

COMMITTEE REPORT

Date: 7 November 2024 **Ward:** Wheldrake
Team: East Area **Parish:** Elvington Parish Council
Reference: 24/01238/FULM
Application at: Elvington Water Treatment Works Kexby Lane Elvington York
For: Installation of a solar photovoltaic array with associated infrastructure including transformer, security fencing, pole mounted CCTV, temporary construction access and compound.
By: Mr Ameet Juttla
Application Type: Major Full Application
Target Date: 6 December 2024
Recommendation: Approve

1.0 PROPOSAL

Application Site

1.1 The application site is an irregular shaped site, with a total area of 4.9 hectares (ha). The site lies adjacent and to the south of the Elvington Waste Water Treatment Works (WWTW). Access to the existing WWTW is via a private track located off Dauby Lane, which also serves Derwent Close, a small residential cluster of 7 dwellings. There is a man-made access track within the site, accessed from the private track.

1.2 Overhead photos indicate that the site has been used historically for storage for the WWTW and is not in agricultural use. The site is characterised by semi-improved grassland with a number of trees scattered across the site.

1.3 The site is located to the west of the River Derwent. Whilst the site is not designated for its ecological value, it is situated close to a number of statutory nature conservation sites of international importance within 2km.

1.4 The site lies wholly within the general extent of the Green Belt.

Proposal

1.5 Planning permission is sought for the installation of a solar photovoltaic (PV) array with associated infrastructure. The development will have an operational period of 25years. Construction phase of the development is expected to have a duration of 3 - 4 months. The development is expected to generate 3200 Kilowatts (KW) (3.2 Megawatt (MW)).

1.6 The plans depict that there will be 26 rows of solar panels known as strings. Each string of panels would be mounted on a rack comprising poles pile-driven into the ground to a maximum depth of 2.5m, without the need for excavation. The panels would be tilted up to 25 degrees from horizontal and orientated to face due south. The panels would be mounted at approximately 1.5m from the ground at the lowest point, raising to a maximum of 3.6m at the highest point. There would be a distance of 4m (approx.) between each string of panels to avoid inter-panel shading.

1.7 The development shall also comprise of:

- a transformer located on a 3m x 3m concrete pad
- 1.8m high fencing and gates around the perimeter of the site
- 5m high security camera poles (12no. positioned around the perimeter fencing)
- cabling buried at a maximum depth of 1.2m
- temporary access track comprising of permeable surfacing and construction compound (approx. 30m x 30m).

1.8 The Applicant is Downing LLP. The land is owned by Yorkshire Water Services Ltd who own and operate the Elvington WWTW. Yorkshire Water have appointed Downing LLP to construct and install the development on their behalf. It is outlined that the power generated from the proposed development would be used by Yorkshire Water to power the operations of the WWTW. Any surplus may be exported to the Grid.

1.9 The proposal constitutes schedule 2 development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). The information in the associated environmental statement is sufficient for the Local Planning Authority to understand the likely effects of the proposals and required mitigation.

Engagement by the Applicant

1.10 Planning policy guidance encourages developers to engage with the local planning authority and third parties prior to submitting a planning application.

1.11 A pre-application consultation was undertaken by the Applicant in April 2024 which involved an information leaflet dropped to 369 properties as well as an in-person consultation at Elvington Village Hall.

Planning History

1.12 A near identical planning application was granted consent on 13 May 2016. This permission was not implemented and it subsequently lapsed on 13 May 2019.

15/02639/FULM Installation of solar photovoltaic array with associated infrastructure including kiosks, security fencing, cctv and internal access track; Application Permitted 13 May 2016

1.13 Having reviewed the details of this Application, the main difference appears that the approved plans show 29 rows of solar panels with an internal access indicated to be provided in the western corner of the site.

20/02135/EIASN Screening opinion in respect of Elvington Water Treatment Works solar farm; EIA required 02.12.2020

2.0 POLICY & LEGISLATIVE CONTEXT

Planning and Compulsory Purchase Act 2004

2.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that an application is made in accordance with the development plan unless material considerations indicated otherwise. The Council does not have an adopted local plan. There is no made Neighbourhood Plan relevant to this application site.

Regional Strategy For Yorkshire And Humber (Partial Revocation) Order 2013

2.2 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. The policies state that the detailed inner and 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.

National Planning Policy Framework (NPPF)

2.3 The NPPF sets out the government's planning policies for England and how these are expected to be applied. Its planning policies are material to the determination of planning applications. The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives, which are interdependent and need to be pursued in mutually supportive ways (paragraph 8).

2.4 The sections of the NPPF that are considered to be of relevance to this planning application include: 13) Protecting Green Belt land, 14) Meeting the challenge of climate change, flooding and coastal change, 15) Conserving and enhancing the natural environment and 16) Conserving and enhancing the historic environment.

Draft Local Plan (2018)

2.5 The Draft Local Plan 2018 (DLP 2018) was submitted for examination on 25 May 2018. The plan has been subject to examination. Proposed modifications regarding policy H5 Gypsies and Travellers have recently been subject to consultation. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF. Draft policies relevant to the determination of this application are:

D2	Landscape and Setting
D6	Archaeology
GI1	Green Infrastructure
GI2	Biodiversity and Access to Nature
GB1	Development in the Green Belt
CC1	Renewable and Low Carbon Energy Generation and Storage
ENV2	Managing Environmental Quality
ENV3	Land Contamination
ENV4	Flood Risk
ENV5	Sustainable Drainage
T1	Sustainable Access

DLP 2018 evidence base

2.6 The evidence base that underpins the draft DLP 2018 policies is a material consideration and can be afforded weight when determining planning applications. The evidence base that is considered to be of relevance to this application includes:

- Renewable Energy Study (September 2014)

Other guidance

- Department for Energy Security and Net Zero: National Policy Statement (NPS) for renewable energy infrastructure (EN-3) (November 2023).

2.7 Section 2.10 relates to solar photovoltaic generation and states that solar has an important role in delivering the government's goals for greater energy independence.

2.8 NPS EN-3 covers the impact of solar photovoltaic generation on visual and residential amenity, specifically glint and glare, which officers consider is not covered under any other planning guidance. Paragraph 2.10.102 sets out that solar panels are specifically designed to absorb, not reflect irradiation, however they may reflect the sun's rays at certain angles, causing glint and glare. Glint is defined as a momentary flash of light that may be produced as a direct reflection of the sun in the solar panel. Glare is a continuous source of excessive brightness experienced by

stationary observer located in the path of reflected sunlight from the face of the panel. The effect occurs when the solar panel is stationed between or at an angle of the sun and the receptor. It continues in para. 2.10.104 to state that when a quantitative glint and glare assessment is necessary, applicants are expected to consider the geometric possibility of glint and glare affecting nearby receptors and provide an assessment of potential impact and impairment based on the angle and duration of incidence and the intensity of the reflection.

