

## COMMITTEE REPORT

**Committee:** Planning Committee      **Ward:** Heworth  
**Date:** 23 July 2009      **Parish:** Heworth Planning Panel

**Reference:** 09/00632/FUL

**Application at:** 24 Heworth Green York YO31 7UG

**For:** Variation of conditions 4 and 16 of application 06/02764/FUL (mixed use scheme for residential development and offices) to allow a reduction of building heights and to allow the accommodation schedule to be amended from 141 one bedroom flats, 141 two bedroom flats, 12 three bedroom town houses and 12 four bedroom town houses to a maximum of 12 two bedroom apartments, a maximum of 6 two bedroom houses, a maximum of 60 three bedroom houses and a maximum of 41 four bedroom houses unless otherwise agreed in writing by the Local Planning Authority

**By:** National Grid

**Application Type:** Full Application

**Target Date:** 2 June 2009

### 1.0 PROPOSAL

1.1 The application site measures 3.5 hectares. The historic use of the site is as a gasworks, with gas holder sited adjacent to a 32m telecommunications lattice tower. A large part of the site has been used as a Transco depot and offices. The eastern part of the site forms a grassed area, previously used in association with the gas works. The Heworth Green frontage of the site, which contains a strip of mature trees, lies within Heworth/Heworth Green/East Parade/Huntington Road Conservation Area.

1.2 This application relates to an approved outline consent granted in November 2006 for redevelopment of the former gas site on Heworth Green for residential and office uses (planning ref. no.: 03/04046/OUT). Following the original approval, a separate application was submitted to vary a number of conditions contained within the original outline approval (06/02764/FUL). This is to allow site clearance, demolition and remediation works to be undertaken by the current owner and applicant, National Grid, before the necessary details are submitted for approval. As such, other than the rewording of the 'prior of commencement' conditions, the conditions imposed in the original outline consent including the Section 106 requirements have not been affected in any way. Permission was given in April 2008.

1.3 Condition 16 of both the original outline consent and the subsequent variation of conditions consent requires the approved development to be carried out in complete accordance with the accommodation schedule submitted on the 12th May 2004. This schedule stipulates the development of 141 one bed flats, 141 two bed flats, 12 three bed townhouses, and 12 four bed townhouses.

1.4 This application seeks to change the accommodation schedule relating to permission reference 06/02764/FUL to allow a more varied accommodation mix incorporating primarily family housing as opposed to apartment-led mix. The wording of condition 16 is proposed to be amended to:

"The development hereby approved shall not be carried out otherwise in accordance with the accommodation schedule, being a maximum of 12 two bedroom apartments, a maximum of 6 two bedroom houses, a maximum of 60 three bedroom houses, and a maximum of 41 four bedroom houses unless otherwise agreed in writing by the Local Planning Authority".

1.5 The approved building heights would need to be reduced also to facilitate the proposed variation. Condition 4 of both the original outline consent and the subsequent variation of conditions consent require development to be carried out in accordance with the 'Land Use Diagram and Building Heights' drawing. The purpose of this application is to vary condition 4 also to:

"The development hereby approved shall not be carried out otherwise than in complete accordance with the Proposed Context - Land Use Diagram and Building Heights drawing no. (SK) BR/500 rev A, which for the avoidance of doubt illustrates maximum storey heights".

1.6 The proposed variation would not alter the commercial element of the original approved scheme.

1.7 An Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ("EIA Regulations 1999") has been submitted with the original planning application. The original outline consent was approved on the basis that the information contained within the statement is acceptable for environmental issues to be thoroughly examined. Due to the extent of the proposed variation, together with the changes occurred within and beyond the application site since the Environmental Impact Assessment was last carried out in 2003 (and 2004), parts of the Environmental Statements have been updated. This is carried out in compliance with the EIA Regulations 1999 as amended the Town and Country Planning (Environmental Impact Assessment) (Amendment) (England) Regulations 2008.

1.8 For the purpose of updating the original Environmental Statement the following documents have been submitted:

- i. Sustainability Statement (2009);
- ii. Transport Note (2009);
- iii. Noise Assessment (2009);
- iv. Local Air Quality (2009);

- v. Ecological Constraints Survey (2009);
- vi. Ground Conditions and Contamination (2009);
- vii. Flood Risk Assessment (2009);
- viii. Planning Policy Context (2009);
- ix. Design and Access Statement (2009); and
- x. Proposed illustrative layout plan (2009).

1.9 In addition, the EIA Screening Matrices (2009) submitted with this application assesses changes which are potentially 'significant' in environmental terms. Pursuant to paragraph 13, Schedule 2 of the EIA Regulations 1999 it assesses whether further Environmental Impact Assessment is required by identifying changes which are considered to have adverse effects on the environment. The report concluded that the proposed change in accommodation mix will have no significant adverse environmental impact; hence further Environmental Impact Assessment is not required. The above conclusions will be further examined under sections 4 and 5 of this report.

1.10 Due to the extent of the proposed variation (from 306 predominantly apartments to 119 residential units), this applications will be determined by members of the Main Planning Committee.

## **2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Heworth Green/East Parade 0042

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

Floodland GMS Constraints: Flood Zone 2

Floodzone 2 GMS Constraints: Flood Zone 2 CONF

Floodzone 3 GMS Constraints: Flood Zone 3

Hazardous Premises GMS Constraints: Transco PLC COMPLE

Listed Buildings GMS Constraints: Grade 2; 26 Heworth Green 0013

## 2.2 Policies:

CYGP1  
Design

CYGP3  
Planning against crime

CYGP4A  
Sustainability

CYGP4B  
Air Quality

CYGP5  
Renewable energy

CYGP6  
Contaminated land

CYGP7  
Open Space

CYGP9  
Landscaping

CYGP13  
Planning Obligations

CYGP15  
Protection from flooding

CYNE1  
Trees, woodlands, hedgerows

CYNE3  
Water protection

CYNE6  
Species protected by law

CYNE7  
Habitat protection and creation

CYHE2  
Development in historic locations

CYHE3  
Conservation Areas

CYHE10  
Archaeology

CYHE11  
Trees and landscape

CYT2A  
Existing Pedestrian/Cycle Networks

CYT2B  
Proposed Pedestrian/Cycle Networks

CYT4  
Cycle parking standards

CYT5  
Traffic and pedestrian safety

CYT7C  
Access to Public Transport

CYT13A  
Travel Plans and Contributions

CYT20  
Planning agreements

CYH2A  
Affordable Housing

CYH3C  
Mix of Dwellings on Housing Site

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

CYE3B  
Existing and Proposed Employment Sites

CYE4  
Employment devt on unallocated land

CYED4  
Developer contributions towards Educational facilities

CYL1C  
Provision of New Open Space in Development

CYSP3  
Safeguarding the Historic Character and Setting of York

CYSP6  
Location strategy

CYSP7A  
The sequential approach to development

CYSP8  
Reducing dependence on the car

### **3.0 CONSULTATIONS**

#### EXTERNAL

3.1 HEALTH AND SAFETY EXECUTIVE (HSE) - Latest response received 12 June 2009:

- The decision to grant planning permission rests entirely with the local authority. HSE advises on the level of risk from notifiable installations;
- Provided that a condition is imposed requiring the gas holder to be decommissioned and removed from the site prior to the commencement of development HSE would not and could not object.

3.2 ENVIRONMENT AGENCY - Response received 6 May 2009: As the revised scheme concerns only the volume of particular housing types in the development the Environment Agency has no comments. It is believed that the revision would not impact on previous comments regarding the scheme.

3.3 FOSS INTERNAL DRAINAGE BOARD - Response received 7 May 2009: The Board has no objections to the proposed revision of accommodation but would request that the final rate of surface water discharge to the receiving watercourse does not exceed any previously agreed with the local planning authority nor the Environment Agency.

