

1.7 The data centre, if approved will operate as part of a pair of facilities with a data centre currently under construction within West Yorkshire. This pair of facilities will operate as one of four data centre located in Chicago, Mexico City and Hong Kong.

1.8 The key elements of the proposed development include:

- * The main data centre, the largest element of the proposal, is a rectangular structure with a single curved roof and measures approximately 96m (l) x 220m (w), 6m (h) to eaves level increasing to 13m (h) to the apex. With a floor area of approximately 21,000m², the building will provide production space within 5 data halls, together with associated plant rooms. Proposed materials of construction consist of a combination of Alucobond or similar rainscreen cladding and polyester power coated louvre panels in grey and metallic silver walling materials. Kalzip aluminium standing seam roof system is proposed for the roofing materials.

- * Diesel Rotary Uninterruptible Power Supplies (DRUPS) halls are approximately 2,100m² and connected on the diagonally opposing sides (the north western and south eastern elevations) of the data centre via covered walkways. The buildings continue the same roof form as the data centre building and share the same eaves height but are approximately 8.5m to the apex. The DRUPS units house 24 duplicate DRUPS back up generators, which will operate in diesel mode when there is a power failure, surge in supply and on a weekly basis for testing for a 4 hour period

- * The reception building measures approximately 24m (l) x 26m (w), equating to approximately 600m² is connected to the southern elevation of the main data centre building and linked to the security lodge situated adjacent to the site access

- * Two cooling towers and electrical sub-stations, located to the immediate west and north of the main data centre building

- * 4 sets of below ground fuel and water storage tanks

- * A double paladin security fence (such as the type seen along the perimeter of parks and schools) around the perimeter of the operational buildings of 3m in height (outer) and 2.4m in height (inner) with a separation distance of 1.5m

- * A series of ditches to impede access on to the site and provide a wildlife habitat

- * Extensive landscaped areas within the site, including four specialised water bodies, one of which will act as a balancing pond

- * 70 parking spaces will be provided within the site. The spaces will include 67 spaces (6 of which are allocated for disabled spaces), 3 visitor spaces, 26 covered cycle parking spaces (in the form of an enclosure that is an integral part of the security lodge) and a motorbike shed.

1.9 An Environmental Impact Assessment (EIA) screening opinion was sought for the proposed development in October 2008 to establish whether the planning application needed to be accompanied by an EIA. The decision on the submission was that the proposal required an EIA because:

The site falls within column 10(b) (urban development project) of development listed in schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. Appendix A of Circular 02/99: Environmental Impact Assessment indicates that proposed development sites which have not been intensively developed are more likely to require an EIA if:

- * the site area of the scheme is more than 5ha; or

- * it would provide a total of more than 10,000m² of new commercial floor space; or
- * the development would have a significant urbanising effect on a previously non urbanised area.

1.10 In this case the site area is approximately 12.4ha and has not been intensively developed.

1.11 The planning application is accompanied by the following documents:

- * Planning Statement;
- * Design and Access Statement;
- * Environmental Statement;
- * Non-Technical Statement;
- * Summary of Ecological Mitigation and Enhancement Measures;
- * Sustainability Statement;
- * Energy Strategy;
- * Travel Plan;
- * Transport Assessment;
- * Lighting Impact Assessment; and
- * Illustrative drawings

1.12 Following the formal submission of the application, as a result of the consultation responses and negotiations with the applicant, the following revised and additional information have been submitted to the Council for consideration:

- * An addendum to the Socio-economic chapter of the Environmental Statement
- * An Energy Statement
- * A revised Sustainability Statement
- * A Revised Travel Plan
- * A summary of the Ecological Mitigation and Enhancement Measures
- * Drainage plans
- * Amended photomontages
- * Revised Landscape and Visual Amenity Chapter of the Environmental Statement

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land :

City Boundary : York City Boundary 0001

DC Area Teams : East Area (2) 0005

2.2 Policies:

CYE1A
Premier Employment Sites

CYGP1
Design

CYGP3
Planning against crime

CYGP4A
Sustainability

CYGP4B
Air Quality

CYGP6
Contaminated land

CYGP7
Open Space

CYGP9
Landscaping

CYGP11
Accessibility

CYGP13
Planning Obligations

CGP15A
Development and Flood Risk

CYNE1
Trees, woodlands, hedgerows

CYNE2
Rivers and Stream Corridors, Ponds and Wetland Habitats

CYNE3
Water protection

CYNE6
Species protected by law

CYNE7
Habitat protection and creation

CYT4
Cycle parking standards

CYT13A
Travel Plans and Contributions

CYT18
Highways

3.0 CONSULTATIONS

3.1 Internal

Highway Network Management - Following further discussions with the applicant, and the submission of a revised Travel Plan, the Highways Engineer raises no further objections subject to the imposition of conditions relating to the access arrangements, details of car and cycle parking, service/delivery arrangements, a dilapidation survey, S106 highway contributions and the implementation of the Travel Plan

3.2 City Development - Do not wish to raise any policy objections in relation to the proposed development or the additional information provided within the revised Sustainability Statement and Energy Statement

3.3 Environment, Conservation and Sustainable Development:

Urban Design - Awaiting comments, however at the pre-application stage the Council's Urban Design Officer raised no objections to the proposal as the building in terms of scale and design is very much pre-determined with specific requirements. It is also to be note that the application site does not lie within a Conservation Area nor affected by Listed Buildings

3.4 Ecology - No objections raised subject to conditions regarding mitigation measures on any grant of permission

3.5 Landscape - The proposal is acceptable subject to conditions regarding a landscaping scheme and tree protection method statement on any grant of approval

3.6 Archaeology - No objections raised subject to the imposition of conditions requiring an archaeological programme and watching brief be undertaken on any grant of approval

3.7 Sustainability - The Sustainability Team are satisfied with the revised Sustainability Statement and Energy Statement accompanying the application. The commitment to renewable energy is welcomed and it is recommend that conditions regarding BREEAM standards and the commitment to technologies referred to in the Energy Statement are attached to any grant of approval

3.8 Environmental Protection Unit - The Council's Environmental Protection Unit, do not have any objections to the proposal and recommend that conditions regarding noise, hours of operation of the DRUPS units (emergency power generators) and contaminated land be attached to any grant of permission, in the interests of residential amenity

3.9 Structures and Drainage - Following further discussions with the applicant and the submission of revised drainage plans the Councils Drainage Engineer has no objections to the proposal in principle and suggests the imposition of conditions regarding foul and surface water drainage on any grant of permission

3.10 Economic Development Unit - Welcome the overall investment to the City and support the proposal subject to the Council maximising the socio-economic benefits

of the development during the construction phase and beyond. It is recommended that on any grant of permission both the IT infrastructure and use and training of local labour is secured.

3.11 Lifelong Learning and Leisure - No objections in principle to the development, but makes the following comments:

- * Wish to see the amenity open space created for the employees of the site as set out in Policy L1c, given the extent of the development this looks to be more than adequately met

- * Would like to see the area between the road network and the security fencing being accessible for informal public recreation. If not, this cannot be classed as recreational open space

- * Given the number of employees at the site some form of trim trail inside the secure grounds would be desirable

- * How deep will the pond be and what safety measures will be in place?