3.0 CONSULTATIONS

INTERNAL

Design, Conservation and Sustainable Development (DCSD) (Archaeology)

3.1 There is no ridge and furrow extant within the application site.

3.2 The archaeological potential for this site is likely to be low – medium and any resource material is likely to date to the late prehistoric – medieval period and at shallow depth. Impacts arising from the construction of the whole site can be managed through an archaeological evaluation, covering 4% of the site and will aid in confirming whether there is an archaeological resource on the site, characterise that resource, inform decision making on any mitigation measures through excavation or by avoidance and inform any decommissioning mitigation measures which may be required.

Design, Conservation and Sustainable Development (DCSD) (Ecology)

3.3 It is requested that further consideration is given to ecological enhancements for species across the site (such as bat/bird boxes/barn owl nest box) which can be installed on existing retained vegetation around the site. Also recommend that the deer fencing will have suitable access points at ground level for mammals to avoid the site being isolated and fragmented within the landscape.

Design, Conservation and Sustainable Development (DCSD) (Landscape Architect)

3.4 Consultation response was provided to a very similar application in April 2016 (Ref: 15/02639/FULM) and those comments remain largely relevant to this 2024 submission. The information submitted with this latest application is more comprehensive.

3.5 Overall, the Landscape and Visual Impact Assessment (LVA) makes a reasonable assessment of the visual effects of the development and the impact on landscape character. Generally, in Year 1 the development would result in a 'minor-moderate adverse' effect (at worst 'moderate'). Depending on the rate of establishment, this would reduce to 'negligible beneficial' (or at least negligible

adverse) at year 15 and would continue to lessen over time due to the proposed trees, hedge, and scrub planting around the perimeter of the site in addition to the existing vegetation.

3.6 The vast majority of trees are category C and located around the periphery of the site or beyond. The better trees – the category 'B' early-mature/mature Oaks - are all safely retained.

3.7 I find the proposed Landscape and Biodiversity Restoration Plan to be appropriate in complexity, character, and species selection in terms of landscape. Confirmation that the fencing would be a timber post and wire deer fencing is welcomed and suitable in terms of visual character.

Highways Network Management

3.8 Requests further details in respect to service vehicle parking areas within the site and details of site accesses off Derwent Close. Further details are requested via a Construction Traffic Management Plan (CTMP).

Lead Local Flood Authority (LLFA)

3.9 Following additional information received regarding construction details for the access roads, transformer base and cable route, further details are required, and the FRA should be updated to show these updated site-specific construction details.

3.10 The access road sub-base material should be Type 3 (free draining) material and not Type 2. The transformer base and cable route do not need formal drainage, but site-specific construction details are required.

Public Protection Unit (PPU)

3.11 Noise - Due to the location of the transformer unit from the noise sensitive receptor (NSR), the size of the transformer unit and the fact that the operation of the site will be daytime only there is no requirement for a noise assessment.

3.12 Construction Noise and Dust – recommend a Construction Environmental Management Plan (CEMP) due to the extent of the site and to minimise noise, vibration, dust impacts during site preparation and construction phases.

3.13 Land Contamination – The Phase 1 Contaminated Land Report (dated 26.2.2024) concludes that there is potential for harm and a Phase 2 site investigation is recommended, which can be dealt with by conditions.

EXTERNAL

Elvington Parish Council

3.14 Any response will be verbally reported.

Civil Aviation Authority

3.15 Any response will be verbally reported.

Environment Agency

3.16 Any response will be verbally reported.

Natural England

3.17 Not able to provide specific advice on this application and therefore has no comment to make on its details. Offer further advice and referenced to our standing advice. It is for the LPA to determine whether or not the proposal is consistent with national and local environmental policies.

Ouse and Derwent Internal Drainage Board (IDB)

3.18 The Board has assets adjacent to the site (on the southern boundary) in the form of Horse Dyke.

3.19 Further details requested:

- in respect to perimeter drainage ditches - what is the proposal for these ditches? Will they just be a basin or will they have an outfall to the watercourse?
- temporary access tracks where will these be located/how long in place

Yorkshire Water

3.20 The north of the application site is crossed by a live water main with the landscape and biodiversity restoration plan indicating the planting of tree species over the route of the water main, which could jeopardise the integrity of this asset. A condition is recommended to revise this arrangement and restricts tree planting to areas outside of the water main buffer zone (5.0m either side of the centre line of the water main).

4.0 REPRESENTATIONS

4.1 The application has been advertised by site and press notice as well as neighbour notification.

4.2 One letter of objection has been received, raising the following concerns:

- impact on natural landscape/scenic beauty of the rural area
- potential for removal of hedge and trees to facilitate any services or access
- disruption of habitats, leading to a local decline in local biodiversity.
- increased noise levels during both construction and maintenance, disturbing peace and quiet that residents currently enjoy
- glare and reflection maybe intrusive
- no mention of lighting the site at night
- reduce the availability of land for farming, which is vital for our local economy and food supply
- potential for increase in flooding
- lack of local benefit; the energy generated may be exported to other areas (or used within the Treatment Plant) leaving residents with the negative impacts without any advantages
- potential of extending the array in the future
- disruption to historic ridge and furrow field patterns
- negative impact on property values

4.3 One letter of support has been received from Mr Luke Charters MP (York Outer) who states that:

- excited by the many green jobs created in our area, which are vital for the future of our economy
- for the future of our planet, the security of our nation, and the stability of our economy we need to diversify our energy away from unsustainable and insecure fossil fuels
- solar projects like this application greatly support Government and Council climate ambitions and build on our global reputation for being a carbon reduction leader
- this application builds on the previous planning approval to apply modern principles and technology to set the site up for success
- proposals for managing noise and other impacts during the construction project will minimise disruption for local residents
- confirmation from local experts that this site will not be detrimental to local wildlife is warmly received, along with confirmation about the impact of glare and other resident concerns.

5.0 APPRAISAL

5.1 Key Issues:

- Whether the site lies within the Green Belt
- Harm to the Green Belt
 - Impact on openness on the Green Belt
 - Impact on Green Belt purposes
- Provision of energy infrastructure
- Loss of agricultural land
- Impact on landscape

- Archaeology and heritage impacts
- Ecology and Biodiversity
 - Preliminary Ecological Appraisal
 - Biodiversity Net Gain
 - Habitat Regulations Assessment – European Designated Sites
- Flood Risk
- Access and Public Rights of Way
- Impact on visual amenity
- Residential environmental amenity
- Land Contamination
- Site Decommissioning
- Public Sector Equalities Duty
- Planning Obligations
- Planning Balance and Case for Very Special Circumstances

ASSESSMENT

Whether the site is within the Green Belt

5.2 The site is within the general extent of the York Green Belt in the Regional Spatial Strategy and the site is proposed as Green Belt in the DLP 2018. The proposed Green Belt boundaries in the DLP 2018 do not carry full weight because the plan is still under examination.