3.4 HEWORTH PLANNING PANEL - Response received 30 April 2009:

- The proposed variation is an improvement on the original plan, with respect to the number and type of dwellings and the increased provision of public spaces. However as the variation is more family-oriented the following points should be considered:

- i. Location of the Play Area: The play area should be relocated to the "public area" in the top-middle section of the site due to issues concerning anti-social behaviours.
- ii. Access to the Sustrans cycle track: There should be an access point into the development from the cycle track. This should be designed such that motorbikes will not have access.

- iii. Vehicle access: Although agreed in the original plan, the Planning Panel is surprised that vehicle access to the site is via Heworth Green rather than the new Eboracum Way. The new road is wide and is controlled by traffic lights, hence it would appear to be a more logical access road.
- iv. The new properties along 105-108 would lose some of the benefits of the new development as they face away from the site into Eboracum Way. This means that vehicle access is from one side, whilst pedestrian access is from the other.
- v. The new properties along 88-108 would be more secure if they did not have access from Eboracum way.
- vi. Car Park: Some of the cars will be parked in bays not easily supervised from their properties.
- vii. Public Spaces: There needs to be a well defined boundary between the public areas at the bottom of the site and the private dwelling. Preferably with a fence/wall.
- viii. Maintenance of public spaces: It is unclear who will be responsible for the maintenance of the public areas.

3.5 NATURAL ENGLAND - Response received 8 May 2009: No objections.

3.6 NORTH YORKSHIRE POLICE: Response received 24 April 2009 - Based on the submitted information, there needs to be careful consideration about the design and layout of the proposed site as there could be serious crime and disorder implications. There is an intimation from the Associated documents that the Secured by Design Award might be applied for in relation to this development. If this is the case, an application form together with full sets of drawing should be furnished at the design stage prior to the submission of reserved matters application.

Further response received 18 June 2009 - In order to comply with Code for Sustainable Homes' section on security, evidence is required to show that an Architectural Liaison Officer/Crime Prevention Design Advisor has been and will be appointed to provide advice early in the design stage to ensure that the requirements are met and that the advice will be followed.

3.7 YORKSHIRE WATER - Response received 7 May 2009: Observations from Yorkshire Water regarding a variation of conditions are not required.

3.8 SUSTRANS - Response received 18 May 2009:

- Sustrans owns the Foss Island and Derwent Valley Railway path which borders the eastern boundary of the site. The railway path was re-opened to the public in the 1992/3 as a joint project between Sustrans and York City Council.
- Whenever adjacent development takes place Sustrans are anxious to see the cycle path integrated into new schemes to maximise accessibility and use. Public security also depends on high levels of patronage and visibility.
- Sustrans would like to see the railway path to be the focus for sustainable travel for new residents.
- It is important therefore to ensure open views from the railway path across the site and from the site to the railway path.
- The railway path should be regarded as part of the extended public open space within the development.

- The indicative plan suggests fencing and a tree lined barrier between the railway path and the new development which Sustrans would want to strongly oppose notwithstanding the importance of some trees.
- Sustrans would also like to see housing developed in accordance with the Government's recently published manual for street design. The indicative plan does not seem to have considered these new guidelines.
- Finally, Sustrans hope that any development of this size is scrutinised most carefully for the contribution it can make to York as a cycle demonstration city.

3.9 SPORT ENGLAND - Response received on 22 June 2009: No comments provided that the proposed change would not materially affect the playing fields and contributions to new sports facilities as previously agreed.

3.10 YORK CIVIC TRUST - Consultation expired 5 June 2009: No response received.

3.11 NEIGHBOURS notified, site notice posted, and press advertised - 4 letters of objections received:

- The 3 storey buildings proposed would significantly reduce the level of daylight entering into the living room/kitchen area at 7 St Maurice's House. The occupants would also be overlooked by the development.
- The proposed public open space would affect the privacy and security of the occupants at 123 Layerthorpe.
- The existing 30m high mast should stay in the current location and should not be altered.
- Although the mature trees which screen the site from Heworth Green would be retained, it is noted that some at the west end have already been removed, opening up a very ugly view, it is hoped that the removed trees will be replaced, and further removal of trees will be discouraged

INTERNAL

3.12 HOUSING STRATEGY AND ENABLING - response received 19 May 2009:

- The team is happy to support the proposed change in house type and numbers at this location.
- The original provision does not fit with the priority housing need in the city of family houses, as outlined in the 2007 Strategic Housing Market Assessment (SHMA).
- Furthermore, current market conditions are struggling to support the sale of flats.
- Consequently the move to provide 107 houses and 12 flats is a welcome revision and will provide a far more sustainable development.
- In terms of affordable housing, officer's are advised by planning colleagues that this is not a new application, but a revision to the existing application through Section 73 of the Town and Country Planning Act 1990 as amended.
- As this is not a new application it was agreed that this will be dealt with under the existing consent, and consequently will retain the 25% affordable housing requirement.



- Should this change in anyway and be dealt with as a new application, or the existing consent lapses, then the requirement will be for a target of 50% affordable housing.
- In addition to providing 25% affordable housing, the applicant is prepared to meet all the requirements of the affordable housing policy in offering a 'pro rata' provision of house types, specification and car parking, a 70:30 split between social rented and discount sale, and fully pepper-potted throughout the site.
- All of the above will be dealt with through conditions and Affordable Housing Plan as part of the Section 106 agreement. Should officers deem 'pro rata' provision to not be in the best interests of York's housing need then a revised provision may be otherwise agreed.
- In conclusion, although the reduced total numbers of units on site mean a lower overall provision numerically of affordable housing, the mix of the housing are far more consistent with the affordable and general housing need as outlined in the SHMA. 25% affordable housing will be retained as planning colleagues have advised that this is still the same application and is purely a variation of the original application which was submitted under the previous affordable housing policy.

### 3.13 HIGHWAY NETWORK MANAGEMENT - Response received 26 May 2009:

- The proposal would lead to a reduction in traffic levels over that previously assessed in the original outline application for the site and is in accordance with that considered within the Foss Basin Masterplan.
- Due to the reduced level of traffic that would be generated over the original consent, the contributions towards sustainable travel measures and the Foss Basin Masterplan have also been reduced accordingly and will be secured via a Section 106 agreement. These comprise:
  - i. A financial contribution of £73.1k towards the works identified within the Foss Basin Masterplan; and
  - ii. A contribution of £19k towards the setting up and operation of a car club in the vicinity of the site.
- Access to the site remains the same as that proposed in the original outline application and is still considered suitable to serve the level of development proposed.
- Conditions as per the previous outline consent are to be applied.
- No objections.

### 3.14 CITY DEVELOPMENT UNIT - Response received 29 April 2009:

- Compared to the original outline consent, the proposed housing mix provides a mix that is more in line with the findings of the Council's Strategic Housing Market Assessment (SHMA) 2007.
- The revised housing mix would assist in delivering more family homes, which the SHMA identifies is needed in York due to the high level of apartments which have been built in recent years.
- Hence no objection is raised to the change of house types.
- The affordable housing target on this site will remain at 25% provided the scheme is delivered through a reserved matters application that relates to the original outline (03/04046/OUT).

- Should the permission expire or a new outline or full permission is submitted then the Affordable Housing Policy adopted by the Council at that time will be used as the target for affordable housing provision.
- The principles set out in the Affordable Housing Advice Note - July 2005 need to be incorporated into the reserved matters application for example pepper potting and indistinguishable housing types.

3.15 ECONOMIC DEVELOPMENT UNIT - Response received 22 April 2009: No comments as the proposal would amend the residential element of the scheme only.