3.12 External

Natural England - Welcomes the approach taken by ARUP ecologists in seeking pre-application advice, and makes the following comments:

- * Natural England wish to acknowledge the survey evidence of protected species submitted with the application confirming the biodiversity and habitat importance of the site

- * Natural England acknowledges the proposal includes habitat creation and welcomes the development of a Habitat Management Plan which will be an important factor in achieving long term benefits for species on site

- * Whilst the applicant has recognised the sensitivity of the Monks Stray Green Wedge character area and the close proximity of Green Belt to the proposed development, no mitigation is offered, therefore it is recommended that the applicant considers adapting the proposals to include a living roof design

- * The lack of provision for renewable energy at the site should be addressed

- * With the proposed development being sited next to Monks Cross Park and Ride the provision of 70 parking spaces for 97 staff should be revised to minimise encroachment into the area at the southern tip of the site designated in the Draft Local Plan as Green Belt and Recreational Opportunity Area

- * The application should provide further explanation for the 93,400 tonnes of excavation waste planned for the development, as the provision of 5,550m³ (of grey water storage space beneath the building) should create a need to excavate just 8,250 tonnes

The comments are in relation to the proposed development as originally submitted. In response, the applicant has confirmed that the Energy Statement addresses the issues of renewable and a car park management strategy has been included in the Travel Plan to encourage sustainable modes of transport. The excavation calculation has been based on all excavations that will be required throughout the construction phase, including the excavation under the foundations of the buildings, the car park and the pond as well as the water and fuel storage tanks.

A further update on the consultation response will be reported to Members at the committee meeting

3.13 Natural England have no further comments to make in relation to the Energy Statement and revised Sustainability Statement submitted 22 December 2008

3.14 Environment Agency - The Environment Agency have no objections in principle to the proposed development but recommend conditions regarding surface water drainage, land contamination, foundation design and interceptors on any grant of planning permission

3.15 North Yorkshire Police - Raise no objections to the principle of the proposal. It is suggested that a condition be added to any grant of permission regarding any risk identified by the Police Terrorism Security Advisor. Full comments have been forwarded to the agent to take into consideration

3.16 Highways Agency - The Transport assessment demonstrates that traffic generated by the development can be accommodated on the local highway network

In relation to the Travel Plan, the following amendments are required:

- * The setting out the target person trips by modes
- * Confirm that the TP will remain in place after the occupation of the site
- * Consider a shared staff taxi schemes to improve staff accessibility to the site

3.17 At the time of writing this report the applicant has issued a revised Travel Plan for the Highways Agency to review. The conclusions of which shall be reported to Members by means of an update at the Committee meeting.

3.18 Foss Internal Board Drainage - Recommend that on any grant of permission, conditions be imposed regarding surface water drainage

3.19 Yorkshire Water - Have no objection in principle to the proposed building layout. However, advise that if planning permission is granted that a number of conditions regarding drainage be attached in order to protect the local aquatic environment and Yorkshire Water (YW) infrastructure

3.20 English Heritage - Do not wish to comment on the application and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of the Council's specialist conservation advice.

3.21 York Natural Environment Panel (YNEP) - YNEP make the following comments:

- * Welcome the opportunity to work with the developers and a scheme that allows a high degree of planned wildlife enhancement and it appears to be a scheme that the Panel will be able to support. The possibility of high quality environmental scheme compensates for the development's low level employment provision
- * Even at this early stage there ideally needs to be more landscaping detail
- * Noted the artistic license taken with the front cover mock-up image - the over intensive use of screening by one tree seems a little dishonest and should be amended to reflect a more realistic view

3.22 Parish Council - The Committee are fully supportive of the proposal and would appreciate notification of any points which are considered to be essentially inconsistent with Officer recommendation.

3.23 Public consultation - The original application was publicised by means of site notices, neighbour notification letters and an advertisement in the local newspaper. The revised and additional information submitted to the Council have been publicised by means of site notices and advertisements in the local newspaper. The publicity for the latest revision does not expire until 24 February 2009. At the time of writing this report 2 letters of representation have been received citing highway issues as a concern. 10 letters in support have been received stating the following comments:

- * The fact that the organisation is considering locating in York is welcomed
- * The proposal represents an enormous and essential investment
- * The proposal will create employment in the current economic climate
- * The Fibre Optic Cable could have a beneficial effect on the city and will bring long term benefits to the overall IT infrastructure
- * The proposal would enhance York's financial service sector
- * The proposal appears to have a lower impact on the density of development and the associated transport issues than would have been the case if the site were to be developed to its full potential
- * The environmental impact appears to have been thought out and appropriate mitigation measure included
- * Provides an opportunity for skills development in the City
- * The proposal would provide a boost to both the growth and profile of York economy

3.24 Representation in support of the proposal have been received from: York and North Yorkshire Chamber of Commerce who state " The fact that such a significant global organisation is considering locating to this important site in York is a fantastic good news story for the city, particularly as such a difficult global economic period. The data centre would represent an enormous and essential investment into the sub region together with creating employment, both in construction and high quality IT and engineering jobs..."

3.25 The Chair of York Professionals and york-england.com states "the development of the ICT cluster in and around the city, which has been developed by Science City York, is a vital and dynamic aspect of the future growth of the York economy and for York to have an opportunity of an HSBC investment of world significance gives great impetus to future development of the Sector. From a professional service perspective the prospect of a major banking IT development, provides significant opportunity for skills development in the city, both in terms of the staffing of the Centre and the outsourcing of support and maintenance. Whilst the short term job creation in respect of the build is very welcome, the long term impact of a worldwide banking IT infrastructure installation in York will be a major boost to both growth and profile of the York economy".

3.26 The York and North Yorkshire Inward Investment Board on behalf of york-england.com state "The £300million project would represent the largest single inward investment to York...leading to the creation of jobs... provides a significant opportunity for local people and businesses"

3.27 In addition, the applicant has carried out a pre-application consultation exercise prior to the submission of the formal application in accordance with advice contained in the Councils Statement of Community Involvement (SCI) adopted December 2007. This included meetings and presentations with a range of stakeholders. Section 7 and Appendix 3 of the planning statement that accompanies the application summaries comments from the consultation exercises undertaken, most of which are supportive of the development in general. This is also reflected in the letters of representation received.

4.0 PLANNING HISTORY

4.1 The planning history, consists of many planning applications which have been submitted to the Council on the site. The most significant applications with relevance to the proposed development relate to 98/02301/OUT and 06/01600/FUL. Outline permission was originally granted in 2003, (under reference 98/02301/OUT and an attached S106 agreement) for the site to provide access, vehicle and cycle parking, park and ride facility and landscaping, erection of B1 and B2 use. This outline permission was extended (under reference 06/01600/FUL) prior to its expiry in 2006, and due to expire 8 January 2009.

4.2 The site the subject of this application is currently owned by Oakgate (Monks Cross Ltd), who are also joint applicant. As there is an extant permission on the site for B1 and B2 use. Oakgate have also submitted to the Council, a reserved matters application (seeking approval for design of the buildings, external appearance and landscaping of the site) for the erection of buildings for Class B1 (Business) and Class B2 (General Industrial) in order to protect their position - the fall back position. This application is under consideration with the Council, however, it is to be noted that this is a separate planning application and should be considered on its own merits.