5.3 The *Wedgwood v City of York Council* Judgment, March 2020 is a material consideration in respect of the approach to decision making in the general extent of the Green Belt. The case decided that in the absence of an adopted Local Development Plan that specifies what is and is not green belt, the Council must apply the high-level policy rationally to determine what land within the inner and outer boundaries of the Green Belt) is and is not to be treated as Green Belt land. In doing so, it may have regard to:

- The 2005 Draft Local Plan.
- The DLP 2018, provided it has due regard to the guidance at paragraph 48 of the NPPF.
- Site-specific features that may tend to treating the site as Green Belt or not.

5.4 Both the 2005 and 2018 DLP allocate the site as Green Belt. The third test from the *Wedgwood* case is whether site-specific features exist, that may tend to treating the site as Green Belt or not.

5.5 The site is located within the countryside and is generally open in character with surrounding by open agricultural fields, although the WWTW to the east of the site along with its access track provides some, limited urbanising feature in the wider landscape, although it is not obvious.

5.6 The Council's strategic approach to the Green Belt within York has been set out at a high level through Topic Paper 1 'Approach to Defining York's Green Belt' (May 2018). A revised addendum Topic Paper 1 'Approach to Defining York's Green Belt Addendum' (Jan 2021) clarified the methodology and revised the text to properly represent the methodology developed and applied for the setting of York's Green Belt boundaries.

5.7 In addition, the Council has undertaken further work in respect to the methodology that has been followed in the setting of inner and outer Green Belt boundaries, forming part of the emerging plan's evidence base. Relevant to this application site is Annex 4: Other developed areas, which considers all the densely developed areas and the detailed boundaries. The village of Elvington has been identified to be inset from the Green Belt to prevent any further encroachment or sprawl. Also relevant is Annex 2: Outer Boundary.

5.8 There have been no changes to the boundary around Elvington, with boundary no. 2 following the rear boundaries of residential properties, where there is a clear distinction between built up areas and open areas. The land contributes to the open approaches to the city from the A1079 and B1224. The rural land around the village contributes to the open feel of the area, which is part of Elvington's setting, as well as part of the open countryside setting around the City of York. There are views into this land from Elvington and the open approaches of Dauby Lane.

5.9 Officers therefore consider that as outlined above, the site exhibits features of, and contributes to the openness of the Green Belt. It offers a degree of permanence and serves to assist in safeguarding the countryside from encroachment (purpose C).

Harm to the Green Belt

5.10 The application site lies within open countryside within the general extent of York's Green Belt. The NPPF sets out in para. 142 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristic of Green Belts are their openness and permanence.

5.11 It is set out in paragraph 153 of the NPPF that substantial weight should be given to any harm to the Green Belt. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

5.12 Paragraph 155 of the NPPF specifies certain forms of development that, provided that they preserve its openness and do not conflict with the purposes of

including land within it, are not inappropriate in the Green Belt. However, paragraph 156 states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

5.13 The proposed development of solar photovoltaic array does not fall within any of the identified exceptions in paragraph 155 and is therefore considered to be inappropriate development in the Green Belt by definition and, in accordance with para 147 of the NPPF very special circumstances will need to be demonstrated to justify the development.

- Impact on openness on the Green Belt

5.14 The site is considered to form an open buffer of countryside between the WWTW to the north and Elvington village to the south. There is a green bund, running north to south which forms a physical and visual edge to the WWTW. The site itself is generally flat, with land sloping down across the eastern part of the site. Towards the southern boundary, the land gently rises towards the village. Whilst the site is bounded on two sides by existing hedgerows, and an earth mound to the north together with the WWTW, the site is not considered to be enclosed nor comprise infill.

5.15 The development comprising of 26 rows of solar array, a maximum of 3.6m high across much of the site along with perimeter fencing and twelve 5m high poles with mounted cameras, would significantly reduce openness both visually and spatially. There would be minor mitigation as the solar array is arranged in rows of 4m apart, rather than a constant mass. The impact on openness is relatively high given the height of the panels and the generally open nature of the site.

5.16 The development has an anticipated construction programme of 3-4 months and will include a temporary construction compound with storage of materials and equipment. It is considered that the construction phase and a similar decommissioning phase would have a notable, but temporary impact on the openness of the Green Belt.

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

site for renewable energy generation. Therefore, there would be a permanence in terms of impact on the Green Belt set by the proposed development.

- Impact on Green Belt purposes

5.18 Paragraph 143 of the NPPF states that the Green Belt serves five purposes. These are:

- a) To check the unrestricted sprawl of large built-up areas;
- b) To prevent neighbouring towns merging into one another;
- c) To assist in safeguarding the countryside from encroachment;
- d) To preserve the setting and special character of historic towns; and
- e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.19 The site is not identified within an historic character and setting of York outlined in Figure 3.1 of the Draft Local Plan, however it fulfils one of the Green Belt purposes, namely c) to assist in safeguarding the countryside from encroachment. The site contributes to the important open gap of countryside between Elvington village and the WWTW as a major developed industrial site. The proposed development will bring development closer to the village and outside the visual boundary of the WWTW provided by the bund and thus encroach into the countryside. It may also affect the setting of Elvington as a historic village, although to a limited extent in this location. It is a green field site outside the WWTW boundary so it does not assist in urban regeneration or use derelict or underused land within the WWTW.

5.20 The proposal would harm one of the purposes of Green Belts outlined in paragraph 143 of the NPPF, specifically Part c) which relates to the purposes of assisting in safeguarding the countryside from encroachment. To conclude there would be harm to the Green Belt; by reason of inappropriateness and by leading to significant loss of openness and being in conflict with one of the Green Belt purposes. In line with the NPPF, it should not be approved except in very special circumstances. The NPPF requires substantial weight be given to any Green Belt harm.

Provision of energy infrastructure

5.21 Chapter 14 of the NPPF 'Meeting the challenge of climate change, flooding and coastal change' sets out that the planning system should support the transition to a low carbon future in a changing climate. Paragraph 157 of the NPPF states that the planning system should shape places that contribute to radical reductions in greenhouse gas emissions and support renewable and low carbon energy and associated infrastructure.

5.22 Underpinning the requirement of meeting the challenge of climate change in the planning system is the Climate Change Act 2008 which establishes a legally binding target to reduce the UK's greenhouse gas emissions by at least 100% of 1990 levels (net zero) by 2050.

5.23 At high level, the Energy White Paper (Powering our Net Zero Future) (December 2020) provides a ten-point plan and a national infrastructure strategy for the wider energy system. The White Paper establishes the need for energy infrastructure and to ensure the continuation of a planning policy framework, through the National Policy Statement (NPS) for energy, in order to deliver the investment required to build the infrastructure needed for the transition to net zero.

5.24 The National Practice Guidance outlines that large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. The visual impact of a well-planned and well-screened solar farm can be properly assessed within the landscape if planned sensitively.

