visual amenity for the same reason and considering the extensive landscaping. The condition with a more frequent turnover is considered to lead to a higher level of comings and goings.

5.13 It highlights the diverse nature of holidays in the UK and the need for flexibility within the leisure sector in the UK, especially in light of Brexit and Covid-19. Advice from the selling agent (Savills) has advised that the 28 day stay limitation would considerably impact the economic viability and sale of caravans on the site. It refers to the move away from hire fleet sites by the large holiday park operators and move towards private ownership of holiday caravans.

ASSESSMENT

5.14 The principle of the use of the site with operational works for a leisure development providing holiday accommodation in static and touring caravans has been established by the original outline planning permission 19/00078/OUTM. The proposal, which would remain in the same use, over the same area of land with the same overall number of units of accommodation, would have no additional impact on biodiversity, archaeology, access and highway safety, or contamination subject to the imposition of conditions to mitigate any previously identified harm.

5.15 The intention of condition 4 is to prevent the unfettered use of the permitted holiday accommodation for permanent residential occupation. This condition has been applied to many permissions for holiday accommodation in York in order to prevent use as permanent residential accommodation. This is to address the potential impact on local health and education services and avoid the introduction of residential paraphernalia that can detract from openness of the Green Belt. It can also be useful in places near to fragile habitat to allow for seasonal breeding or winter feeding to take place.

5.16 The national policy context is outlined in the NPPF at paragraph 83(c), which seeks sustainable rural tourism and leisure developments which respect the character of the countryside. Circular 11/95, cancelled and replaced by the Planning Practice Guidance, contained model conditions, including a condition that restricted holiday accommodation to a date range referring to a defined season (e.g. February to November), often the winter months, where the holiday accommodation was unsuitable for occupation all year round. However, a seasonal occupancy condition does not take account for improvements in caravan standards and increased interest in all-year round holidays, including visits to Christmas markets, seasonal events and visits in winter school holidays.

5.17 Policy EC5 of the 2018 Draft Plan advises attaching a seasonal occupancy condition to permissions where its location, design or proximity to special habitat make the site not suitable for year-round occupation. In the supporting text to the policy it affirms the support for a range of tourist accommodation and the growing interest in self-catering chalet holiday home parks that are available throughout the year, which is supported in principle by the Council on the basis that they will support the tourism industry in York. However, it refers to the imposition of occupancy conditions to ensure the accommodation is not used as a sole or main place of residence thereby ensuring it is only available for holiday lettings. This is not defined in the text, but the word 'lettings' suggests accommodation for rent/hire.

5.18 The wording of condition 4 as applied to the granted permission prevents permanent residential occupancy and limits stay to a 28 day period for a person, family or group within any one year. However, it would prevent the caravans being viable as holiday homes as periods of occupation by the owner would be overly restricted. The applicant has confirmed that there is no demand within the market for development of the site with such a restrictive condition as this is not reflective of the operation of holiday parks, with the exception of companies such as Centre Parcs whose draw is the setting and on-site facilities, such as swimming pools and activities.

5.19 A longer time period has been discussed with the applicant in an attempt to find a compromise that seeks to sufficiently restrict the use to holiday accommodation that contributes to the local rural and tourism economy and prevent permanent residential accommodation, whilst allowing longer periods of stay by owners of the static caravans. However, the applicant points to the lack of such stringent conditions on other larger caravan sites in the local area or close to York's

administrative boundary, such as Hollicarrs and Allerthorpe, which would make this site less competitive.

5.20 In particular, the wording of the conditions imposed by an inspector in allowing 150 holiday lodges and caravans on appeal at Allerthorpe in 2017 is of relevance. The conditions, which sought to address permanent occupancy, are as proposed by the applicant in that they require the accommodation to be for holiday purposes only, not occupied as a sole or main place of residence and require an up to date register to be provided. On this basis, and despite challenges to the efficacy of the conditions, the inspector was satisfied that the conditions would prevent occupation of the units as permanent residential accommodation.

5.21 Overall, it is considered that the changes are not substantial or fundamental in the context of the approved scheme and can therefore be dealt with as a variation to the original approval, and that the wording of the condition should be varied to reflect that sought by the applicant for the reasons set out above.

6.0 CONCLUSION

6.1 The applicant considers the wording of condition 4 previously imposed to be unduly restrictive and, therefore, would not be attractive to the market; it would potentially make the development economically unviable and not on a level playing field with other large holiday sites in neighbouring authorities that the site would compete with. It is considered that a condition is required to restrict occupancy in order to avoid permanent residential accommodation and on the basis of the case put forward by the applicant could be achieved through similar wording to that suggested by the applicant. It is, therefore, recommended that condition 4 be varied by removal of the reference to the 28 days period of occupation as requested.