4.3 The full planning history of the site is as follows:

08/02819REMM - Reserved matters application (approval of design, appearance and landscaping) for the erection of buildings for Class B1 (Business) and Class B2 (General Industrial) use, granted by planning permission ref: 06/01600/FUL dated 8 January 2007 - Pending consideration

08/02161/EIASP - Scoping opinion for environmental impact assessment relating to proposed data centre - Scoping opinion decision

08/02388/EIASN - Screening opinion for environmental impact assessment relating to proposed data centre - EIA required

08/01473/FUL - Variation of condition 2 on outline planning permission (98/02301/OUT) for site to provide access, vehicle and cycle parking, park and ride facility and landscaping, erection of buildings for B1 and B2 use to extend period for the approval of reserved matters application for a further 18 months - Pending consideration

08/01052/FUL - Variation of condition 12 of 06/01600/FUL (to provide access, vehicle and cycle parking, park and ride facility and landscaping, erection of

buildings for B1 and B2 use) to vary the occupancy restrictions of the buildings - Pending consideration

06/01671/REMM - Reserved Matters application for erection of 2 storey office building - Application withdrawn

06/01600/FUL - Variation of Condition 2 on outline permission 98/02301/OUT for site to provide access, vehicle and cycle parking, park and ride facility and landscaping, erection of buildings for B1 and B2 use to extend period for the approval of Reserved Matters application to 18/07/2008 - Approved 9.1.07

04/00990/FUL - Installation of foulwater pumping station and rising main for park and ride facility - Approved 16.6.04

03/01133/FUL - Formation of access road from Kathryn Avenue to serve proposed business park - Approved 9.6.03

03/00599/FUL - Erection of single storey pitched roof electricity sub-station adjacent to Ryedale Stadium car park - Application withdrawn

02/03173/GRG3 - Formation of Park And Ride facility comprising 1160 vehicle spaces, terminus building and informal open space - Approved 21.2.03

01/02427/FUL - Erection of two storey office block and associated access, car and cycle parking, landscaping including lake - Finally disposed of 15.9.05

00/00997/EIASP - Scoping of environmental impact assessment for proposed science related business park and park and ride facility - Pending consideration

98/02301/OUT - Outline application for site to provide access, vehicle and cycle parking, park and ride facility and landscaping, erection of buildings for B1 and B2 use - Approved 18.7.03

5.0 APPRAISAL

Key issues: Policy context;
Principle of development;
Socio-economic;
Landscape and visual amenity;
Highway/pedestrian safety;
Sustainability;
Flood risk and drainage;
Ecology;
Archaeology;
Noise;
Air Quality;
Site Investigation; and
Crime prevention/security

POLICY CONTEXT

5.1 In determining the application, regard must be given to the Development Plan and other material considerations. Although never formally adopted, the City Of York Draft Local Plan incorporating the 4th set of changes was approved on 12 April 2005 by the Council for the Development Control purposes. The Development Plan for the city is in the form of the Yorkshire and Humber Plan Regional Spatial Strategy (RSS) adopted May 2008.

5.2 The site lies within an area allocated as a Premier Employment site in the City of York Draft Local Plan incorporating the 4th set of changes.

5.3 National planning policy exists in the form of Planning Policy Guidance (PPG), which are gradually being superseded by Planning Policy Statements (PPS). In this case the development of this site, the following guidance notes apply:

5.4 PPS1 Delivering Sustainable Development. This PPS sets out the overarching planning policies on the delivery of sustainable development through the planning system. Paragraph 23 states that the Government is committed to promoting a strong, stable and productive economy that aims to bring jobs and prosperity for all. It is recognised that good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development.

5.5 PPG2 Green Belt. This PPG maintains a general presumption against inappropriate development within the Green Belt unless very special circumstances can be demonstrated.

5.6 PPG4 Industrial, Commercial Development and Small Firms, advises that local plans should assess the employment needs of their area and make provision on a wide range of sites and policies to assist the economic development of the area. The PPG is currently under review and a consultation paper has been issued for comment.

5.7 PPS9 Biodiversity and Geological Conservation. This PPS sets out planning policies on protection of biodiversity and geological conservation through the planning system. Many individual wildlife species receive statutory protection under a range of legislative provisions.

5.8 PPG13 Transport. PPG13 recognises the quality of life depends on transport and easy access to jobs. A key planning objective is to promote ensure that jobs are accessible by public transport, walking and cycling, reducing the need to travel by the private car.

5.9 PPS22 Renewable Energy. The PPS advises that increased development of renewable energy resources is vital to facilitating the delivery of the Government's commitments on both climate change and renewable energy. The document goes onto state that LPA's should consider the opportunity for incorporating renewable energy projects in all new developments utilising technologies such as solar panels, bio-mass, wind turbines, photovoltaic cells and combined heat and power schemes.

5.10 PPS23 Planning and Pollution Control. Advises that the planning system plays a role in determining the location of development which may give rise to pollution. This also includes air and water quality and land contamination.

5.11 PPG24 Planning and Noise. Aim is to provide advice on how the planning system can be used to minimise the adverse impact of noise. It outlines the considerations to be taken when determining planning applications for both noise sensitive developments and those which generate noise.

5.12 PPS25 Development Flood Risk. This policy aims to ensure flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas of flood risk.

5.13 Regional Policy guidance in the form of the Regional Spatial Strategy (RSS) was published in May 2008. The RSS aims to guide development over a 15-20 year period, influences and influencing by the economy, housing, transport and the built and natural environment. In terms of policy framework, the following policies apply:

5.14 YH9 - Green Belts. Sets out a requirement for the Local Planning Authority, through its LDF process to define the boundaries of the inner and outer boundaries of the York Green Belt.

5.15 Y1 - York sub area policy. Sets the policy objective of developing York economy as a sub regional city by amongst other criteria encouraging business and the financial serviced sector, knowledge and science based industries.

5.16 ENV5 - Energy. The purpose of this policy is to increase energy efficiency through passive design, use of existing power sources and other measures, and to increase installed renewable energy capacity in the Region.

5.17 E1 - Creating a successful and competitive regional economy. Provides guidance on region-wide economic issues necessary for creating a modern and successful economy.

5.18 E3 - Land and premises for economic development. Seeks to ensure that there is a continuous and adequate supply of employment and across the region to support economic development.

5.19 E4 - Regional priorities sectors and clusters. Sets out 7 clusters that have the potential to deliver significant economic growth in the future. The policy also seeks to ensure that a supportive framework to facilitate 'cluster' growth is provided through the LDF process.

5.20 E5 - Safeguarding employment land. Requires Local Authorities to rationalise their employment land portfolios. This policy will assist Local Authorities to safeguard employment land in specified area where employment sites are being lost to other uses.

5.21 T1 , T2 and T2 - Relate to personal travel reduction and modal shift, parking and public transport respectively. Overall the policies requirement Local Authorities

to develop management and parking strategies, including car parking standards and encourage the use of alternative modes of transport

PRINCIPLE OF DEVELOPMENT

5.22 The principle of development on this site has been established through both its allocation within the City of York Draft Local Plan as a Premier Employment Site and the extant permission for the erection of buildings for B1 and B2 use, granted to the applicant Oakgate in 2006. This extant permission is the "fall back position" for the site.