5.25 Whilst Policy CC1 'Renewable and Low Carbon Energy Generation and Storage' of the DLP is directly relevant to this proposal, this policy is subject to significant changes and has not been through the four rounds of hearings. Therefore, this policy can only be applied at this stage with limited weight.

5.26 Notwithstanding the above, Policy CC1 sets out that proposals for renewable and low carbon energy storage developments should be sited a suitable distance from major residential areas and have suitable fire suppression procedures. These proposals will be supported and encouraged, subject to demonstrating that any impacts (direct, indirect, individual and cumulative) on the following considerations are demonstrated to be acceptable:

- i. York's historic character and setting, including the sensitivity of the scheme to the surrounding landscape and proximity to airfields and other sensitive land use, including conservation areas;
- ii. local communities and residential amenity resulting from development, construction and operation such as air quality, atmospheric emissions, noise, odour, water pollution and the disposal of waste;
- iii. the location in terms of the scale of the proposal and new grid connection lines;
- iv. national and internationally designated heritage sites or landscape areas, including the impact of proposals close to their boundaries;
- v. nature conservation sites and features, biodiversity and geodiversity, including protected local sites and other sites of nature conservation importance, and potential effects on setting, habitats, species and the water supply and hydrology of such sites;
- vi. the road network, capacity and highway safety; and
- vii. agriculture and other land-based industries.

5.27 These matters, along with other relevant matters are considered below, as appropriate.

- Applicant's strategy

5.28 In January 2022, the Secretary of State for Business, Energy and Industrial Strategy issued an open letter to the Chief Executives of Ofwat (as well as Ofgem and Ofcom), to consider the compatibility of Ofwat's regulatory framework within the UK government's Net Zero Strategy pathways to 2050 and interim carbon budgets. Yorkshire Water have, in response, developed an energy strategy with three core goals to manage their energy consumption and carbon footprint. These are to:

- reduce energy consumption;
- increase energy generation; and,
- to make smarter use of existing assets.

5.29 The investment into renewable energy generated by the proposed development would be utilised by Yorkshire Water to power the operations of the WWTW. The use of renewable energy at this WWTW would help to significantly reduce CO₂ levels at the site. Overall, the Yorkshire Water (through Downing LLP) intends to deploy up to 120MW of solar generation facilities by 2028, and for 40% of their electricity consumption to be sourced from on-site renewables, with the proposed development contributing to these targets.

Loss of agricultural land

5.30 Footnote 62 of the NPPF sets out that where the development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The best and most versatile agricultural land is graded as 1, 2 and 3a of the Agricultural Land Classification (ACL) (Annexe 2 of the NPPF).

5.31 Whilst not currently serving agricultural purposes, the site is identified on the Agricultural Land Classification as being of moderate agricultural value (Grade 3). The site covers a relatively small area of land (4.9ha) and given that the site itself has not been reportedly used for farming for many years and along with the temporary permission applied for, does not result in specific policy objections on these grounds. There is a need for the development to be positioned in close proximity to the WWTW, in order to contribute and be part of the WWTW's infrastructure. There are no other realistic alternatives. The Applicant has set out that the transformer will be installed on a 3m x 3m concrete pad and new access tracks will comprise of permeable surfacing. As such, the extent of permanent hardstanding and earthworks is considered to be minimal and as such, the site could readily be reverted back to its current condition.

Impact on Landscape

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

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

5.34 To the east of the site, the River Derwent Corridor is identified as an extremely important green infrastructure corridor for biodiversity, recreation and landscape character. A public footpath is located on the east bank of the river, and whilst some views of the site would be identified, distance and vegetated field boundaries provide some natural visual mitigation.

5.35 Dauby Lane to the north of the site provides private access to the WWTW so is of little concern. The main visual impact on the landscape will be from the south of the development from the properties on Riverside Close. The southern boundary of the site comprises mature managed hedgerow.

5.36 The application is supported by a Landscape and Visual Appraisal (LVA) which assesses the visual effects of the development and impact on landscape character to assist in forming the visual impact of the proposed development including assessing whether the extent of existing vegetation provides screening and whether any future mitigation is required. The LVA assesses the visual effects of the development and impact on landscape character; Year 1 the development would result in a 'minor-moderate adverse' effect (at worst 'moderate'). Depending on the rate of establishment, this would reduce to 'negligible beneficial' (or at least negligible adverse) at year 15 and would continue to lessen over time due to the proposed trees, hedge, and scrub planting around the perimeter of the site in addition to the existing vegetation. The additional landscaping will minimise the overall harm to the landscape.

Archaeology and heritage assets

5.37 In terms of the proposals on archaeological impact, the archaeological potential is likely to be low-medium with any archaeological resource most likely be at shallow depth, date to the late prehistoric – medieval period. The potential construction of an access road, trenching for cabling and temporary compound and transformer area could remove any resource present.

5.38 The Council's Archaeologist has advised that the impacts arising from the construction of the whole site can be managed through an archaeological evaluation, covering 4% of the site. This will aid in confirming whether there is an archaeological resource on the site, characterise that resource, inform decision making on any mitigation measures through excavation or by avoidance and inform any decommissioning mitigation measures which may be required. Therefore, subject to a suitable condition covering site investigation and post investigation assessment, the impact upon archaeological features and deposits at this site is not likely to be harmful and can be suitably managed.

5.39 The objector has referred to the potential impact to historic ridge and furrow. The Council's Archaeologist has confirmed that from modern aerial images there doesn't appear to be any ridge and furrow extant within the application site.

5.40 Elvington Conservation Area (no. 25) lies to the south of the site and is centred on the main street, extending eastwards to the Grade II* listed Sutton Bridge (also an ancient monument). The CA description includes the Riverside Meadows as being essential to the setting of the village and are tranquil and pastoral in character. However, the views of the Riverside Meadows in the CA appraisal are to the south of the village rather than the north and the setting of the bridge is not considered to be affected.

5.41 There would be no harm to the setting of the conservation area or Sutton Bridge as a result of the proposals as the development is unlikely to be visible. As the proposed development is broadly similar in size, scale and visual impact to the previously approved scheme, officers maintain this assessment.

Ecology and Biodiversity

5.42 Section 15 of the NPPF focuses on the conservation and enhancement of the natural planning environment. It sets out in paragraph 180 sub sections a), d) and e) that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value, minimising impacts on and providing net gains for biodiversity and preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soils, air, water or noise pollution or land stability.

- Preliminary Ecological Appraisal

5.43 The application site including an appropriate buffer are subject to a Preliminary Ecological Appraisal (PEA). A Phase 1 Habitat Survey has been undertaken and supports the application.