3.16 LIFELONG LEARNING AND LEISURE - Response received 8 May 2009:

- It is expected that on site public open space provision and off site payments are based on the Councils standard procedures as set out in Open Space Commuted Sum Payments Advice Note.
- The team welcome the inclusion of play area on site and the five-a-side (junior) football pitch. The play area should be constructed to National Playing Fields Association LEAP standard given the size of the development and number of family homes. The football pitch should be constructed to Football Association standards.
- Any land which transfers to the City Council will require a separate commuted sum to pay for the long term maintenance and care of the land.

3.17 ENVIRONMENTAL PROTECTION UNIT - Response received 12 May 2009:

- i. Air Quality - As the revised scheme would generate fewer vehicle trips than the original outline approval, the impact on air quality is likely to be less than previously predicted. In terms of air quality, there is no reason why the revised application should not be permitted.
- ii. Contaminated Land - Conditions regarding further site investigation, risk assessment, remediation scheme, remedial works and method for piling foundations have been recommended.
- iii. Noise and other pollution - It is satisfied that the planning conditions imposed in the original planning approval in relation to minimising the effects of noise, dust and odour are adequate due to the nature of the proposed changes.

3.18 URBAN DESIGN AND CONSERVATION - Responses received 10 June 2009 and 11 June 2009:

- Although the master plan accompanying this submission, is only indicative, it is important that the 'illustrative site layout' proves that the proposed revised accommodation schedule is achievable. It is considered that changes will need to be made in order to result in a satisfactory alternative scheme.
- most of the town houses along the eastern boundary are too close to the existing trees.
- Similarly the building line of the proposed offices is tight up against the existing kerb of the area containing the trees, therefore not only would there be damage to the tree roots, the canopies of the trees would be touching the buildings. For this reason alone, the offices should be pulled away from the trees, or the parking and offices flipped.

- It is unclear how the mast would appear close up within the public open space, and how much fencing and ancillary equipment/structures are needed for it.
  - There appears to be good parking provision without compromising the street scene. There is also a good proportion of back to back gardens.
  - The plan retains the small public open space (POS) central to the scheme and to the entrance road, thus potentially providing an attractive arrival point, orientation, and sense of place.
- Placing the main POS and pitch along the south/southeast boundary avoids conflict with the trees, and the two compliment one another visually and physically. The POS and play area are readily accessible from Layerthorpe
- there may be security concerns in providing an access to the POS from the cycleway. However it may be better to provide a formal access rather than have a series of less secure, self-made tracks through the shrubbery.
  - The new development on the west side of James Street Link Road presents quite a large-scale, austere environment, therefore frontage space for a line of trees within the site is welcomed.
  - There is also an awkward change in level from the pavement alongside the road and the footpath link bordering the site to Layerthorpe. This change in level is currently marked by a brick retaining wall and railings. The houses along this western edge are exposed both front and back - it would be visually inappropriate to have a solid, high boundary along either the link road or the internal road.
  - To conclude, whilst the master plan is illustrative there are many issues that need to be addressed. These should be addressed at the outline stage.

#### COUNTRYSIDE:

- it is considered that the main ecological constraints of the site have been taken into account.
- it is recommended that work is carried out in line with the guidelines as set out in Section 4 of the ecological constraints survey.
- condition recommended.

#### SUSTAINABILITY:

- No objection with the proposed variation and with the proposed mix of residential development and offices.
- As with all applications, the development must fulfil policy GP4a of the City of York Draft Local Plan and meets the requirements of the Interim Planning Statement on Sustainable Design and Construction.

#### 3.19 DRAINAGE ENGINEERING CONSULTANCY - Response received 11 May 2009:

- Engineering consultancy objected as insufficient information has been provided by the developer to determine the potential impact the proposals may have on the existing drainage systems.

#### 3.20 EDUCATION - Response received 15 May 2009: Having reviewed the current levels of provision in the area, it is confirmed that no education contribution is required.

## 4.0 APPRAISAL

4.1 The main issues associated with this application are whether the proposed variation to the existing outline consent would meet the needs of York residents and whether it would have a significant adverse effect on the built and natural environment. The follow matters will also be considered:

- the principle of mixed use development;
- affordable housing;
- land contamination;
- air quality, noise, dust and odours;
- highways and traffic considerations;
- design issues, the effect on the conservation area, archaeology;
- effect on residential amenity;
- sustainability
- open space provision;
- health and safety
- crime prevention;
- impact on education provision;
- flood risk and drainage;
- utilities and telecommunications
- ecology

### NATIONAL, REGIONAL AND LOCAL PLANNING POLICY CONTEXT:

4.2 The following national, regional and local planning policies are considered of most relevance to this application:

i. PPS1 (2005) "Delivering Sustainable Development"- sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. It offers guidance on sustainable and inclusive pattern of development, the quality of natural and historic environment, the prudent use of natural resources, and the promotion of strong, stable and productive economy. The policy statement promotes high quality inclusive design and effective community involvement. It offers considerations to be taken into account in determining planning applications.

ii. PPS Supplement (2007) "Planning and Climate Change" - sets out how planning should contribute to reducing emission and stabilising climate change, taking into account the unavoidable consequences.

iii. PPS3 (2006) "Housing" - promotes more sustainable patterns of development and making better use of previously developed land for residential development, particularly in urban areas. It seeks more efficient use of housing sites by increasing densities and lower car parking standards, whilst encouraging better quality design and ensuring a good mix of housing that reflects local requirements. It also identifies the need for affordable housing as a material planning consideration.

iv. PPG4 (1992) "Industrial and Commercial Development" - provides advice on a range of issues, including locational factors, mixed uses and re-use of land.

- v. PPS9 (2005) "Biodiversity and Geological Conservation" - promotes sustainable development by ensuring that biological and geological diversity are conserved and enhanced. It seeks to conserve, enhance, and restore the diversity of England's wildlife and geology and to support urban renaissance through enhancing biodiversity amongst developments. High quality development should also be achieved by taking into account the role and value of biodiversity.
- vi. PPG13 (2001) "Transport" - seeks to promote more sustainable transport choices for people, and to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling, and seeks to reduce the need to travel, especially by car in new developments.
- vii. PPG15 (1994) "Planning and the Historic Environment" - emphasises that new buildings should be carefully designed where they stand along side areas of special townscape, including the setting of conservation areas.
- viii. PPG16 (1990) "Planning and Archaeology" - offers guidance on the handling of remains and the weight to be attached to them in planning decisions
- ix. PPG17 (2002) "Sport and Recreation" - includes advice to adopt a strategic approach to the provision of sport and recreation facilities, to protect open space for the community, to resist the loss of such provision, unless an equivalent provision or better is proposed.
- x. PPS23 (2004) "Planning and Pollution Control" - gives guidance on the relevance of pollution controls to the exercise of planning functions, including contaminated land and air quality. Advises it is not the role of local planning authorities to duplicate controls which are the statutory responsibility of other bodies.
- xi. PPG24 (1994) "Planning and Noise" - gives guidance on noise issues in the planning process.
- xii. PPS25 (2006) "Development and Flood Risk" - sets out the importance the Government attaches to management and reduction of flood risk in the planning process.
- xiii. Regional Spatial Strategy (RSS) for Yorkshire and the Humber (2008) provides a framework for strategic planning in the region to 2026. Both the 2008 RSS and the 1956 York Town Map form the statutory development plan. The following RSS Policies are considered of most relevance to this application:
- xiv. Policy YH4 - highlights that Regional cities and Sub Regional Cities and Towns should be the prime focus for housing, employment, shopping, leisure, education, health and cultural activities and facilities in the region.
- xv. Policy Y1 - details how core principles should be addressed within the context of York, and in particular with relation to the surrounding regions.

xvi. Policy ENV9 - highlights the street pattern, sky lines, view and setting of the historic City of York as worthy of protection.

xvii. Policy ENV12 - aims to ensure that investment decisions reduce, reuse, recycle and recover as much waste as possible.

xviii. Policy H4 - states plans, strategies and investment decisions should ensure the provision of affordable housing to address the need of local communities.

xix. Policy H5 - addresses the need for plans, strategies and investment decisions to ensure the provision of homes for a mix of households that reflects the need of the area.

xx. Relevant City of York Local Plan Deposit Draft (May 2005) Local plan policies are listed in section 2.2 of the report and are made reference to in the paragraphs below.