6.2 Subject to the retention of an occupancy condition, there would be no further harm identified.

7.0 RECOMMENDATION: Approve

1 Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the expiration of three years beginning with the

date of this permission and the development hereby permitted shall be begun before:

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

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (England) Order 2015.

2 Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of change of use of the land, building or engineering works, and the development shall be carried out in accordance with such details:

These details shall include: internal access road details, appearance, landscaping of site, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

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

3 The number of static caravan pitches on site shall be restricted to no more than 231, to be sited in the area totalling 6.24ha that is marked as the Bowl and shown coloured lilac on the submitted Parameters Plan no.2356.02 Rev.03.

The number of touring caravans and tent pitches shall be restricted to 92, to be sited in the area totalling 1.49ha that is marked as the Woodland and shown coloured rose pink on the submitted Parameters Plan no.2356.02 Rev.03.

Reason: The condition is imposed to ensure that the number of caravans is not increased to a level which could harm the appearance or character of the area, openness of the Green Belt, nature conservation value of the wider site and in the interests of highway safety.

4 The site shall not be occupied otherwise than in accordance with the following terms;

(i) the caravans shall be occupied for holiday purposes only;

(ii) the caravans shall not be occupied as a person's sole or main place of residence;

(iii) the site owner/operator shall maintain an up-to-date register of the names and main home addresses of all owners/occupiers of the accommodation on site,

including dates and durations of each stay by each occupier, and shall make this register available for inspection at all reasonable times when requested by the Local Planning Authority.

Reason: This condition is imposed to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation. The site is not considered appropriate for full time residential use due to its remote position in the Green Belt and to prevent increased pressure on health and education services in the City.

5 Before the stationing of any static caravans hereby approved, details of the external materials and muted colours of the static caravans shall be submitted to and approved by the Local Planning Authority in writing. Only caravans constructed/sited in accordance with the approved details shall be stationed on site.

NOTE: The colour finish to the static caravans shall be a recessive colour(s).

Reason: In the interests of visual amenity given the sensitive rural location of the site.

6 No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:

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

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

Reason: To secure practical measures to avoid or reduce impacts to biodiversity features and the Site of Importance to Nature Conservation (SINC) during construction, as appropriate to the scale of development. The details are required

prior to commencement in order to ensure that they are in force at an appropriate point in the development procedure and during the whole of the construction phase of the development.

7 Prior to or concurrently with the first Reserved Matters application, updated ecology surveys along with updates to the relevant mitigation plans shall be submitted to the Local Planning Authority for approval. This is with particular reference to Bats (roosting within building), Barn Owl, Water Vole and Grass Snake. The scheme shall be fully implemented in accordance with the approved mitigation plans.

NOTE: The plans shall include details of a timetable for delivery of any mitigation measures.

Reason: To ensure that species and their habitats are adequately protected. The details are required prior to commencement in order to prevent irreversible harm to a biodiversity.

8 No works (site clearance, preparatory work or development) shall commence until the Local Planning Authority has been provided with:

a) a European Protected Species Licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorizing the specified activity/development to go ahead, along with appropriate mitigation for Great Crested Newts.

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To ensure the protection of a European protected species using the site. The details are required prior to commencement in order to prevent irreversible harm to a protected species.

9 Prior to or concurrently with the first reserved matters application, a survey of trees within and immediately adjacent to the site, an arboricultural impact assessment, a schedule of works, and a draft arboricultural method statement and tree protection plan, all in accordance with British Standard BS 5837, shall be submitted and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

NOTE: The details shall include a timetable for the delivery of any necessary works to trees.

Reason: To ensure the retention and protection of existing trees that are desirable and/or suitable for retention before, during and after development and to allow an accurate assessment of the compatibility of the detailed development proposals with

existing trees that make a significant contribution to landscape mitigation, and the amenity of the area and/or development.

10 Prior to or concurrently with the first Reserved Matters application, detailed long term management and monitoring of the Site of Importance to Nature Conservation (SINC) shall be submitted to and approved in writing by the Local Planning Authority. These shall be in line with the already submitted SINC Management Proposals, FPCR Environment and Design Ltd, July 2019. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure that there is adequate long term management of the SINC.

11 Prior to or concurrently with the first Reserved Matters application, a detailed Site Wide Recreation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be in line with the already submitted Harworth Estates Investments Ltd, North Selby Leisure Proposal, Recreation Strategy, 5th August 2019 and drawing 2356.08 Recreation Strategy Plan. The scheme shall be implemented in accordance with the approved details.

NOTE: The strategy shall include a timetable for the its delivery.