5.44 The surveys concluded that within the last 10 years, there were no records of badgers with the site, although the scrub and grassland provide foraging opportunities and tall embankments offer suitability for badger sett creation. No records of Great Crested Newts, reptiles, otters and water vole within the last 10 years. There were records of brown hare, roe deer and field mouse during reptile surveys. In respect to bats, there were 25 records of 6 species of bats from the last 10 years within 2km of the site. The habitats are of moderate suitability for foraging and commuting bats; the hedgerows and ditches along the periphery of the site offer foraging potential along with hedgerows that offer connectivity to the River Derwent. The boundary habitats of higher value will not be directly impacted by the development and will be enhanced.

5.45 The application will result in a loss of habitats (4.9ha approx.) that are common and widespread, and which support largely common and widespread species. Some protected species, particularly bat species and otter are supported by these habitats; however, no significant residual effects on any ecological receptor are predicted. No significant effects have been identified for the construction, operation and decommissioning of the proposed development, either alone or in combination with other developments.

5.46 There has been some embedded mitigation in design undertaken by the Applicants, with the infrastructure designed to be more than 5m from hedgerows and more than 10m from watercourses. This along with additional avoidance measures have been proposed to minimise potential harmful effects and to reduce the likelihood of legal offences occurring. Opportunities for biodiversity enhancement are provided for in the Landscape and Biodiversity Restoration Plan and through other conditions, which would improve biodiversity in the locality.

- Biodiversity Net Gain

5.47 In line with the Environment Act 2021, a minimum 10% Biodiversity Net Gain is a statutory requirement for major developments. Sites must deliver 10% BNG either on-site or off-site, or as a last resort by buying statutory biodiversity credits. The maintenance of a significant on-site habitat enhancement must be secured by either a planning condition, planning obligation or conservation covenant for at least 30 years after the completion of the development.

5.48 Most of the site comprises relatively species-rich, dense neutral grassland, that appears to have been unmanaged for some time.

BNG results

5.49 On-site habitat units – 27.41% net gain due to enhancement of grassland areas and creation of scrub habitat

Hedgerow units – 53.60% net gain due to proposed hedgerow planting and enhancement.

5.50 The biodiversity enhancement will be achieved through on-site provision with the developer requirement secured through the biodiversity gain condition included as an informative (as it has its own statutory basis and is deemed to apply to every planning permission (unless exemptions or traditional provisions apply)). A Habitat Management and Monitoring Plan (HMMP) is recommended to be secured by condition. The delivery of biodiversity enhancements will also take into account that decommissioning is likely to happen after 25 years, so the enhancements will need to be accounted for and accommodated for an additional 5 years. To ensure the on-site works take place in accordance with the approved HMMP, monitoring is required, and this will be via a S106 agreement. This is considered reasonable and necessary to ensure that biodiversity net gain is achieved and monitored for the 30-year period by the Environment Act 2021.

- Habitat Regulations Assessment – European Designated Sites

5.51 The application site is located approximately 400m to the west of the River Derwent. Whilst the site itself is not designated for its ecological value; it is close to a number of statutory nature conservation sites of international importance and sites within the Impact Risk Zones of a number of statutory designated sites and within 2km of other statutory designations:

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

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

5.53 The Habitats Regulations Assessment (HRA) is the process that the competent authority (the Local Planning Authority) must undertake to consider whether a proposed development is likely to have significant effects on a European site designated for its nature conservation interest. As a competent authority, it is this Local Planning Authority's responsibility to produce a HRA, although it is commonplace for the Applicant to provide a 'shadow HRA' and for the LPA, in coming to its own conclusions, to 'adopt' this to fulfil the legal duty.

5.54 The development of solar array was considered in light of the assessment requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 by City of York Council as Local Planning Authority which is the competent authority responsible for authorising the development and any assessment of it required by the Regulations.

5.55 Having considered the nature, scale, timing, duration and location of the proposed development, it was concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site.

Flood Risk

5.56 The NPPF (paragraph 165) sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

5.57 The majority of the site falls within Flood Zone 1 (low risk) however an area of the site alongside, and to the north of a watercourse/drain falls within Flood Zones 2 (medium risk) and Flood Zone 3 (high risk). The Applicant sets out that 10 panels will be located within Flood Zone 2. The watercourse is Ref: 196 Horse Dyke which is maintained by the Ouse and Derwent Internal Drainage Board (IDB) (Part of the York Consortium of Drainage Boards).

5.58 The NPPF sets out that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. This is referred to as the sequential test. Planning Practice Guidance details that the aim of the sequential approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk.

5.59 In respect to the flood zoning of the application site, further scrutiny of the plans appears to show that the development will only result in a small number (5 at most) of the panels to be within flood zone 2. None will be in flood zone 3. Surrounding land is currently in use for agricultural or operational land associated with the WWTW, and other areas of the site in flood zone 1 will be used for wider environmental (biodiversity and landscaping) enhancement. The strings (solar PV panels) are supported off the ground by a rack comprising of poles driven into the ground and thus would not impede water flows, allowing the free flow of flood waters around the base of the structures. The NPPF Annex 3: Flood risk vulnerability classification as well as the Council's Strategic Flood Risk Assessment (Rev D June 2024) assesses solar farms as essential infrastructure, which are appropriate development in Flood Zones 1 and 2.

5.60 The installation of the solar photovoltaic arrays do not involve any significant areas of hardstanding (other than a 3m x 3m concrete pad that the transformers sits on), and therefore surface water runoff rates will not increase substantially from the baseline. The LLFA have requested that the permeable surface for the new access track to be Type 1 (free draining) rather than Type 2 material and can be dealt with by condition.

5.61 The Environmental Statement contains a details chapter on hydrology. It identifies a field drain on the southern boundary which discharges into Horse Dyke and then to the River Derwent. The ES proposes a Pollution Prevention Plan (PPP) which will be incorporated into a Construction Environmental Management Plan (CEMP) to ensure that the any surface water does not discharge sediments or pollutants into the drain and from there to the River Derwent. The water management measures to control surface water runoff during construction and operation include drainage ditches, silt fencing, designated material storage areas and compacting, temporary interception bunds and cut-off drainage ditches and perimeter drains.

5.62 Further details have been requested from the Ouse and Derwent IDB in respect to perimeter drainage ditches and whether they will have an outfall to the watercourse as well as details regarding the temporary access tracks, their location and position. Members will be updated at the meeting in this regard.

5.63 Yorkshire Water have outlined that the north of the site is crossed by a live water main, with tree planting over this mains route, which could jeopardise the integrity of the asset. Detailed analysis of the route of this water main and its relationship to the application site and any areas of tree planting have been undertaken. It is shown that the area of tree planting as shown on the Landscape and Biodiversity Restoration Plan is not within 5m of the centre line of this live water mains and therefore the proposals will not have any impact upon Yorkshire Water's assets. The condition requested by Yorkshire Water is therefore not required.