## PRINCIPLE OF THE MIXED USE DEVELOPMENT

4.3 The principle of residential and office development on this former gasworks site has been established following the approval of the original outline consent in November 2006. Recent changes in national, regional and local planning policies have not altered the acceptability of this development. In any case, this latest application relates to a valid outline consent that will remain valid as long as an application for all reserved matters is made before November this year. Hence the principle of the approved uses is considered acceptable at the time this application is assessed.

4.4 Compared to the original approval, the housing mix proposed provides a mix that is more in line with the findings of the Council's Strategic Housing Market Assessment 2007 (SHMA). Furthermore, the proposed revision would move away from apartment-led housing development by delivering accommodations more suitable for small to medium sized families. The SHMA identifies their demand in York due to the high level of apartments built in recent years. Thus the proposed mix is welcomed and accords with policy H3C "Mix of Dwelling on Housing Sites" of the City of York Draft Local Plan.

4.5 The proposed variation would reduce the residential density level to 34 dwellings per hectare from 87 dwellings per hectare. Whilst this is less than the minimum density level set out in Policy H5a of the Draft Local Plan for urban area, it is still higher than the indicative minimum of 30 dwellings per hectare set out in paragraph 47 of Planning Policy Statement no.3. Furthermore, having considered the area of land to be allocated for public open space contribution, the parts of the site to be retained by Transco for operational purposes, and the overall benefits of delivering family sized accommodations, on balance it is considered that the proposed density is acceptable in this location.

4.6 This application seeks to vary the residential element of the original scheme only. The commercial element would remain as per the original outline approval.

## AFFORDABLE HOUSING

4.7 As noted in paragraph 4.3 above, the scheme under consideration is a variation of an existing valid outline consent submitted under Section 73 of the Town and Country Planning Act 1990 as amended. As this is not a new residential scheme, the affordable housing requirement is retained at 25% which is the same percentage as the original outline approval. However, should this change in anyway either because of the original outline consent lapses or because of the need to submit a new outline planning application, then the requirement will be for a target of 50% affordable housing.

4.8 In addition to providing 25% affordable housing, the applicant is prepared to meet all the requirements of the affordable housing policy in offering a 'pro rata' provision of house types, specification and car parking, a 70:30 split between social rented and discount sale, and fully pepper-potted throughout the site.

4.9 The expected results would be that out of a total of 119 units, 30 would be affordable while the rest would be open market dwellings (89 in total). It also meant that:

- i. 3 out of a total of 12 two bed flats;
- ii. 2 out of a total of 6 two bed houses;
- iii. 15 out of a total of 60 three bed houses; and
- iv. 10 out of a total of 41 four bed houses would be affordable.

4.10 This is how the revised scheme compared to the original outline approval - Out of a total of 306 residential units, 76 is expected to be affordable. However, as noted in paragraph 4.7.2 of the original outline committee report (03/04046/OUT), the affordable housing would only be provided in the 1 and 2 bed accommodation due to the abnormal costs of developing the site, primarily the costs of remediating contaminated land on the site. The result is that:

- i. 38 out of a total of 141 one bed flats;
- ii. 38 out of a total of 141 two bed flats;
- iii. none of the 12 three bed town houses; and
- iv. none of the 12 four bed town houses would be affordable.

4.11 The above demonstrates that, whilst the reduced total numbers of units on site mean a lower overall provision of affordable housing numerically, the mix of the housing are far more consistent with the affordable and local housing need as outlined in the Strategic Housing Market Assessment 2007. Also as explained in paragraph 4.4 above, the proposed housing mix is considered to be more acceptable in planning term than the original apartment-led proposal. Overall, it is considered that the reduced number of affordable units in exchange for better and more-in-demand affordable housing is an acceptable compromise.

4.12 Like the original outline consent, the requirement of affordable housing would be secured by Section 106 agreement and delivered through associated terms and conditions and Affordable Housing Plan. It should be noted that the expected affordable housing provisions is for indicative purposes only, and may be changed

through officers' negotiation. Should the mix or total unit numbers change then 25% would be needed of any new schedule.

## LAND CONTAMINATION

4.13 Policy GP6 'Contaminated Land' of the Draft Local Plan advises that development on land which may have been contaminated by a previous use should include a preliminary assessment of the potential for contamination. A more detailed site investigation should be submitted prior to determination of the application should this preliminary assessment indicate the potential for contamination.

4.14 It is clear from its historical use that the site has the potential to be contaminated. The Environmental Statement submitted with the original outline application contained detailed information on Ground Conditions and Contamination including information on groundwater and risk assessment from contaminants. The investigation has highlighted the contamination is consistent with its former use, with contaminants found such as tar and coal gas related products found, though to a lesser extent than the neighbouring 'Foss Bank' site. The study carried out at that time concluded that the contamination would not preclude the development of the site, subject to remediation to protect the health of future residents of the site, and measures to prevent groundwater contamination.

4.15 The Environmental Statement submitted with the original outline application has since been updated to reflect the number, type and size of accommodations proposed under this current variation application. Compared to the original outline scheme which comprised of predominately apartments with no gardens, the main area of concern with regard to ground contamination is the provision of individual gardens. This is brought about as a direct result of the introduction of family-led housing scheme.

4.16 To mitigate the potential risk to future residents, the updated assessment recommended that impacted superficial made ground is removed to a suitable depth in areas where soft cover will be present (i.e. gardens, communal landscaping, public open space and play fields areas). Clean materials will then be imported to raise site levels and ensure at least 1m of clean cover in garden areas and a nominal thickness of clean cover in communal landscaping, public open space and playing field areas. Removal of soils within area of old coal yard, areas to be used as public open space adjacent to the southern boundary, the car park and former office areas, and the removal of contaminant materials such as tar have also been recommended to reduce the potential risks to future residents.

4.17 Measures to mitigate the potential risks to controlled water at the site and the potential risks to residents of adjacent properties and construction workers have also been recommended. These measures would be secured by conditions requiring further investigation and risk assessment, submission of remediation scheme, implementation of approved remediation scheme, reporting of unexpected contamination, and submission of monitoring and maintenance scheme. A statement detailing a schedule of site remediation liaison meeting between the owners and the Council was previously secured through Section 106 agreement. This requirement will remain should approval is given to this application.



## AIR QUALITY, NOISE, DUST AND ODOURS

4.18 As the revised scheme is likely to generate fewer vehicle trips than the original outline approval, the impact on air quality is likely to be less than previously predicted. With regard to the impact of noise on future residents, the Environmental Protection team is satisfied that the planning conditions specified in the previous outline consent in relation to the prevention and minimising the effects of noise, dust and odour remain relevant and adequate given the nature of the proposed variation.

## HIGHWAYS AND TRAFFIC CONSIDERATIONS

4.19 The Transport Assessment submitted with the original outline application states the residential element is likely to increase traffic generation by approximately 6% on Heworth Green itself while the effect of the office element is likely to be neutral as the proposed floor area matches what is currently operating on the site. According to the Highway Network Management team, the revised housing mix currently proposed would lead to a reduction in traffic levels over that previously assessed in the original outline application for the site and is in accordance with that considered within the Foss Basin masterplan.