Reason: To ensure that there is proper mitigation given to the impact of the development on ecology with the site.

12 Any reserved matters application shall include a detailed landscape scheme. This shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants; and seed mixes, sowing rates and mowing regimes where applicable. It will also include details of ground preparation; tree planting details; paving and other hard landscape details, and street furniture, and any phasing of implementation. This scheme shall be implemented within a period of six months of the practical completion of the development or any phase thereof. Any trees or plants which within a period of five years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species and other landscape details across the site, since the landscape scheme, is integral to the landscape mitigation and/or amenity of the development and/or the immediate area.

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

Reason: In the interest of satisfactory and sustainable drainage.

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

Design considerations: The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuDS). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuDS.

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

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

As SuDS have been proven to be unsuitable then In accordance with City of York Councils City of York Councils Sustainable Drainage Systems Guidance for Developers (August 2018) and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then Greenfield sites are to limit the discharge rate to the pre developed run off rate. The pre development run off rate should be calculated using either IOH 124 or FEH methods (depending on catchment size).

Where calculated runoff rates are not available the widely used 1.4l/s/ha rate can be used as a proxy, however, if the developer can demonstrate that the existing site discharges more than 1.4l/s/ha a higher existing runoff rate may be agreed and used as the discharge limit for the proposed development. If discharge to public sewer is required, and all alternatives have been discounted, the receiving public

sewer may not have adequate capacity and it is recommend discussing discharge rate with Yorkshire Water Services Ltd at an early stage.

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

The applicant shall provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. No part of the development to be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Details of the future management and maintenance of the proposed drainage scheme shall be provided.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site. It is necessary to require this information prior to commencement of any ground works on site to ensure that adequate measures are put in place for the disposal of drainage from the site.

15 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no part of the development hereby permitted shall be occupied prior to completion of the approved foul drainage works.

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

16 No construction works in the relevant area (s) of the site shall commence until measures to protect the public water supply infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. No trees shall be planted within 5 metres of the centre line of any water main that is located within the site boundary i.e. protected strip widths of 10 metres per water main.

Reason: In the interest of public health and maintaining the public water supply. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

17 No works involved in the raising of the road at its access with New Road shall commence until a scheme for compensatory flood storage for the loss of floodplain

from raising the road has been submitted to and approved in writing by the local planning authority. The scheme shall provide level for level compensatory storage outside of flood zone 3. It must include:

- calculations and section drawings that show that the compensatory storage volume is hydraulically and hydrologically connected to the floodplain such that it provides level for level compensation allowing floodwaters to rise and fall as existing.
- a Flood Warning and Evacuation Plan for future users of the site. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing and phasing arrangements, or within any other period as may subsequently be agreed in writing by the local planning authority.
- no permanent structures shall be built within Flood Zone 3 as defined on the Environment Agency's Flood Map for Planning.

Reason: To reduce the risk of flooding to the proposed development and its future users.

18 A strip of land 9 metres wide adjacent to the top of both banks of Half Penny Dyke and Bridge Dyke on site shall be kept clear of all new buildings and structures (including gates, walls, fences and trees) unless otherwise agreed in writing with the Local Planning Authority. Ground levels shall not be raised in this area.

NOTE: Please ensure that access arrangements are agreed with the Internal Drainage Board.

Reason: To maintain access to the watercourse for maintenance or improvements.

19 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

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

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

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

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

Details shall be provided about the management of construction and contractor traffic and parking. The CEMP shall include a dilapidation survey of the area around the junction of the A19 and New Road should be provided.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses public.protection@york.gov.uk and planning.enforcement@york.gov.uk.

Reason: To protect the amenity of the locality. It is necessary to require this information prior to commencement of any development to prevent irreversible harm occurring as part of the works.

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

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

21 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Any remediation that is required to the area of Site of Importance to Nature Conservation to allow people access, should ensure that nature conservation interests take priority.

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

property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. It is necessary to require this information prior to commencement of any ground works on site as such works may result in irreversible harm.

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

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

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

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

24 Details of all machinery, plant and equipment to be installed in or located on the site, which is audible outside of the site, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities

of the area.

25 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays.

The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason: To protect the amenity of local residents.

26 Details of any acoustic noise barrier to protect the amenity of residential dwellings to the north eastern part of the site, where gardens back onto the A19, shall be submitted to and approved in writing by the local planning authority. These details shall include the construction method, height, thickness, acoustic properties and the exact position of the barrier. The barrier shall be erected in accordance with the approval before the use hereby permitted first comes into use and maintained thereafter.

Reason: To protect the amenity of local residents.