Access and Public Rights of Way (PRoW)

5.64 The site is accessed off a private track leading from Dauby Lane, which also serves properties at Derwent Close. Beyond Derwent Close, there is no public access; the private track is used solely by Yorkshire Water and the farmer who accesses the fields to the south of the application site. Deliveries and construction vehicles are unlikely to be greater than generated by the WWTW, and the impact of the development on the local highway network will be negligible. The recommendation set out by the Council's Highways Officer for a Construction Management Plan are not considered to meet the 6 tests for the imposition of planning conditions.

5.65 There are three public rights of way in the local vicinity. Wilberforce Way is a 50 mile linear trail from Hull to York. It runs east to west to the south of Elvington Village, crossing the river at Sutton Bridge. The Jorvik Way is a circular route around York. In Elvington, it follows the east bank of the River Derwent so is at a distance of 335m (approx.) at its nearest point. There is also a public footpath to the fields to the north of the site (490m away) which leads from Dauby Lane to the WWTW. It is not considered that the proposal will impact upon any PRow in the vicinity.

Impact on visual amenity

5.66 The proposal includes the arrays of solar panels, but also 1.8m high fencing and 12no. 5m high CCTV poles position around the perimeter of the site. Residential properties positioned on Riverside Gardens have their rear elevations facing a northerly direction, towards the proposed development. There is a distance in excess of 260m between these properties and the application site. From Riverside Gardens, the perspective and perception is that the depth of the site is foreshortened, and it is anticipated that the solar panels would form a relatively thin visual strip at a distance, which is in itself a mitigating factor. Further they would be seen within the side context of the immediate setting of the gardens (although open in aspect with low fencing from these 10no. properties), arable landscape and importantly the WWTW. Whilst the bunding does provide some visual screen, the industrial landscape of the buildings and works is clear above the mound and the panels, dark and recessive, would be viewed within this context.

5.67 The most visible and open part of the site is the northern half, with a relatively small number of properties in the village that may be affected. The impact was previously considered to be minimal, and circumstances have not significantly changed to suggest a different conclusion should now be reached. Moreover, case law has established that the loss of a private individual's view from private property is not a material consideration.

5.68 Additionally, the assessment made in the previously approved application citing that the proposal would barely be visible from Wilberforce Way to the south of the village and there would be no visual harm from the PRow to the north which terminates near the WWTW. As the proposed development is broadly similar in size and scale to the previously approved scheme, and there have been no significant changes to the site or surrounding areas, officers maintain this assessment.

5.69 It was also concluded that there would be no harm to the visual amenity from the footpath to the far (east) side of the River Derwent (Jorvik Way) when seen in the wider landscape context and with the additional screening proposed.

Residential environmental amenity

5.70 The NPPF (para. 135e)) states that developments should create places with a high standard of amenity for all existing and future users. It goes on to state the decisions should avoid noise from given rise to significant adverse impacts on health and quality of life as a result of new development (para. 191 a)).

5.71 DLP policies D1 and ENV2 consider amenity. The nearest built-up residential area is Elvington village. One objection has been received which cites concern regarding increased noise levels during construction, glare and reflection being intrusive and lighting at the site at night.

5.72 As the proposed development relates to a solar photovoltaic array it is not anticipated that it would have an adverse impact to neighbour amenity in terms of air quality (from odour, fumes, smoke and dust).

5.73 The Applicant has undertaken pre-application discussions with the Council's public protection (PPU) officers and having examined the location of the nearest noise sensitive receptors (NSR), properties at White House Grove which are 435m approx. from the transformer unit and taking into account its daytime operation, there is no requirement for a noise assessment. As such, it is unlikely that the noise level from the solar array and any additional equipment would cause adverse impacts to the nearest residents.

5.74 Given the distances to neighbouring residents as detailed above, and the site's context within close proximity to the WWTW, a condition requiring a Construction Environmental Management Plan (CEMP) would be unreasonable; the Applicant will be reminded of their duties relating to the control of noise on construction sites laid down in the Control of Pollution Act 1974 via informative.

5.75 The Applicant advises that the site will be monitored remotely. Contractors undertaken any maintenance would visit the site as an when required, typically this would be between 1-4 times per month and during the daytime. Any maintenance undertaken is likely to be no greater than noise and disturbance generated by the WWTW operation.

5.76 The site would only be operational during daylight and therefore there would be no requirement for lighting at night-time. The application includes other security features (CCTV and fencing) although these would have no impact upon neighbouring residential amenity.

- Glint and Glare

5.77 The photovoltaic cells of each panel have been designed to maximise absorbency of the sun's rays and minimise solar glare. Included within the planning application is a glint and glare assessment which considers the possible impact upon surrounding road safety, residential amenity, and aviation activity associated

with Elvington Airfield, Full Sutton Airfield, Pocklington Airfield, Melrose Farm Airfield and Gilrudding Grange Airfield. As detailed above in Section 2 of this report, NPS EN-3 is the only source which provides planning policy/guidance for determining the impact of glint and glare on road safety, residential amenity and aviation activity.

5.78 The assessment concludes that there are no significant impacts upon road users, dwellings or aviation activity from the proposed development and no mitigation is required. Considering the impact on dwellings in further detail, of the 88 dwellings assessed, with 50 of these (including the objector's property) solar reflections are not geometrically possible. Of the 38 dwellings where solar reflections are geometrically possible, 25 dwellings will not experience solar reflections due to screening in the form of existing vegetation and/or buildings, which will significantly obstruct views of the reflecting panels; four dwellings will have low impact with views of the reflecting panels despite screening in the form of existing vegetation, however solar reflections are predicated for less than 60 minutes on any given day and for less than 3 months of the year. For nine dwellings views of the reflecting panels may be possible despite screening in the form of existing vegetation with solar reflections predicted for less than 60 minutes on any given day and for more than 3 months of the year. Whilst a low impact is predicted, mitigation is not recommended due to any effects likely to be limited to an observer above the ground floor; and/or effects would mostly coincide with direct sunlight.

Land Contamination

5.79 The application is accompanied by a Phase 1 Contaminated Lane Report which sets out that a desk study has been undertaken. The analysis identified potentially contaminative land uses at the application site and surrounding area. A Phase 2 site investigation is recommended, which can be dealt with via suitable conditions.

Site Decommissioning

5.80 Whilst some information has been supplied relating to the site's decommissioning at the end of 25 years, this does not contain sufficient detailed information, however a decommissioning plan/method statement can be dealt with by condition. The decommissioning plan/method statement shall also have regard to the requirements of the enhancements required by Biodiversity Net Gain, which has a minimum 30 year commitment period.

Public Sector Equalities Duty

5.81 Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c) Foster good relations between persons who share relevant protected characteristic and persons who do not share it.

5.82 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to the characteristic.
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.83 The PSED does not specify a particular substantive outcome but ensures that the decision made has been taken with “due regard” to its equality implications.

5.84 Officers have given due regard to the equality implications of the proposals in making this recommendation. There is no indication or evidence (including from consultation on this application) that any equality matters are raised that would outweigh the material planning considerations.