4.20 Due to the reduced level of traffic that would be generated over the original consent, the contributions towards sustainable travel measures and the Foss Basin Masterplan have also been reduced accordingly and will be secured via a Section 106 agreement. These comprise a financial contribution of £73.1k towards the works identified within the Foss Basin Masterplan and a contribution of £19k towards the setting up and operation of a car club in the vicinity of the site.

4.21 A number of highway improvement works have been proposed in the original outline consent to accommodate 336 residential units and office blocks. These include the upgrading of existing access into the site with the new internal access road constructed up to adopted standard. There would also be highway improvements on Heworth Green through the provision of a dedicated right hand turn lane into the site and dedicated cycle lanes as shown on plan drawing no.: BGYORK.1/108 Rev C. These improvement works would not be altered notwithstanding the overall residential units reduction. Hence the arrangements previously approved would suitably serve the level of development currently proposed. No objections have been raised by the Highway Network Management team subject to the imposition of the original outline consent conditions.

## DESIGN, THE EFFECT ON THE CONSERVATION AREA, ARCHAEOLOGY

4.22 Policy GP1 of the draft Local Plan aims for the standard of design that will secure an attractive environment and safeguard or enhancement the environment, providing similar design advice in PPS1 and PPS3. Whilst only a narrow strip of land at the front of the site on Heworth Green lies within the conservation area it is relevant under policies HE2 and HE3 to consider the effect of the development on the setting of the conservation area. The design and visual assessment which formed part of the original Environmental Statement has been revised to reflect the

proposed variations. The Design and Assessment Statement submitted analyse the visual aspects of the site when viewed from surrounding areas.

4.23 The visual qualities of the site itself, other than the tree lined Heworth Green frontage, are not strong, given the historical use and the form of buildings and gas equipment on the site. The comprehensive re-development of the site would have the benefit of providing an overall concept for the design and layout of the site, focussed on the central open space area with apartment buildings formally set around it. By moving away from three to four storey height apartment blocks to more family orientated houses, the revised scheme would have much lesser visual impact on the conservation area and would be more keeping with the height, density and massing of the residential properties abutting the application site. The open space proposed does appear an integral part of development, with the central area and the large open space area on the south of the site.

4.24 The purpose of the illustrative layout plan is to demonstrate how a maximum of 119 houses and two office blocks can be accommodated within the approved land use diagram. It also serves the purpose of informing environmental assessors its likely effect on the built and natural environment. It is not intended to be a plan which sets the basis of how the site would appear once it is completed; it would not form part of the planning consent if this planning application is approved.

4.25 A number of concerns have been raised regarding the siting and layout of the development as shown on the illustrative drawing, in particular its relationship with the existing trees and the adjoining properties, the location of the play area, access to the Sustrans cycle track and the positioning of the car parking bays. As these relate to the reserved matters stage of the planning process they would be fully considered once a final scheme has been submitted with the reserved matters application. The number of houses proposed (119 maximum) may need to be reduced, and the layout of the development as shown on the illustrative drawing will need to be amended to address the issues concerned. It is possible to reduce the number of houses on site because this application and the previous approved applications set a maximum number of dwellings (as opposed to an exact number of houses to be built).

4.26 An archaeological evaluation and desk assessment formed part of the Environmental Statement submitted with the original planning application. There were no archaeological objections raised then, and as impacts relating to archaeology remain constant it is considered that the proposed variation would have no adverse environmental impacts in relation to archaeology. A watching brief condition has been recommended.

## RESIDENTIAL AMENITY

4.27 The site does benefit from a degree of self containment from surrounding residential properties created by the road and cycleway network. The site does abut the rear of properties on Layerthorpe, but it is proposed this part of the site would form an open space for the site. The reduced height of the residential element from 3 to 4 storeys apartments to predominately family houses across the whole of the site would also benefit the amenities of these properties.

4.28 Properties on Hawthorn Grove and Mill lane would be separated from the development by the Sustrans cycle way. Existing three storey residential properties are also found on the other side of the cycleway, on the Heworth Mews development. It is proposed to condition site levels, to ensure an acceptable relationship with the nearest properties.

4.29 The residential properties on Dalguise Close on north side of Heworth Green would be opposite two storey office (B1) development. B1 development in principle is defined under the Use Classes Order as being capable of being undertaken in a residential area without detriment to its amenities. The development would also be likely to provide a reasonable living environment for future occupiers of the development. The submission of the detail associated with any subsequent reserved matters application would allow for further examination of residential amenity issues.

4.30 The indicative layout of the dwellings as shown on the illustrative layout plan and their impact on the adjoining properties, in particular their impact on St Maurice's House to the north of the site will need to be amended. Again this would be dealt with at the reserved matters stage once the final layout has been submitted.

#### SUSTAINABILITY

4.31 In accordance with Policy GP4a "Sustainability" of the local plan a sustainability statement has been submitted setting out the principles of sustainable development. According to the information submitted, energy efficiency will be achieved through incorporating efficient electrical appliance across all units with a minimum efficiency rating of 'A'. Waste minimisation and recycling will be achieved through the inclusion of waste recycling separation facilities in all units and the provision of composting of green waste for use in gardens and public open space.

4.32 Furthermore, in accordance with standards set out in the Council's Interim Planning Statement "Sustainable Design and Construction", 10% of the anticipated energy demand of the development will be met by on-site renewable energy using any or a combination of solar energy, ground source heat, air source heat and biomass. Code for Sustainable Homes level 3 (\*\*\*) will be achieved through a number of measures including energy efficiency and the use of renewable energy as outlined above, and water conservation measures such as the fitting of spray taps and the use of small bore pipes. The commercial element of the scheme will be expected to achieve an overall BREEAM standard rating of 'very good'. These will be secured by measures such as the fitting of double glazing on all windows and external glass, the installation of water metres and the integration of grey water recycling system.

4.33 Specific details as to how the measures identified above would influence the final design and layout will be further explored at the reserved matters stage of the planning process. Schedule 4 "Energy Protocol Plan" of the original Section 106 agreement will be revised to reflect the current methods of assessing sustainability and to ensure the minimum requirements are met.

4.34 The opportunity to apply more stringent sustainability standards on this development has been possible due to the submission of this variation of condition application. The applicant is committed to meet these requirements and the Council's legal team is happy to secure these requirements by way of Section 106 agreement (as opposed to planning conditions). Overall, it is considered that this application, if approved, would raise the sustainability standards in line with the current requirements.

#### OPEN SPACE PROVISION

4.35 The context plan originally approved would provide children's play space and outdoor amenity space, in accordance with the standards at that time (before the adoption of the 2005 local plan), which were 0.7 hectares of children's playing space and 0.4-0.9 hectares of amenity open space per 1000 population (pro rata).

4.36 Since the original approval, the provision of amenity open space expected for residential developments has increased to 0.9 hectares per 1000 population. In addition, 0.7 hectares of children's play-spaces and 1.7 hectares of sport pitches per 1000 population are also expected. Notwithstanding the increased requirements, the total number of residential units proposed has, compared to the original outline scheme decreased by more than 50% (from 306 to 119 residential units). The overall population within the development would thus reduce accordingly. Furthermore, private amenity spaces are proposed for the majority of the 119 units, whereas the majority of the 306 apartments previously approved contain no private garden areas. Thus compared to the original outlined approval there would be less demand for public open space; the commitment of providing children's play-spaces and sport pitches on site could therefore be achieved as shown on the indicative site layout plan.