5.23 The use of the site for a data centre falls within the Class B1 of the Town and Country Planning (Use Classes) Order as amended. The proposal is for the development of a global banking data centre and is therefore classed as being within the Information and Communications Technologies category. The reasoned justification for policy E1a defines further guidance for Science City/knowledge based activities. It indicates that future employers should meet at least two out of the following four primary considerations. These are set out below alongside how the proposed data centres complies with these.

- * They operate within a high tech sector - The Data Centre is classed as being within the ICT sector so is subsequently within a 'high tech sector'
- * A focus on high level technical support or consultancy - the primary function provides support for banking services
- * At least 15% of staff are qualified scientists, technologists or engineers - Table 13.2 of the Environmental Statement (submitted with the application) indicates that 53% of staff will be within these categories
- * Established or proposed links with a research facility such as a university - HSBC intends to expand and strengthen existing links with the University of York. One consideration put forward as part of this application is for the University to become a centre of excellence for HSBC specifically in the fields of IT and sustainability.

5.24 The above information demonstrates that the proposed data centre is in compliance with Policy E1a of the Draft Local Plan.

5.25 Given the planning history for the site and the nature of the proposal, the principle of development of the site with a data centre is considered to be acceptable.

SOCIO-ECONOMIC

5.26 Forming part of the Environmental Statement accompanying the application an assessment of the socio-economic impact of the proposed data centre has been undertaken. The assessment sets out the social and economic benefits both during construction and once operational.

5.27 It is recognised that the proposed development of the data centre and would generate employment. It is envisaged that construction would take place over a 2 year period. The applicant predicts that during construction the scheme would generate in the order of 2000 jobs, peaking at 500 on site at any one time. This will include construction labour to more managerial roles. The applicant intends to source materials and 50% of the construction labour force locally thereby maximising

local benefit to the area through opportunities for local businesses and create employment to the local economy.

5.28 Although a contractor is yet to be named, the applicant have also indicated that during the construction phase they will also provide skills development opportunities to local construction education facilities and provide an on-site class room to be used as a training facility.

5.29 Once operational the proposed data centre would create between 97-100 jobs. These include posts in senior management, engineers, IT operatives and support staff. Although given the size of the site, the figure is low the proposed development would contribute to the wider regional strategy by providing for job creation and broader economic growth and by bringing forward an employment allocation for development.

5.30 In addition to employment, as part of the development scheme the applicant together with BT are to invest in the provision of IT infrastructure at the financial cost of between £10million and £12million, of which the applicant will contribute to 50% of the total. This would bring forward the plans by a minimum of 18 months and would involve upgrading the existing services using existing ducts to provide 2 fibre optic routes from the data centre facility under construction in West Yorkshire into York. This would mean that businesses, educational institutions and individuals would have the opportunity to the latest network technology and Broadband product enhancements such as next generation (high speed) broadband and new Wi-Fi.

5.31 The socio-economic benefits of the scheme need to be maximised throughout the construction phase and beyond to ensure that the development leaves a lasting legacy for the city. The proposed development provides an opportunity to develop and safeguard jobs in construction during the current economic downturn and maximise the benefits of the IT infrastructure. Overall, the Councils Economic Development Unit welcomes the significant level of investment and supports the proposal subject to the Council securing the applicants commitment for engaging local labour force, using a local supply chain and the principles of using the site as an adjunct to developing Construction Skills Academy at the University.

LANDSCAPE AND VISUAL AMENITY

5.32 This has to be considered in respect of the scale, height and massing of the building proposed and the impact this would have on residential and visual amenity. The scale should be sympathetic to and cognisant of surrounding development. PPS1 states that design should take the opportunities available for improving the character and quality of an area.

5.33 The submitted Design and Access Statement (DAS) sets out the height and scale of the proposed building is largely determined by functional requirement; nevertheless it is considered that many of the buildings immediately adjoining the site such as the swimming pool and the carpet warehouse are relatively large in scale and broadly similar in height to the proposed data centre. This is illustrated both within the DAS and illustrative drawing package, which shows the proposed data centre in relation to other buildings such as the Rogers of York Carpet building, York Minster and a typical distribution centre.

5.34 As previously mentioned, the proposed data centre is a rectangular structure with a single curved roof measuring approximately 6m gradually increasing to approximately 13m to the apex, above external finished ground level. The DRUPS buildings (emergency power supply) continue the same plan and roof form of the main data centre building and share the same eaves height as the main building, but is approximately 8.5m to the apex.

5.35 The design process for this development, faced with the constraints of a very large, fixed, building footprint and a range of ancillary buildings/structures, has sought as much as it can to retain existing trees and hedgerows. Where this has not been possible, replacement planting is proposed, all of which has been designed to maximise the ecological value of the site alongside the development, and assist in setting the building in a suitable landscape that is coherent with the nature of the surrounding environment.

5.36 Although the main building has a very large footprint, it is proportionately low in height, thus limiting its visual impact to local views. Furthermore because the development footprint/volume is concentrated in one building (with annexes), it has allowed the retention of a relatively broad landscape perimeter, (especially to the east adjacent to the busy Jockey Lane approach to York with views of the Minster); thus enabling retention and improvement of the remaining semi-rural setting, which accommodates the ecological mitigation, whilst incorporating sufficient visual mitigation that does not seek to entirely screen the building but breaks up its mass and sits it within an informal landscape that befits the neighbouring Monk Stray and balancing ponds associated with Monks Cross.

5.37 The development will clearly result in a significant change in the existing landscape character across the site and from local view points. But given that employment use on this Greenfield site has already been approved in a different form, it is felt that this proposal achieves a good balance between landscape, setting of the city, bio-diversity, and development adjacent to the greenbelt.

5.38 In relation to the Landscape Proposals drawing in the Environmental Impact Assessment. In principal, the types, locations, and species of planting acceptable subject to relating to the final landscape details.

For the majority of the boundary, the double security fence is set well back from the surrounding footways. The less stark paladin fencing will be utilised and the two lines can be painted deep green to reduce their visual impact.

5.39 None of the trees are subject to a tree preservation order. Most importantly the scheme retains the mature, open-grown, Oak - a highly visible landmark from Jockey Lane/Malton Road roundabout - and the majority of the mature willows that continue on a line behind this. Protection of existing trees to be retained should be included within the Contractor's Environmental Site Management Plan. This must also consider the routing of underground services.

5.40 There will be lighting on the main building and around the auxiliary buildings, plus lamp columns around the entire secure compound within the double security fence line. At 8m height, these lamp columns and lights will be viewed within the context of the park and ride site, Kathryn Avenue, and the Rugby/Football ground to

the north; and as an extension to the street lighting along Jockey lane and the Monks C ross shopping centre.

5.41 Some of the existing trees to be retained are located within the throw of the perimeter lights. There appear to be no lamps or direct light spillage onto the surrounding landscape areas beyond the edge of the secure area. Already accepted the lighting within the secure area will light the buildings at night, which during the winter months will result in a significant change in the night time landscape again it is likely that the approved business use would have a similar lighting scheme.

5.42 The development's biggest visual impact will be from Martello Way and the Park and Ride facility due to the building's close proximity and angle to the site boundary and the high number of public receptors passing through. Nonetheless the principle of employment development on this site has been established and the trees within the park and ride site and on the boundary of the development site will significantly reduce the visual impact and provide a distraction for pedestrians for much of the year. Most journeys to and from the Park and Ride site will be by car, therefore the development will also be experienced in its wider context.