Planning Obligations

5.85 Policy DM1 of the Draft Local Plan (2018) states that new development will be supported by appropriate physical, social and economic infrastructure provision. The NPPF (para. 57) states that planning obligations must only be sought where they meet all of the following tests:

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

5.86 The development will deliver biodiversity net gain on-site and the maintenance and monitoring of any biodiversity is required to be secured by a S106. The draft S106 heads of terms for the proposed development include:

- On-site Biodiversity Net Gain – to secure a monitoring contribution in respect of biodiversity net gain monitoring where a development will deliver some biodiversity

net gain on-site and the maintenance and monitoring of any biodiversity is secured by a condition imposed on the development.

Planning Balance and case for Very Special Circumstances

5.87 As noted above, the proposal for a solar photovoltaic array gives rise to harm of the Green Belt by reason of inappropriateness. There is also significant harm to the openness of the Green Belt and there is harm to one of the purposes of including land within the Green Belt. In line with the NPPF, the application should not be approved except in very special circumstances.

5.88 The NPPF requires local planning authorities to give substantial weight to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.89 The NPPF (para. 156) states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to succeed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

5.90 In summary, the applicant argues that there are several considerations to weigh against the harms to the Green Belt identified in this report:

- Benefits of renewable energy generation, securing a reduction in CO₂ and the supporting the Government's target, as set out in the Climate Change Act 2008, to reduce the UK's greenhouse gas emissions by at least 100% of 1990 levels (net zero) by 2050;
- The need to co-locate the solar farm with the WWTW and therefore alternative sites are not available;
- Biodiversity and landscape enhancements;
- Permission has been granted previously, demonstrating that the principle of the development has previously been found acceptable in this location; and
- Lack of impact on the openness and permanence of the Green Belt and no conflict with the purposes of the Green Belt.

5.91 Whilst the current application does not provide specific details, the previous application (covering a smaller area of 4,1ha) set out that 15% savings of total energy consumption could be offset by renewable energy and the overall saving is anticipated to be a minimum of 645tonnes of CO₂ emissions per year from entering the atmosphere (equivalent to electricity usage of approximately 460 homes). The reduction in CO₂ emissions is key, not whether it is financially beneficial to a utility company and whether these savings are passed on, nor whether the renewable

energy consumption is for the local community or a business. The proposal demonstrates the benefits for the environment and contribution to reducing the impacts of climate change through the reduction of greenhouse gases.

5.92 It is acknowledged that there is a need for the development to be positioned in close proximity to the WWTW, in order to contribute and be part of the WWTW's infrastructure. Other considerations have also been taken into account, in terms of site selection, to ensure that the development can harness the required energy yield, and include its agricultural land classification, its size, topography and orientation, nearby visual receptors and whether it contains or is located close to an environmental or historic designations,

5.93 The application demonstrates compliance with the requirement to deliver a minimum 10% Biodiversity Net Gain, which will be on-site. Although as this is a statutory requirement, this is not agreed with as VSC and carries no weight in the determination of the application. However, the design of the solar array and associated infrastructure includes some embedded mitigation in order to enhance existing habitats and improve biodiversity more generally, and avoid the site being isolated and fragmented within the landscape. The Landscape and Biodiversity restoration plan offers mitigation that is appropriate in complexity, character and species selection.

5.94 The final argument presented by the applicant, is not agreed with, and carries no weight in the determination of the application. As demonstrated above, the development will significantly reduce the openness of the Green Belt, as well as harming one of the purposes of the Green Belt, specifically part c) which assists in safeguarding the countryside from encroachment.

5.95 In the overall balancing exercise, the wider environmental benefits from renewable energy development along with the proximity of the site to the existing operations at the Elvington WWTW, are collectively sufficient to outweigh the harm to the Green Belt, even when substantial harm is attached to the harm to the Green Belt. It is considered that the very special circumstances necessary to justify the development exist in this instance.

6.0 CONCLUSION

6.1 This application, with an Environmental Statement relates to the development of solar photovoltaic array to generate 3200 Kilowatts (KW) (3.2 Megawatt (MW) and be used to power the operations of the Elvington WWTW.

6.2 The site is located within the general extent of the Green Belt. In the overall balancing exercise, substantial weight should be given to the harm to the Green Belt. The benefits of the generation of significant amount of renewable energy is considered to clearly outweigh the harm to the Green Belt. These therefore amount

to very special circumstances necessary to justify the inappropriate development in the Green Belt. The proposals are therefore found to accord with Green Belt policy in the NPPF.

6.3 The visual effects of the development and impact on landscape character is set to improve from a minor-moderate adverse effect in year 1 to negligible beneficial at year 15 depending on the rate of establishment and continue to lessen overtime due to retention of key hedgerows and trees and additional landscape planting around the perimeter of the site. There would be minimal impact of the development when viewed from neighbouring residential properties, given the arable landscape and landscape features and the existing WWTW as a major developed industrial site, in the background, and overall distances would result in the solar panels forming a relatively thin visual strip.

6.4 On-site habitat enhancements for BNG would be achieved and this would be secured via condition (habitat management and monitoring plan) and a S106 (to secure the monitoring requirements). The applicant will be advised of their requirements to secure the onsite habitat enhancements for 30years through the Biodiversity Gain Plan via an informative. Additionally, despite the close proximity of the site to statutory nature conservation sites of international and national importance, there are no concerns in respect to significant impacts arising from the proposed development, specifically during the operation phases. Conditions are recommended to ensure that the ecological habitats are protected during de-commissioning, when the requirements of BNG remain a requirement.

7.0 RECOMMENDATION:

i. That delegated authority be given to the Head of Planning and Development Services to APPROVE the application subject to –

a) The referral of the application to the Secretary of State under the Town and Country Planning (Consultation) (England) Direction 2021, and subject to the application not being called-in by the Secretary of State for their own determination:

b) The completion of a Section 106 Agreement to secure the following planning obligations:

- On-site Biodiversity Net Gain – to secure a monitoring contribution in respect of biodiversity net gain monitoring where a development will deliver some biodiversity net gain on-site and the maintenance and monitoring of any biodiversity is secured by a condition imposed on the development.

ii. The Head of Planning and Development Services be given delegated authority to finalise the terms and details of the Section 106 Agreement.

iii. The Head of Planning and Development Services be given delegated authority to determine the final detail of the following planning conditions:

Recommended Conditions

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

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

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

- Figure 1.2 Site Layout Plan
- DOWN-YW-001 Rev D Figure 2.2 Generic Typical Equipment and Materials Details
- 0671709-DR-LAN-101 Rev B Landscape and Biodiversity Restoration Plan

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

3 Within 6 months following the 25th anniversary of the date of first export, or within 6 months of the cessation of the export of electricity, whichever is the sooner, all solar panels, associated equipment, fencing and other infrastructure shall be removed from the site and the ground re-instated in accordance with the decommissioning and site restoration scheme pursuant to condition 5.