4.37 It is envisaged the children's play space would be provided on the open space area on the southern part of the site, to a Locally Equipped Area for Play (LEAP) standard. The five-a-side football pitch as shown on the indicative layout plan is also expected to be constructed to Football Association standards. Future maintenance of on-site open space would be provided by the developer. Like the previous outline approved this would be controlled through section 106 agreement if the application is approved.

4.38 In accordance with the advice note "Commutated sum payments for open spaces in new developments", commuted sum payment towards open space provision in residential development would be expected if there is not enough space to meet open space requirements on site. Again, such payments will be secured by Section 106 agreement.

#### HEALTH AND SAFETY

4.39 The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the consultation distance of major hazard sites/pipelines. As the proposal is within the defined consultation distance HSE has been consulted.

4.40 Initial concerns have been raised regarding residential development on a site with consent given in 2001 to store natural gas (Hazardous Substances Consent ref. no.: 01/02481/HSC). It was felt that the Hazardous Substances Consent should be revoked prior to the determination of this planning application if the substance in question has not been in present in a controlled quality. However, as the gas holder is required to be operational in the short term it was considered by the applicant's agent that the option of revoking or changing the Hazardous Substances Consent prior to the determination of the current application is not an option. Instead, the imposition of a condition to prohibit the development commencing until such time as the gas holder is decommissioned and removed from site is considered more plausible by the applicant's agent. The latest response from HSE confirms the acceptability of such a condition. An informative have been recommended informing the applicant that the Hazardous Substances Consent will be revoked once the development has commenced.

## CRIME PREVENTION

4.41 Policy GP3 of the Draft Local Plan requires new development to incorporate crime prevention measures. The Police Liaison Officer comments mainly relate to the indicative master plan which would not form part of any consent. The design issues which could have an impact on crime and community safety include the security of sections of the parking court, particularly those directly abutting the public open space. Due to the correlation between crime and cycle tracks in York, consideration needs to be made in respect of providing access control measures from the proposed development onto the Sustran cycle track. The positioning of the children's play area in a corner of the site, well away from the main development could give rise to crime, noise nuisance and anti-social behaviour. Furthermore, the footpaths which run alongside gable walls, with no defensible space in between, can generate nuisance and other acts of anti-social behaviour. The above concerns are expected to be thoroughly addressed at the reserved matters stage of the planning process. A condition has been recommended to ensure that 'secured by design' principles have been incorporated in the final scheme.

## IMPACT ON EDUCATION PROVISION

4.42 In compliance with Policy ED4 of the Draft Local Plan 2005 the Council's published Supplementary Planning Guidance "Developer Contribution to Education Facilities" states on receipt of a relevant planning application, the Education Department will ascertain whether contributions are necessary in a particular case. Contribution will only be sought where the school or pre-school facilities are full. Based on the current levels of provision in the area, it is confirmed that a contribution for Primary and Secondary pupils is not required. Contribution towards Early Years/Foundation level would not be required also as existing provision has vacancies.

## FLOOD RISK AND DRAINAGE

4.43 Policy GP15 of the draft Local Plan requires account to be taken of increased risk of flooding that development may cause. Whilst the site does not lie on the flood plain for the River Foss, it does lie adjacent to it. The Foss is approximately 90m to

the west of the site, and is at lower land levels than the site. The Flood Risk Assessment (FRA) states that as the site is entirely within flood zone 1, the site is largely at low risk of flooding from watercourse and the development is considered to pass the sequential test assessment set out in Planning Policy Statement no.25. Nevertheless, to minimise the risk of flooding from overland flow, it is recommended that finished floor levels be set a minimum of 150mm above adjacent ground level. The Environment Agency and Yorkshire Water have no comments to make regarding this application as it concerns only the volumes of particular housing types in the development. No objections have been raised by Foss Internal Drainage Board.

4.44 The information requested by the Engineering Consultancy, such as details of calculations and invert levels of the exiting surface water system, existing and proposed ground levels and topographical survey can be secured by planning condition. Permission has not been sought to finalise the layout of the development; it is merely amending the accommodation-mix. As such it is not possible, at this stage of the planning process to assess the potential impact the proposals may have on the existing drainage system when the exact layout of the scheme is subject to change. Thus by submitting the information requested would leave any previous studies inaccurate at the reserved matters stage.

## UTILITIES AND TELECOMMUNICATIONS

4.45 The location of operational equipment for Transco would remain as per the original outline approval. The equipment would be in the north and south west corners of the site, connected by underground pipework in the easement. Whilst the detailed design of the equipment is yet to be considered, it is envisaged that it would be housed in flat brick buildings with a maximum height of 2.7m. The location of this area in the south west corner of the site would be adjacent to rear curtilage of the first dwelling on Layerthorpe, and would be separated from its rear garden boundary by a garage. Noise would be the most important amenity issue, and attenuation measures form a condition.

4.46 The telecommunications mast on the site has being subject of unsuccessful separate full applications for re-siting within the site. A proposed re-siting to the Heworth Green frontage resulted in Officer and CAAP concerns over the effect on the conservation area and the setting of the historic core of the city (03/4049/FUL), whilst a re-siting and redesigned mast near to the cycleway resulted in Member concerns over the effect on the amenities of the nearest residential properties, resulting in a refusal (04/02965/FUL). Consent has therefore been approved in the original outline application to leave the mast as it is in its current location, and the existing associated equipment cabins. The mast would be surrounded by the public open space area in the south of the site.

4.47 The effect on the amenities of the existing residents from the mast would be the same as existing. Continuity of service from the mast is required for the safe and efficient storage of gas for Transco, as well as the telecommunications equipment for the licensing requirements of mobile phone operators.

## ECOLOGY

4.48 The ecological constraints survey submitted with this planning application is agreeable to the Council's Countryside Officer, subject to a condition requiring measures to be provided within the design of the new buildings to accommodate bats.

### **5.0 CONCLUSION**

5.1 This application seeks to vary conditions 4 and 16 of the original outline approval by amending the accommodation schedule to create a maximum of 119 dwellings from the original 306 residential units. The illustrative layout plan shows the revised proposal would move away from apartment-led residential scheme by delivering accommodations more suitable for small and medium sized families. The types and sizes of housing proposed would meet the demand in York as identified in the Council's published Strategic Housing Market Assessment 2007. Whilst the reduced numbers of units on site means a lower overall provision of affordable housing numerically, the proposed mix would offer the types and sizes of housing which would better meet the needs of York's residents than the original apartment-led proposal, such that officers are more in favour of the revised accommodation schedule.

5.2 With the objective of assessing changes which are potentially 'significant' in environmental terms and whether further Environmental Impact Assessment is needed, the Environmental Statement submitted with the original outline application has been updated and documents covering a number of topics have been provided. Through assessing a number of environmental issues including land contamination, air quality, noise, dust and odours, traffic generation and design, it is concluded that the proposed changes would have no significant adverse environmental impact; hence further Environmental Impact Assessment is not required.

5.3 Subject to financial contributions towards the Foss Basin masterplan, car club scheme, and the implementation of highway improvement works, it is considered that the highway arrangements previously approved would adequately serve the revised housing mix proposed. It is also considered that the proposed amendments would improve the visual quality of the scheme and how it relates to the existing settings including its impact on the conservation area and archaeology. This variation of conditions application offers an opportunity to raise the sustainability standards in line with the current requirements.

5.4 Issues concerning insufficient information to determine the potential impact the proposals may have on the existing drainage system can be addressed by planning condition. The design and layout of the scheme and how that would impact crime and community safety, the existing trees and residential amenity will be further assessed at the reserved matters stage. The indicative layout plan will be revised, and the total number of dwellings may be reduced if necessary to address the concerns identified. The location of the operational equipment approved previously and the telecommunications mast on site would not be altered by virtue of the proposed variation of conditions. Given the nature of the amendments it is

unlikely that its impact on residential amenity would be greater than the original outline consent.