RESIDENTIAL AMENITY

5.43 The nearest residential properties are 150m from the southern boundary of the site off Malton Road. Further residential properties are situated 500m from the southern and western boundaries of the site off New Lane separated from the application site by open fields.

5.44 In terms of lighting, the site perimeter is to be illuminated by metal halide floodlights mounted on 8m high columns. The site access roads shall be illuminated by 6m high columns. Additional wall mounted luminaries shall be installed around the perimeter of the data centre building. The external lighting shall be turned 'on' during hours of darkness and can be controlled via external photocell and time switch.

5.45 A Lighting Impact Assessment accompanies the planning application submission. This has been assessed by the Council's Environment Protection Unit who are satisfied that the proposed lighting will not result in the loss of amenity to the occupiers of the nearest residential dwellings due to the lighting.

5.46 Due to the design of the data centre building, the separation distance and extent of landscaping within the site, the relationship between the development and the existing properties is considered acceptable. It is therefore felt that the proposal if approved would not have a significant impact on the occupiers of the adjacent residential dwellings.

HIGHWAY/PEDESTRIAN SAFETY

5.47 It is imperative that the site can be safely accessed by different modes of transport to offer choices to employees and visitors of the development. To this end there has been a number of meetings with the developers and negotiations in the following topic areas:

* Parking provision

- * S106 contributions
- * Travel Plan

5.48 The application has been submitted with a Transport Assessment (TA) and Travel Plan (TP) which has been revised to provide clarification and additional information as requested by the Councils Highway Services and Highways Agency, with a view of agreeing the Travel Plan by the imposition of a condition on any grant of approval. Vehicular and pedestrian access to the proposed development is via Martello Way. 70 parking spaces are provided within the site including include 67 spaces (6 of which are allocated for disabled spaces), 3 visitor spaces, 26 covered cycle parking spaces (in the form of an enclosure that is an integral part of the security lodge) and a motorbike shed.

5.49 The development site can be described as being within a sustainable location and accessible by non-car modes due to its proximity to Monks Cross park and ride and bus routes. In line with national guidance the level of traffic that could be generated by the current proposal has been assessed against that which has an extant outline planning consent (the fall back position). The Transport Assessment supporting the application concluded that the application would generate in the region of 70 movements in the peak hours. This represents little more than 1 additional vehicle per minute during the peak network hours and in reality is unlikely to be noticeable when taking into account fluctuations in daily traffic levels.

5.50 The TA has demonstrated that the surrounding highway network and junctions can accommodate the traffic generated by the proposal. Nevertheless the level of traffic generated by the proposal is still significantly less that that which was considered could be generated by the extant approved employment application for the site.

5.51 Whilst the proposal is for employment uses the level of staffing is low compared to the Gross Floor Area (GFA) when considering traditional office uses. This results in a significant excess of parking when using the maximum parking standards set out in the Draft Local Plan Annex E. As such Officers have negotiated a level of car parking based upon the projected modal split targets which are contained within the Draft Travel Plan. Officers are therefore satisfied that the level of car parking is appropriate given the special nature of the proposed development.

5.52 On balance, the development is found to be acceptable based upon conditions regarding the access, parking and servicing arrangement, the implementation of the Travel Plan and a S106 agreement to secure a monetary contribution of £21,800 towards works identified in the Member approved Monks Cross Masterplan such as pedestrian and cycle route facilities and improvements to the Hopgrove roundabout.

SUSTAINABILITY

5.53 PPS1 sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. The supplement to PPS1 on Planning and Climate Change (2007) sets out how planning should contribute to reducing emissions and stabilising climate change. More recently the RSS Policy ENV5 looks to achieve the reduction in greenhouse gases.

5.54 In addition the applicant has appraised both the sustainability and the proposed energy usage of the site through a Sustainability Statement and an Energy Statement. The City of York Council's Interim Planning Statement on Sustainable Design and Construction 2007 (IPS) states that Large Scale Commercial Developments (over 500m²) must demonstrate that at least 10% of the expected energy demand for the development will be provided for through on site renewable generation for heat and/or electricity. As the development is a data centre with a substantial energy demand (particularly electricity), due to the nature of the development and the constraints of the site with regard to ecology and visual amenity, the City Council understands that it may be difficult for the applicant to reach the council's 10% on-site renewable energy target (as outlined in the Interim Planning Statement: Sustainable Design and Construction 2007). The Energy Statement sets out that the proposal will be able to generate 2.76% renewable energy. Although this is less than the stipulated 10% in the IPS, the applicant has undertaken substantial work to demonstrate that 2.76% is achievable within the confines of the site and this is also inline with PPS22. The applicant has also indicated through the Sustainability Statement that 100% of its electricity will be purchased through a green energy tariff which is welcomed.

5.55 The Council's Sustainability Officer is satisfied that the applicant has through the accompanying Energy Statement, demonstrated how they have considered a number of potential renewable technologies for the site, and have demonstrated what is and is not viable. In summary the following aspects are welcomed:

- * Significant savings through intelligent energy efficient design (approx. 60% reduction when compared to other data centres) and substantial use of renewable technology to reduce the centres need for electricity to heat and cool the building. Such savings have been calculated by Red Engineering Design Ltd to equate to reducing the carbon emissions of 10% of the houses in York to Zero
- * Commitment to BREEAM Excellent standard (and above Building Regulations standards for part L (energy conservation)
- * Operational energy efficiency as outlined in the energy statement
- * The potential transfer of waste heat to the adjacent Waterworld swimming facility
- * Renewable technologies totalling 2.76% of the sites overall electricity demand (and including free cooling, cooling from Aquifer, waste heat and PVs)and possible introduction of waste heat to Waterworld). Initially this % figure will be higher approximately 5.2 % for the site, however once the data centre is fully operational this figure will decrease to the stated 2.76%.
- * The applicants (HSBCs) commitment to design a building capable of accommodating further renewable/low carbon technologies.
- * Use of a green energy tariff for all electricity supplied to the site.
- * Proposed significant ecological enhancements
- * Proposed water conservation and management of waste
- * Proposed social and economic benefits the development will bring to York
- * Proposed Green Travel Plan and facilities to enhance cycling to the site

5.56 In accordance with national, regional and local policy it is a requirement of this scheme to limit its impact on the environment. It is felt that the applicant has demonstrated what is viable for this particular site and will install renewable/low carbon technology to the stated levels as outlined in the Energy Statement. In order

to secure this commitment by the applicant, it is recommended that conditions be imposed on any grant of permission.

FLOOD RISK AND DRAINAGE

5.57 The application site is situated approximately 1.2km from the River Foss. There are several drainage ditches and ponds within the site and areas of wet marshy ground in association with the ponds. The site is relatively flat, poorly drained and subject to surface water flooding, as evidenced by waterlogged ground, ponds and drainage ditches on site during periods of wet weather.

5.58 The majority of the development is in low risk Flood Zone 1 but a small area of land adjacent to Jockey Lane along the eastern edge of the site falls within high risk Flood Zone 3 and has suffered from river flooding in the past. A Flood Risk Assessment (FRA) accompanies the application.

5.59 The submitted FRA assessed this information together with other data from a number of sources and consultation responses from Environment Agency (EA) and Yorkshire Water (YW) to consider the risk of flooding to the development.