Reason: To ensure that the site is appropriately restored.

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

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

5 No decommissioning of the development or site restoration shall take place until a decommissioning and land restoration scheme, including detailed plans, shall be submitted to and approved in writing by the local planning authority. The scheme shall

include:

- a) the timescale by which decommissioning, removal and reinstatement of the land shall be fully completed;
- b) the method of the removal and disposal of all equipment including solar panels, mounting frames, buildings, fencing and all other associated structures;
- c) the management of traffic during the decommissioning process;
- d) details of the method of restoring the land to its former condition and any on-going aftercare required.
- e) Risk assessment of potentially damaging construction activities.
- f) Identification of "biodiversity protection zones".
- g) Identification of water management measures to control surface water run-off during construction and operation of the development.
- h) Pollution Prevention Plan including Incident Plan (to control surface water run-off and should include drainage ditches, silt fencing, designated material storage areas and compacting, overburden stockpile matting, interception bunds and cut-off drainage ditches, swales and perimeter drains around the construction compound.)
- i) 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).
- j) The location and timing of sensitive works to avoid harm to biodiversity features.
- k) The times during construction when specialist ecologists need to be present on site to oversee works.
- l) Responsible persons and lines of communication.
- m) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- n) Use of protective fences, exclusion barriers and warning signs.

The development shall thenceforth be decommissioned and the land restored to its former condition in accordance with the details and timescales thereby approved and the timescales as set out in the approved decommissioning management plan shall be strictly adhered to unless otherwise first agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority can be satisfied with the means and method for site restoration once the solar array has ceased electricity export, in order to control the surface water run-off, pollution and protection of biodiversity and habitats during the decommissioning works.

6 Prior to the commencement of development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to and approved in writing by the Local Planning Authority. The HMMP shall be prepared in accordance with the approved BGP and include;

- (a) a non-technical summary;

- (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- (d) the timescales for implementation of the HMMP
- (e) the timescales for completion of the habitat creation and enhancement works
- (f) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- (g) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority.

Development shall then be carried out in strict accordance with the approved Habitat Management and Monitoring Plan.

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021), paragraph 185 of the NPPF (2023) and policy GI2 of the Draft Local Plan (2018).

7 No development shall take place until a biodiversity enhancement plan/drawing has been submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancement plan/drawing shall include (but not be limited to) ecological enhancements for bats, birds and barn owls within the site. The biodiversity enhancement measures shall be fully installed/undertaken in accordance with the approved details prior to the solar array becoming operational.

Reason: To contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity in accordance with paragraph 180 d) of the NPPF.

8 Prior to works commencing, pre-construction surveys for protected species will be undertaken within the working areas and appropriate buffers to identify changes in the distribution and abundance of protected species from baseline conditions. Updated ecological information gathered from these surveys will inform the scope of any supporting Species Protection Plans, or Precautionary Methods of Working that will form part of a Construction and Environment Management Plan (CEMP: Biodiversity) (as defined in the CEMP: Biodiversity approved pursuant to Condition 9), and/or mitigation licencing. Details of these surveys will be submitted to and approved in writing by the local planning authority prior to works commencing on site.

Reason: To contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity and protecting notable/sensitive habitats and species within the local area in accordance with

paragraph 180 d) of the NPPF.

9 No development shall take place (including ground and enabling works, and vegetation removal) 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, but not limited to 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 and receptors, such as nesting.
- 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 roles 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.
- i) The water management measures to control surface water runoff during construction including drainage ditches, silt fencing, designated material storage areas and compacting, temporary interception bunds and cut-off drainage ditches and perimeter drains.

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 contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity and protecting notable/sensitive habitats and species within the local area and to control the surface water run-off in accordance with paragraph 180 d) of the NPPF.

10 A programme of post-determination archaeological evaluation is required.

Each stage shall be completed and agreed by the Local Planning Authority (LPA) before it can be discharged/approved.

A) No archaeological evaluation or development of any kind shall take place until a written scheme of investigation (WSI) for 4% trenching evaluation has been submitted to and approved by the local planning authority in writing. The WSI should conform to standards and guidance set by LPA and the Chartered Institute for Archaeologists.

B) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under part A) of this condition and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion of the post investigation assessment or such other period as may be agreed in advance in writing with the Local Planning Authority.

D) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

E) No development shall take place until:

- details in part D of this condition have been approved and implemented on site
- provision has been made for analysis, dissemination of results and archive deposition has been secured
- a copy of a report on the archaeological works detailed in Part D should be deposited with City of York Historic Environment Record within 3 months of fieldwork completion or such other period as may be agreed in advance in writing with the Local Planning Authority.

Reason: The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ. This is to comply with Section 16 of the National Planning Policy Framework.

11 Protection of existing trees shown to be retained on the approved plans shall be carried out in strict accordance with the content of the approved Arboricultural Method Statement AWA5550AMS. A copy of the document shall be available for reference and inspection on site at all times.

Reason: To protect existing trees that are shown to be retained in the environmental statement and make an important contribution to the character and quality of the area and to comply with paragraph 136 of the NPPF.

12 The approved Landscape and Biodiversity Restoration Plan 61709-DR-LAN-191 Rev B shall be implemented within the first available planting season (end October- March) following a start of development operations on site. Any trees or shrubs which within the lifetime of development die, are removed or become seriously damaged or defective or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: The landscape scheme is integral to the landscape and biodiversity mitigation for the development which will contribute to and enhance the natural and local environment in accordance with paragraph 180 d) of the NPPF.

13 LC1 Land contamination - Site investigation

14 LC2 Land contamination - remediation scheme

15 LC3 Land contamination - remedial works

16 LC4 Land contamination - unexpected contam

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:

- discussions surrounding Flood Risk Assessment, construction details and drainage matters, landscape and ecological enhancements as well as agreeing to enter into S016 planning obligations in order to monitor biodiversity enhancements on-site.

2. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being

taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

3. Biodiversity Gain Plan

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 (as amended by The Environment Act 2021 Schedule 14 - Biodiversity Gain as condition of planning permission) is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition (the biodiversity gain condition) that **development may not begin unless:**

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be City of York Council.

When calculating the post-development biodiversity value of a habitat, the planning authority can only take into account an increase in biodiversity value post-development where it is satisfied that the habitat creation or enhancements delivering the increase will be maintained for at least 30 years after the development

is completed. This must be secured either by a planning condition, planning obligation, or conservation covenant.

The biodiversity gain plan shall include -

- information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
- the pre-development biodiversity value of the onsite habitat;
- the post-development biodiversity value of the onsite habitat;
- any registered offsite biodiversity gain allocated to the development and the biodiversity and the biodiversity value of that gain in relation to the development;
- any biodiversity credits purchased for the development.

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.

Contact details:

Case Officer: Lindsay Jenkins

Tel No: 01904 554575