5.5 On-site and off-site open space contributions will be revised to reflect the proposed housing mix and reduced number of residential units. Learning Culture and Children's Services have confirmed that contributions toward Primary, Secondary and Early Years/Foundation level are no longer required.

5.6 As such, the development would accord with national, regional, and local planning policies, and is recommended for approval subject to the conditions listed below and the applicant be required to enter into a section 106 agreement to cover the following matters:

- £73,100 towards the Foss Basin Transport Masterplan
- £19, 000 towards the setting up and running of a car club
- 25% of the number of dwelling units to be affordable
- £39,668 towards off site public open space
- management arrangements for on site open space
- Code for Sustainable Home level 3(\*\*\*), BREEAM 'very good', and 10% on-site renewable energy generation.
- construction traffic management plan

**6.0 RECOMMENDATION:** Approve

1 Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the expiration of the three years from the date of the original planning permission ref. no. 03/04046/OUT dated 23 November 2006 and the development hereby permitted shall be begun before the expiration of two years for the date of approval of the last of the reserved matters to be approved.

Reason: To ensure compliance with Section 92 and 93 of the Town and Country Planning Act 1990 as amended.

2 Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works excluding site clearance, demolition and remediation, and the development shall be carried out in accordance with such details:

Details to be submitted: layout, scale, appearance and landscaping of the proposed development to be carried out.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of the development.

3 The development hereby approved shall consist of a maximum of 119 dwellings and a maximum of 1860 square metres of offices.

Reason: To achieve an acceptable form of development.



4 The development hereby approved shall not be carried out otherwise than in complete accordance with the 'Proposed Context - Land Use Diagram and Building Heights' drawing no. (sk) BR/500 rev. A received 16.06.2009, which for the avoidance of doubt illustrates maximum storey heights.

Reason: To achieve an acceptable form of development.

5 Illustrative layout plan reference 02/16248/(sk)006/REV A received on the 26th October 2004, Illustrative site layout plan reference M3015(PL)001 received on the 3rd April 2009 and indicative existing and proposed cycle links plan reference GB/YORK.1/06 rev A received on the 27th January 2005 does not form part of this planning consent.

Reason: To achieve an acceptable form of development.

6 Details in pursuant of condition 2 shall provide for a children's play space on site to a Local Equipped Area for Play (LEAP) standard. Such details shall include location, play equipment, surfacing, enclosure, associated landscaping and a buffer zone.

Reason: To ensure an acceptable provision of recreational facilities.

7 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, excluding site clearance, demolition and remediation. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance.

8 Details of all enclosure to the site boundaries and within the site, including between the residential and office elements of the development, shall be submitted to and approved in writing by the Local Planning Authority before the development commences, excluding site clearance, demolition and remediation, and shall be provided before the development is occupied.

Reason: In the interests of visual amenity and crime prevention.

9 No development, excluding site clearance, demolition and remediation, shall take place until plans showing details of the proposed floor levels of any building in relation to the existing ground level and finished levels of the site shall be submitted to and approved in writing by the Local Planning Authority. Before any works commence on site, a means of identifying the existing ground level on the site shall be approved in writing, and any works required on site to mark the ground accurately during the construction works shall be implemented prior to disturbance to the existing ground level. Any physical works or marker shall be retained at all times during the construction period.

Reason: To establish the existing ground levels, finished levels and proposed floor

levels, to ensure an orderly form of development that does not have an adverse impact on the amenities of the surrounding area.

10 Development, excluding site clearance, demolition and remediation, shall not commence until a scheme for the provision of surface water drainage works, including any balancing works and off site works, has been submitted to and approved by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

11 Development, excluding site clearance, demolition and remediation, shall not commence until a scheme for the provision and implementation of a surface water run-off limitation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details,

Reason: To prevent increased risk of flooding.

12 The site shall be drained with separate systems of drainage for foul and surface water on and off the site.

Reason: In the interests of satisfactory drainage.

13 Unless otherwise in agreed in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to the completion of the approved foul drainage works.

Reason: To ensure that no foul or surface water discharges take place until proper provision has been made for their dispersal.

14 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

15 Before the commencement of and during building operations, adequate measures shall be taken to protect the existing planting on this site. This means of protection shall be agreed in writing with the Local Planning Authority and shall be implemented prior to the stacking of materials, the erection of site huts or the commencement of building works.

Reason: The existing planting is considered to make a significant contribution to the

amenities of this area.

16 The development hereby approved shall not be carried out otherwise in complete accordance with the accommodation schedule, being a maximum of 12 two bedroom apartments, a maximum of 6 two bedroom houses, a maximum of 60 three bedroom houses, and a maximum of 41 four bedroom houses unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development accords with the appropriate provision of open space and education facilities, and providing a mix of housing types.

17 Fully detailed drawing illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, excluding site clearance, demolition and remediation.

Reason: In the interests of highway safety.

18 No dwelling to which this planning permission relates shall be occupied unless or until the carriageway basecourse and kerb foundation to the new estate road and footpath to which it fronts, is adjacent to or gains access from, has been constructed. Road and footway wearing courses and street lighting shall be provided within three months of the date of commencement on the construction of the penultimate dwelling of the development.

Reason: To ensure appropriate access and egress to the properties, in the interests of highway safety and the convenience of prospective residents.

19 Prior to the development commencing, excluding site clearance, demolition and remediation, details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

20 Prior to the development commencing, excluding site clearance, demolition and remediation, details of the car parking areas shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until car parking areas have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose than the parking of cars.

Reason: In the interests of highways safety.

21 No part of the site shall come into use until turning areas have been provided in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To enable vehicles to enter and leave the site in a forward gear thereby ensuring the safe and free passage of traffic on the public highway.

22 Prior to the development coming into use the sight lines shown on the approved plans shall be provided free of all obstructions which exceed the height of the adjacent carriageway by more than 1.0m and shall thereafter be so maintained.

Reason: In the interests of road safety.

23 Prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To prevent the egress of water and loose material creating a hazard on the public highway.

24 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

- highway works as highlighted in drawing BGYORK.1/08 rev C

Reason: In the interests of the safe and free passage of highway users.

25 Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the LPA.

Reason: In the interests of the safety and good management of the public highway.

26 A full stage road safety audit carried out in advice set out in DMRB HD19/03 and guidance issues by the Council, will be required for the internal highway layout and all off site works requiring alteration as specified in drawing BGYORK.1/08revC, stage 1 of which must be submitted and agreed in writing by the Local Planning Authority prior to works, excluding site clearance, demolition and remediation, commencing on site.

Reason: To minimise the road safety risks associated with changes imposed by the development.

27 Within 6 months of occupation of the employment element of the site, a full company travel plan shall have been submitted and approved in writing by the Local Planning Authority. The travel plan should be developed and implemented in line

with local, national guidelines and the heads of terms document submitted with application 09/00632/FUL.

Within 12 months of occupation of the site a first year staff travel survey shall have been submitted and approved in writing by the Local Planning Authority. Results of yearly staff travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with advice contained in PPG13-Transport, and in Policy T13a of the City of York Local Deposit Draft Local Plan, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other modes of transport to and from the site, together with provision of parking on site for these users.

28 The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

29 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at any dwelling 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 amenity of neighbouring premises.

30 A scheme of noise mitigation for the gas compressor shall submitted to the local planning authority for approval. The scheme, once approved in writing by the local planning authority, shall be fully implemented prior to occupation of the site and shall be appropriately maintained thereafter.