5.60 It concluded that the site apart from a small area of land lies within Flood Zone 1 and therefore low risk of flooding. However, any flooding that may arise will be in relation to surface water given the low permeability of the ground and its relative flatness.

5.61 In order to minimise this risk, the proposal is designed to a 1 in 500 year storm event, incorporates a plateau area approximately 1.5m above existing ground level, an on-site SUDS attenuation pond to store surface water run-off and soft landscaping.

5.62 The EA have not raised any objections to the development subject to the imposition of conditions on any grant of approval to control finished floor levels and surface water drainage.

A Drainage Impact Assessment by ARUP accompanies the application. This considers sources of surface water drainage and foul water drainage and makes recommendations for the proposed development.

5.63 The Flood Risk Assessment and Drainage Impact Assessment have been assessed by the Councils Drainage Engineer, Yorkshire Water and Foss Internal Drainage Board (FIDB) and no objections have been raised to the strategy proposed subject to the imposition of conditions on any grant of approval. Some of the conditions follow the recommendations of the EA to ensure that a suitable surface water drainage system serves the site.

ECOLOGY

5.64 The application site comprises of areas of improved and semi-improved grassland, wet semi-improved grassland, species rich hedgerows, mature trees, shrub, waterbodies and ditches. A number of surveys have been carried out which have detected species including water voles, great crested newts, bats, birds and invertebrates within the site, some of which are a result of the ditches formed within the site.

5.65 There is a comprehensive system of legislation at international and national level, which aims to protect biodiversity, at the landscape, habitat and species level. Comprehensive guidance and policy pertaining to biodiversity exists in the planning process including the recent RSS and PPS9. PPS9 states that the presence or otherwise of a protected species is a material consideration when a Local Planning Authority (LPA) is considering a development proposed development that, if carried out, will likely result in harm to the species or habitat unless adequate mitigation measures are put in place.

5.66 It is considered that the Ecology and Nature Conservation chapter of the Environmental Statement (ES) accompanying the application provides an accurate assessment of the overall wildlife interest and value of the land proposed for development and makes a reasonable prediction of the likely protected species interest of the area, particularly for Great Crested Newt. The Great Crested Newt assessment is necessarily based on sub optimal information but is sufficient to enable an analysis to be made.

5.67 The ES also enables the likely environmental impact of development to be assessed and how best this interest can be accommodated and mitigated for. This analysis takes account of the possible need for further Great Crested Newt survey work in March 2009 and accommodates the likely results of this survey with mitigation that, with the retention of a large area of existing habitat, is in excess of what is likely to be required. It is acceptable therefore that the application can be considered at this stage. In the unlikely event, however, a much larger population of newts is found, there may be a need for further mitigation work but this can be accommodated at the licence application stage.

5.68 Similarly for water vole, the primary habitat is being retained and enhanced and there is likely to be little long term disturbance of the population beyond the construction phase.

5.69 There is likely to be a slight negative impact on bats in the short to medium term but this is unlikely to have a significant impact on the population as a whole. This will be compensated for as the landscape matures. It can be partially mitigated for by incorporating some larger heavy standards within the landscaping to provide some immediate structural height to the new landscape to offset the loss of the larger trees to be removed to enable the development to be constructed.

5.70 With regard to badgers, the Councils Countryside Officer does not consider that there should be any proposals to enhance the development site specifically for this species which is known to be present in the wider landscape to the east. Any such proposals would only encourage them to cross what can be a wide and busy road and so increase the likelihood of traffic mortality. If badgers do stray onto the land for foraging, the development will not form a complete barrier to westward movement as there are corridors of landscaping outside of the security fencing that allow movement around it.

5.71 Overall, the development as proposed has the significant benefit of not intensively using all of the available land. This not only enables the areas of primary wildlife interest to be retained in situ but also permits considerable enhancement and

expansion of the resource both for protected species and wildlife in general. Thus, all of the necessary mitigation work can be carried out on-site without the need for off site translocation of any protected species or off site mitigation work. This will allow an attractive and diverse landscape to be established around the building.

5.72 The mitigation and landscaping proposed within the application and identified within the submitted drawings are acceptable. They cover enhancement of water bodies, grassland and protected species habitat and ensure that the development, if approved, is likely to comply with both local, regional and national policies and guidelines with regard to wildlife and should provide as diverse a habitat and wildlife interest as at present. The use of locally sourced wildflower seed in enhancing the existing sward is particularly welcome.

5.73 Following advice from the Councils Countryside Officer the applicant has submitted additional information setting out a summary of the ecological mitigation and enhancement measures that would be undertaken for the scheme. Further comments from the Countryside Officer indicate that the document is acceptable, summarises the proposed action and clarifies what is intended. This can be controlled by condition on any approval.

ARCHAEOLOGY

5.74 The application site lies outside the Areas of Archaeological Interest, but within an area of where extensive archaeological work has been carried out in advance of the construction of the Monks Cross Park and Ride site.

5.75 The application is accompanied by an Environmental Statement that contains a full assessment of the archaeological potential of the site. The assessment was based upon data provided in the Archaeological Technical Appraisal and previous extensive excavation works on the site. The evaluation and excavation demonstrated the existence of a temporary Roman Camp and earlier prehistoric features including a pit-alignment, pre-historic ditch and post-medieval pottery.

5.76 During construction of the site direct impact upon the buried archaeology remains would be likely. A proportion of the western area of the site has already been excavated, therefore the proposed development would not impact the buried archaeological remains on this part of the site. The document suggests that the following mitigation measures will be required in the form of trial trenching in areas where construction activities would affect archaeological deposits, detailed archaeological investigation will take place to record where these trenches identify significant features and deposits which cannot be preserved in situ.

5.77 The Councils Archaeologist supports the recommendation in the Environmental Statement and in accordance with guidance in PPG16 Archaeology and Planning suggests the imposition of conditions requiring an archaeological programme and watching brief to be undertaken on any grant of permission.

NOISE

5.78 As part of the development a total of 24 Diesel Rotary Uninterrupted Power Supply (DRUPS) units (emergency power supply) will be provided in two buildings. These along with two cooling towers are the dominant noise sources from the

proposed development. For the majority of the time the DRUPS units will be operating in utility mode when any noise impact will be minimised and assessments according to BS4142 during the night time predict a 3DB difference which equates to marginal significance with the DRUPS units and cooling towers in operation.

5.79 With all DRUPS units operating at 100% of capacity during the night a BS4142 assessment predicts that there will be a 6dB difference which also equates to marginal significance, however the likelihood of all units operating at 100% capacity during the night is remote and would only occur in the event of an emergency.

5.80 Noise from construction works has been identified as having the potential for minor adverse noise impact which could be reduced to negligible from appropriate mitigation measures as detailed in the proposed Construction Environmental Management Plan (CEMP). Similarly vibration from construction works have been identified as having the potential for minor adverse noise impact which could also be reduced to negligible for appropriate mitigation measures in the proposed (CEMP).

5.81 A Noise Assessment accompanies the application. This presents an assessment of noise and vibration issues and their mitigation in support of the application. This considers the potential environmental noise impact of the development on the surrounding area; noise on the development site (and how this might affect the existing residential properties); and potential noise issues within the development. The existing noise climate on site and at the existing noise sensitive properties around the site have been assessed.