27 No part of the development hereby permitted shall commence be commenced until the full design and construction details of the following have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be carried out in full prior to the site coming into use.

- Improvements to the footpath on the A19 from the access point to New Road to the petrol station/shop to be widened to enable bicycles to use it to connect to National Cycle Route 65 (approx. 200m in length).
- Informal crossing point to be provided before the petrol station (making use of the central reservation for a two stage crossing) to enable users to cross the A19 and join the path on the western side of the A19 and safely access National Cycle Route 65.
- Signage to mark the link to the Sustrans route.
- Traffic calming measures near the site access road will be provided in the form of electronic flashing warning signs (or similar).

Reason: In the interests of highway safety and to provide for and promote appropriate safe and usable pedestrian and cycle access to facilities.

28 Prior to or concurrently with the first reserved matters application, details of the access road shall be submitted to and approved in writing by the Local Planning Authority. The details shall include passing places to facilitate traffic movements

when caravans, HGVs and agricultural vehicles might conflict with each other or with cyclists, pedestrians and horse riders. The scheme shall be implemented in accordance with the approved details.

NOTE: The details shall include a timetable for the delivery of the works to New Road.

Reason: In the interest of road safety.

29 Prior to or concurrently with the first reserved matters application, details of the following shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

- Internal road details;
- Consideration of pedestrian and cycle links to Wheldrake;
- Staff and visitor car parking and delivery bays/turning areas;
- Secure cycle parking for staff and visitors.

Reason: In the interest of road safety.

NOTE:

The site layout needs to ensure that queues can be accommodated without impeding access by local residents or emergency services and consider the needs of horse riders.

The details shall include a timetable for the delivery of the approved works.

30 Prior to the development hereby approved coming into use, a travel plan shall be submitted to and approved in writing by the Local Planning Authority. It shall include a site management strategy to ensure that peak traffic to and from the site (changeover times) avoid A19 peak hours (weekday am/pm peaks and Saturday midday peak). The approved travel plan shall thereafter be fully implemented and adhered to.

NOTE: The plan shall include details of a timetable for the delivery of mitigation measures.

Reason: In the interest of sustainable transport and road safety.

31 Prior to or concurrently with the first reserved matters application, a plan shall be submitted to and approved in writing by the Local Planning Authority showing a sensitive lighting design strategy for the development. The scheme shall ensure that there is no lighting within woodland areas or sensitive habitats or dispersed on to

New Road. The development shall be carried out in accordance with the approved scheme.

NOTE: The plan shall include a timetable for the delivery of the strategy.

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

32 Before the occupation of the development, 2% of parking spaces on the site should include facilities for charging electric vehicles. The exact number, position and specification of points should be agreed in writing by the Council. Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Within 3 months of the first occupation of the development, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 10 years.

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

Notes:

- Electric Vehicle Charging Points should incorporate a suitably rated 32A 'IEC 62196' electrical socket to allow 'Mode 3' charging of an electric vehicle.
- Each Electric Vehicle Charge Points should include sufficient cabling and groundwork to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point of the same specification, should demand require this in this future.
- Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Parking bay marking and signage should reflect this.
- All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015).

8.0 INFORMATIVES: Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38)

in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Pre-application advice provided;
- Revisions made to the scheme to address LPA opinion and consultee responses;
- Imposition of conditions.

2. INFORMATIVE NOTE - DRAINAGE

- i) The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.
- ii) As per the above design considerations the modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required and not just the 6 hour duration.
- iii) The applicant should be advised that the Ouse & Derwent Internal Drainage Board's prior consent is required (outside the planning process) for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge to the watercourse will also require the Board's prior consent.
- iv) The disposal of treated sewage effluent is not the intended function of the land drainage network and accordingly the Ouse & Derwent Internal Drainage Board will only be prepared to accept the treated foul flow if the combined rate of discharge for surface water and treated effluent does not exceed the discharge rate agreed/approved above.

3. MAINTENANCE RESPONSIBILITY - GENERAL

The proposed development is within the Internal Drainage Board's area and is adjacent to the Half Penny Dyke and Bridge Dyke, which at these locations, are maintained by the Board under permissive powers within the Land Drainage Act. 1991. However, the responsibility for maintenance of the watercourse and its banks rests ultimately with the riparian owner.

4. CONSENT - DISCHARGE

Under the Internal Drainage Board's Byelaws the written consent of the Board is required prior to any discharge into any watercourse within the Board's District.

5. INFORMATIVE:

The applicant or developer is encouraged to investigate improvements to the road surface, the provision of speed restricting measures and the creation of a segregated footpath/cycleway along the private road, New Road.

Contact details:

Case Officer: Hannah Blackburn

Tel No: 01904 551325