Reason: To protect the amenity of neighbouring premises.

31 The building envelope of all dwellings shall be constructed so as to provide attenuation against external noise, that achieves the following internal noise levels; bedrooms - 30 dB  $L_{Aeq}$  8 hours (23:00 to 07:00), other habitable rooms - 35 dB  $L_{Aeq}$  16 hours (07:00 to 23:00). These figures are with windows shut and other means of ventilation provided, such as acoustically treated trickle ventilation. The detailed scheme shall be approved by the local planning authority prior to construction, excluding site clearance, demolition and remediation, and fully implemented prior to occupation of the use hereby permitted.

Reason: To ensure acceptable internal noise levels for dwellings.

32 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts a to c of this condition have been complied with:

a. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. A conceptual site model of all potential contaminant sources, pathways and receptors shall be created and used to inform the scheme of proposed further site investigation and risk assessment works. The contents of the scheme are subject to the approval in writing of the Local Planning Authority.

b. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings shall include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed),
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

c. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, controlled waters and the natural and historical environment shall be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part II A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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 in accordance with policy GP6 of the City of York Draft Local Plan 2005.

33 The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.

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 in accordance with policy GP6 of the City of York Draft Local Plan 2005.

34 A proposed timetable and weekly information bulletin for the remedial works shall be submitted to the Local Planning Authority prior to the commencement of those works following the consideration at reserved matters. Additionally a detailed weekly timetable shall also be submitted a minimum of two working days prior to the commencement of each weeks work.

Reason: In the interests of public safety.

35 Development, excluding site clearance, demolition and remediation, approved by this permission shall not be commenced unless the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken only in accordance with the approved details. This scheme should have due regard for the Environment Agency guidance document report NC/99/73: Piling and penetrative ground improvement methods on land affected by contamination.

Reason: The site is contaminated/potentially contaminated and piling could lead to the contamination of groundwater in the underlying aquifer.

36 A method of sampling and validation shall be produced to ensure imported and excavated materials used on site are not contaminated. This should include, where possible, details of the origin of such materials. This method shall be submitted in writing, approved by the local planning authority and fully implemented and verified prior to completion of the development.

Reason: In the interests of public safety.

37 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. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the

approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy GP6 of the City of York Draft Local Plan 2005.

38 Prior to commencement of the development hereby approved, an environmental management scheme prepared and monitored by an independent suitably qualified and competent expert to cover the development phase, shall be submitted to and agreed in writing with Local Planning Authority. This should contain the following:

- (i) A scheme for monitoring associated odour, dust and noise pollution, and associated meteorological data capture.
- (ii) A scheme for minimising of odour, dust and noise pollution, and associated corrective action, when required.
- (iii) Provision of and details of a site notice board adjacent to the site, to include its location and design, providing emergency contact details.

The agreed environmental management scheme shall be adhered to at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of local residents.

39 Details in pursuant of condition 2 shall provide for cycle and pedestrian links into the site from the surrounding highway network, the sustrans cycleway and through the site.

Reason: To promote safe use of cycles and walking.

40 Details in pursuant of condition 2 shall provide for a grass outdoor sports pitch on site measuring a minimum 18.3m x 27.45m, and a 5m buffer zone on each side. Such details shall include location, layout, enclosure, drainage, a facility for a disabled toilet/first aid/water and associated cycle and car parking provision.

Reason: To ensure an acceptable provision of recreational facilities.

41 Prior to the development commencing, excluding site clearance, demolition and remediation, details that show how 'Secured by Design' principles have been incorporated into the scheme shall be submitted for the written approval of the Local Planning Authority and once approved the development shall be implemented in accordance with the approved 'Secured by Design' details prior to occupation or use of any part of the development hereby approved.

Reason: In the interest of community safety, to reduce the fear of crime and to prevent, crime and disorder in accordance with the provisions of Section 17 of the Crime and Disorder Act 1998.

42 Prior to the commencement of development of the residential element of the scheme excluding site clearance, demolition and remediation, a residential travel



plan shall have been submitted and approved in writing by the Local Planning Authority. The residential travel plan should be developed and implemented in line with local, national guidelines and the heads of terms document submitted with application 09/00632/FUL. The aforementioned residential travel plan shall include a residential travel pack which will be included within sales particulars for the proposed dwellings.

Reason: To ensure the development complies with advice contained in PPG13-Transport, and in Policy T13a of the City of York Local Deposit Draft Local Plan, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other modes of transport to and from the site, together with provision of parking on site for these users.

43 The development hereby approved shall not commenced until such time as the gas holder is decommissioned and removed from the site.

Reason: To ensure that the gas holder is decommissioned at the appropriate stage in the development process, thereby eliminating any potential health and safety risk that this development might pose to the general public.

44 Prior to the development commencing, excluding site clearance, demolition and remediation, details of what measures are to be provided to within the design of the new buildings to accommodate bats shall be submitted to and approved in writing by the Local Planning Authority. The works shall be completed in accordance with the approved details. Features suitable for incorporation for this group include the use of special tiles, bricks, soffit boards, bat boxes.

Reason - To enhance the habitat for bats.

45 The development hereby approved shall be carried out in accordance with the recommendations set out in section 4 of the Ecological Constraints Survey April 2009 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of habitat protection and creation.

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of mixed use development, affordable housing, land contamination, air quality, noise, dust and odours, highways and traffic considerations, design issues, the effect on the conservation area, archaeology, residential amenity, ecology, sustainability, open space provision, health and safety, crime prevention, impact on education provision, flood risk and drainage, telecommunications and utilities. As such the proposal complies with Policies YH4, Y1, ENV9, ENV12, H4 and H5 of the Regional Spatial Strategy (RSS) for Yorkshire

and the Humber (2008), and Policies GP1, GP3, GP4A, GP4B, GP5, GP6, GP7, GP9, GP13, GP15, NE1, NE3, NE6, NE7, HE2, HE3, HE10, HE11, T2A, T2B, T4, T5, T7C, T13A, T20, H2A, H3C, H4A, H5A, E3B, E4, ED4, L1C, SP3, SP6, SP7A and SP8 of the City of York Local Plan Deposit Draft (2005). The proposal would also comply with advice in PPS1, PPS Supplement, PPS3, PPG4, PPS9, PPG13, PPG15, PPG16, PPG17, PPS23, PPG24, PPS25.

2. To satisfy conditions 10 and 11 of the above approval details to include calculations and invert levels of the existing surface water system are expected to be provided together with details to include calculations and invert levels of the proposals. Existing / proposed ground levels to ordnance datum for the site and adjacent properties are expected to be shown, and existing surfacing and key to proposed surfacing should also be specified.

The applicant is expected to provide a topographical survey and proposed finished floor and ground levels to ordnance datum, to ensure that there will not be any detriment to the drainage of existing properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties. In addition, additional surface water must not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

As the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, carried out in winter - to prove that the ground has sufficient capacity to except surface water discharge, and to prevent flooding of the surrounding land and the site itself. If soakaway proves to be unsuitable then In accordance with PPS25 and in agreement with the Environment Agency / Foss IDB, peak run-off from developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

3. Once the Directorate of City Strategy is satisfied that the development hereby approved has commenced, the Hazardous Substances Consent approved in September 2001 (ref. no.: 01/02481/HSC) will be revoked under Section 14(2) of the Planning (Hazardous Substances) Act 1990.

4. You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Section 184 - Stuart Partington (01904 551361)  
Section 38/278 - Michael Kitchen (01904 551336)

5. You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the

equipment and any requirements they might have prior to works commencing.

**Contact details:**

**Author:** Billy Wong Development Control Officer

**Tel No:** 01904 551326