5.82 The conclusions of the assessment are that the main sources would be traffic noise and plant noise. The increase in noise terms would be low and appropriate mitigation could control the noise impact of the DRUPS and plant.

5.83 This report and its conclusion have been assessed by the Council's Environmental Protection Unit and its findings accepted. Although no objections are raised in principle, a condition to restrict operation in the night, other than in the event of an emergency is suggested. This will also restrict the regular testing of the units to daytime hours during the week when the background and ambient noise levels are highest. In addition, it is also recommended that a CEMP to identify the procedure to minimise the creation and impact of noise, vibration, dust and waste disposal as a result of site preparation, groundwork and construction be submitted to approved in writing by the Local Planning Authority.

AIR QUALITY

5.84 The application site does not lie within an Air Quality management Area. However, an Air Quality Assessment has been carried out and accompanies the application to determine the likely changes in air quality as a result of both the construction and operation of the development as proposed. The assessment takes into account advice in PPG13 Transport and PPS23 Planning and Pollution Control relating to Air Quality Management and considered the existing air quality in the area, and identified the potential changes in local air quality as a result of construction and operation.

5.85 During construction the main impact would be the emission of dust. This would be controlled by mitigation measures detailed in a Code of Construction Plan to minimise or avoid potential adverse impacts. In operation, the main impact would be vehicle emissions and emissions from the operation of the DRUPS generators. Modelling has taken been undertaken to the potential impact of the traffic changes on local air quality both with and without the development in situ. This showed that the potential impact would be small increasing only slightly with the development in place (but within the 5% threshold given by the Council on Annual Average Daily Traffic flows). In addition, following consultation with the Councils Environmental Protection Unit the applicants have been advised that the emission from the DRUPS units are not considered to be significant because as back up emergency generators they will only operate during testing, grid failures/spikes.

5.86 Overall the conclusions drawn in the Air Quality Assessment are that no significant effects on local air quality are predicted as a result of the proposed development. This report and its conclusion have been assessed by the Council's Environmental Protection Unit and its findings accepted and as a result no objections are raised in terms of air quality.

SITE INVESTIGATION

5.87 The application site currently comprises informal grazing land with associated buildings which are vacant and derelict. The site is relatively flat with a number of ponds and ditches along the perimeter of the site.

5.88 An assessment was undertaken using a variety of information sources to examine geo-technical aspects of the site, ground water conditions, ground gas, historical land uses and an appraisal of potential contamination. The report concludes that the site is relatively flat. Due to the historical use of the land for agriculture for at least 200 years the risk of contamination is low. However, there is evidence of elevated levels of PAH and asbestos sheeting on site, which is to be removed in accordance with the appropriate waste legislation to a licensed tip.

5.89 The use of the aquifer as ground source cooling is suggested both as a mitigation measure and a way of off-setting energy consumption of the building cooling system. This is addressed in more detail in the sustainability section of the report.

5.90 This report has been considered by the Councils Environmental Protection Unit and accepted subject to the imposition of a condition on any grant of permission requiring the developer to inform the Local Planning Authority if any contamination is found during any time of carrying out the development. This is to ensure that any risks from land contamination to future users of the land and neighbouring land are minimised and that development can be carried out without unacceptable risk. This is also as recommended by the Environment Agency.

5.91 The removal of the waste to a licensed tip is also recommended by the Environment Agency, however it is to be noted that the Alne Brickworks Landfill Site where it is proposed to be taken does not hold the relevant environmental permit to receive this type of waste and an alternative site should be investigated. As this

issue is controlled under separate legislation, an informative to highlight the issue can be added to any grant of planning permission.

CRIME PREVENTION/SECURITY

5.92 Given the nature of the development, security is a main consideration for the applicant. The application site and buildings are protected by a range of security measures all of which have been designed to have a minimal impact on visual amenity.

5.93 Post and rail timber fencing is proposed for the perimeter of the site to discourage casual pedestrian access on the site. This is to protect the wildlife areas created within the site. The applicant have confirmed that access to the site is acceptable by prior arrangement in a controlled manner for educational purposes and/or study groups.

5.94 Within the site boundary are a series of ditches which impedes vehicular access on to the site and provides a wildlife habitat.

The main security fencing consists of a 3m high outer fence with a 1.5m separation distance and a 2.4m high inner fence. The proposed fencing is be paladin (weld mesh) type coloured green, the exact shade (to a RAL or British Standard) which can be satisfied by a condition on any approval.

5.95 Following consultation with North Yorkshire Police, no objections are raised to the principle of the proposal. It is suggested that a condition be added to any grant of permission regarding any risk identified by the Police Terrorism Security Advisor, for which full comments have been forwarded to the agent to take into consideration.

COMMENTS IN RELATION TO THE REPRESENTATION RECEIVED

5.96 The issue of increased traffic as a result of the development highway safety cited in the representation section of this report have been addressed in the main body of the report. However, following the accompanying Traffic Assessment being assessed by the Councils Highway Services and the Highways Agency, who have concluded that the surrounding highway network can accommodate the proposed development, and that the traffic generation is unlikely to be noticeable. In light of this it is felt that the proposal would not have a detrimental impact on the safe operation of the strategic highway network.

6.0 CONCLUSION

6.1 The proposed global banking data centre would not only meet the long term UK and international business requirements of the applicant, but represents a major development by a global business with £300million investment in the city, creating substantial socio-economic benefits both during the construction phase and beyond. It would provide an opportunity for B1 development, for which the principle of a form of development on this site has already been established in the extant permission.

6.2 The development would create up to two thousand jobs during the construction period, drawing heavily on the local labour market with around 100 new jobs created (for senior managers, engineers, IT operatives and support staff) for the staff required to run the data centre. The provision of both short and long term

employment at the current time of a recession is welcomed and would provide a substantial boost to the local economy.

6.3 The proposal would also bring forward the provision of two fibre optic cable links and necessary IT infrastructure (for high speed Broadband) through the city, to the site. The investment in IT infrastructure of between £10million and £12million will provide future opportunities for businesses across the city, including Science City businesses and institutions such as, the University of York to connect to this facility.

6.3 As Members will be aware this site is allocated for employment development in the Development Control Local Plan and there is an extant planning permission for employment development. The principal of employment development here has already been accepted. The proposed development involves the provision of a substantial single building on the site within a landscaped setting. The applicant has addressed site specific issues in the detailed design of the scheme.

6.4 At time of writing this report, the S106 agreement has yet to be drawn up. However, negotiations are still on going with the applicant and given the timescale for commencement of development, the application has been brought to committee in order that a resolution can be taken as to the acceptability of the scheme.

6.5 If the Planning Committee is minded to grant planning permission, subject to any adverse comments being received from the Highways Agency, the Council and the applicant [HSBC] entering into a S106 agreement to secure a monetary Highways contribution and the waste heat transfer to Waterworld, the application be referred to the Secretary of State for consideration.

6.6 If the Secretary of State is minded not to intervene, planning permission be granted, with authority to enter into a S106 agreement to cover the matters detailed in the report and the imposition of appropriate conditions be delegated to the Assistant Director of City Strategy (Planning and Sustainable Development).

7.0 RECOMMENDATION: Approve subject to Section 106 and reference to the Secretary of State.

1 The development shall be begun not later than the expiration of the 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 only in accordance with the following plans:-

Drawing no:

- 1/Vangarde/510(R)

- Figure 1.3

-1/Vangarde/512(F)

- 1/Vangarde/514(A)

-1/Vangarde/610(G)
-1/Vangarde/611(F)
- 1/Vangarde/613(G)
- 1/Vangarde/614(C)
- 1/Vangarde/513(E)
- 1/Vangarde/630(A)
125893-05 Figure 8.5

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

3 ARCH1 Archaeological programme required

4 ARCH2 Watching brief required

5 DRAIN1 Drainage details to be agreed

6 No development approved by this permission shall be commenced until a Scheme for the provision, implementation and maintenance of a surface water regulation system has been approved by and implemented to the reasonable satisfaction of the Local Planning Authority in consultation with the Internal Drainage Board. The rate of discharge would not be expected to exceed that of a "Greenfield site" taken as 1.4 lit/sec/ha.

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

7 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

8 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved by the Local Planning Authority before development commences

Reason: To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading

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

Reason: To ensure that the development can be properly drained

10 Unless otherwise approved in writing by the Local Planning Authority, no buildings shall be occupied or brought into use prior to completion of the approved

foul drainage works

Reason: To ensure that no foul water discharges take place until proper provision has been made for its disposal

11 Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor

Reason: In the interest of satisfactory drainage

12 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- Details of how the scheme shall be maintained and managed after completion
- Details of the location and volume of the onsite surface water storage, balancing ponds and oversized pipe network.
- Surface water run off rates from the site should not exceed 1.4 l/s/ha.
- There should be no increase in run off rates into local watercourses and works should not increase flood risk on Jockey Lane.
- Finished floor levels should be set a minimum of 300mm above site level or the 1 in 500 year level of the drainage pond, whichever is higher.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

13 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect controlled waters. The envirocheck historical data report identifies an on-site factory and unknown infill on the site boundary

14 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To protect controlled waters.

15 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: The site is situated on the Sherwood Sandstone, which is a Major Aquifer.

16 The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol interceptors has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To protect the Sherwood Sandstone, which is a Major Aquifer.

17 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, other than the DRUPS units and two cooling tower units, which are audible outside of the site boundary when in use, shall be submitted to the Local Planning Authority for approval. These details shall include maximum sound levels ($L_{Amax(f)}$) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenities of adjacent residents.

18 The Diesel Rotary Uninterrupted Power Supply DRUPS units should only be operated in Diesel mode during the hours of 08:00 to 18:00 (Monday to Friday),

unless required for emergency purposes.

Reason: To protect the amenities of adjacent residents

19 Prior to any works commencing on site, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork, construction and demolition phases of the development and manage Heavy Goods Vehicle (HGV) access to the site. Once approved, the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To protect the amenities of adjacent residents.

20 All piling operations shall be carried out using the method likely to produce the least vibration and disturbance. Full details of the dates, times and duration of operations shall be submitted to, and agreed in writing by, the Local Planning Authority before any piling operations are begun.

Reason: To protect the amenities of adjacent residents.

21 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to 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.

22 HWAY14 Access to be approved, details reqd

23 HWAY18 Cycle parking details to be agreed

24 HWAY19 Car and cycle parking laid out

25 HWAY35 Servicing within the site

26 HWAY40 Dilapidation survey

27 The site shall hereafter be occupied in accordance with the aims measures and outcomes of a Travel Plan which has been agreed in writing by the Local Planning Authority unless otherwise agreed in writing by the Local Planning Authority. The aforementioned Travel Plan and subsequent revisions shall be based upon the submitted document dated 3 February 2009 received by City of York Council on 4 February 2009

Reason: To reduce the reliant of the private car and encourage alternative modes of

transports

28 LAND1 IN New Landscape details

29 Before the commencement of development, including building operations, excavations, or the importing of materials, a method statement regarding protection measures for the existing trees shown to be retained shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing to create root protection areas (RPA) to be shown on a plan. The existing grassland within the RPA shall also be left undisturbed.

The protective fencing line shall be adhered to at all times during development to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, parking or manoeuvring of vehicles, et al. Within the exclusion zone there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new service runs, no notice boards, et al.

The tree protection method statement should be included in the contractor's Environmental Site Management Plan.

Reason: To ensure protection of existing trees before, during and after development which significantly contribute to the amenity and bio-diversity value of the area and/or development.

30 The ecological mitigation measures for the development hereby approved shall be carried out in accordance with details set out in the Ecology and Nature Conservation Chapter of the Environmental Statement received by the City of York Council on 24 November 2008 and the summary of Ecological mitigation and enhancement measures document received by the City of York Council on 16 January 2009, unless otherwise agreed in writing by the Local Planning Authority

Reason: In the interests of biodiversity

31 The development shall be carried out in accordance with the submitted energy statement and will provide from on-site renewable energy sources, 2.76% of the developments predicted energy requirements (fully operational requirements), unless otherwise agreed in writing by the Local Planning Authority. The approved scheme shall be implemented before first occupation of the development and a written letter from the installer of the technology, post build, verifying the installation has been installed should also be submitted to the Local Planning Authority. The site thereafter must be maintained to the required level of generation.

Reason: In the interests of sustainable development

32 The development hereby approved shall be constructed to a BREEAM standard of Excellent. A formal post construction assessment by a licensed BREEAM assessor and a copy of the certificate shall be submitted to the Local Planning Authority prior to occupation of the building. Should the development fail to achieve a "Excellent" BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures

shall be undertaken to achieve a "Excellent" rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: To ensure that the development complies with the principle of sustainable development

33 Details of measures to be incorporated into the development appropriate to any risk identified by the Police Counter Terrorism Security Advisor shall be submitted to and be approved in writing by the Local Planning Authority and the measures shall be carried out in strict compliance with the approved details.

Reason: To safeguard the Local Planning Authority's rights of control over the matter referred to in order to minimise the likelihood of the buildings and site being the subject of extremist activity.

34 Before development begins details of existing and proposed ground levels on the site and finished floor levels of buildings shall be submitted to and approved in writing by the Local planning Authority. The development shall be carried out as approved unless otherwise agreed in writing

Reason: In the interests of visual amenity

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, having taken the environmental information into consideration, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to issues surrounding socio-economic, visual and residential amenity, noise, air quality, land contamination, highway/pedestrian safety, sustainability, ecology and crime prevention. As such the proposal complies with Policies YH9, Y1, ENV5, E1, E3, E4, E5, T1, T2 and T3 of the Regional Spatial Strategy (RSS), Policies E1a, GP1, GP3, GP4a, GP4b, GP6, GP7, GP9, GP11, GP13, GP15a, NE1, NE2, NE3, NE6, NE7, T4, T13a and T18 of the City of York Local Plan Deposit Draft incorporating the 4th set of changes and Government Guidance contained in PPS1, PPG2, PPG4, PPS9, PPG13, PPS22, PPS23, PPG24 and PPS25

2. Your attention is drawn to the existence of a legal obligation under Section 106 of the Town & Country Planning Act 1980 relating to this development

3. The Foss Internal Drainage Board requires that the applicant provide evidence that surface water from the existing site currently discharges to the adjacent watercourse and the points of discharge.

Contact details:

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