



Report to the Secretary of State for Communities and Local Government

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CITY OF YORK COUNCIL

Applications

by

PERSIMMON HOMES (YORKSHIRE) LIMITED &

HOGG BUILDERS (YORK) LIMITED

&

THE JOSEPH ROWNTREE HOUSING TRUST

Inquiry held from 13 June to 24 July 2006

Formal site visits undertaken on 25 & 28 July 2006 with additional visits on 30 & 31 August and 19-21 September 2006

Land at Germany Beck, east of Fordlands Road, Fulford, York, &
Land west of Metcalfe Lane, Osbaldwick, York

File References: APP/C2741/V/05/1189897 & YH 5343/310/2
APP/C2741/V/05/1189885 & YH 5343/310/1

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File Refs: APP/C2741/V/05/1189897 & APP/C2741/V/05/1189885
Land at Germany Beck, east of Fordlands Road, Fulford, York, &
Land west of Metcalfe lane, Osbaldwick, York

- These applications are made under section 62 of the Town and Country Planning Act 1990.
- The applications are by Persimmon Homes (Yorkshire) Limited & Hogg Builders (York) Limited and by the Joseph Rowntree Housing Trust to the City of York Council.
- The applications (refs: 01/01315/OUT and 03/02079 respectively) are dated 27 April 2001 and 30 July 2003.
- The developments proposed are described as:
 - *an outline application, though the means of access is not reserved for subsequent approval, for residential development of approximately 700 dwellings, the creation of public open space and community facilities, including local shops, with associated footpaths, cycleways, roads, engineering works and landscaping on land at Germany Beck, east of Fordlands Road, Fulford, York and*
 - *an outline application, though both the means of access and landscaping are not reserved for subsequent approval, for residential development of some 540 homes on land west of Metcalfe Lane, Osbaldwick, York.*
- The applications were originally called in for decision by the First Secretary of State by directions made under section 77 of the 1990 Act on 14 September 2005.
- The reasons given for making the directions are that the proposals *may conflict with national policies on important matters*. Hence, the First Secretary of State was of the opinion that the applications were ones that he ought to decide himself.
- On the information available when the directions were made, the following matters¹ were identified as those about which the Secretary of State particularly wished to be informed for the purpose of determining the applications:-
 - A) Whether the developments are in accordance with the current and emerging Development Plan for the area, having particular regard to the adopted and deposited draft Structure Plans and the provisions of the Regional Planning Guidance and the recently published draft revised Regional Planning Guidance (Regional Spatial Strategy);
 - B) the extent to which the proposals are consistent with the policies in PPS1: Delivering Sustainable Development and The Planning System General Principles with particular regard to:
 - i. protection and enhancement of the environment and the advice in paragraphs 17 and 18 of PPS1;
 - ii. advice on prematurity in paragraphs 17 and 18 of the General Principles, having regard to the progress towards adoption of the York Local Plan or Local Development Framework;
 - iii. whether the schemes would secure a high quality of design and their effects on the character of the area, having regard to the advice in paragraphs 33-39 of PPS1;
 - C) the extent to which the schemes are consistent with Government policies in PPG2: Green Belts with particular regard to:
 - i. whether the proposed developments are inappropriate development in the Green Belt by reference to the guidance in paragraphs 3.1–3.4 and any relevant Development Plan policies and, if they are inappropriate, whether ‘very special circumstances’ exist which clearly outweigh the harm to the Green Belt caused by reason of such inappropriateness and any other harm;
 - ii. whether the proposed developments would conflict with the fundamental aim of Green Belt policy to prevent urban sprawl;
 - iii. the extent to which the schemes would be consistent with the purposes of including land within the Green Belt;

¹ The matters identified are the same for both schemes save that the development at Germany Beck involves some provision for local shopping. Hence reference to PPS6 is only relevant to the Germany Beck proposal and the issues identified are listed under different letters following issue ‘F’; the letters in italics and brackets relate to the Derwenthorpe scheme.

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- iv. whether the schemes would harm the visual amenities of the Green Belt by reason of siting, materials or design;
- D) the extent to which either scheme would conflict with national policy on residential development as set out in PPG3: Housing, with particular regard to:
- i. whether adequate sequential tests have been properly applied and whether there is a need to release either of these ‘greenfield’ sites for the purpose of providing housing in York;
 - ii. the accessibility of jobs, shops and other services from the sites by modes of transport other than the private car, and the potential for improving such accessibility;
 - iii. whether and how the proposed developments would secure an appropriate mix of dwelling size, type and affordability, taking account of any needs assessment by the Council;
 - iv. whether the proposed developments would make the ‘best use of land’ taking into account density, layout, design and the level of parking provision, having regard to the advice in paragraphs 54-62;
 - v. whether the developments would represent good design having regard to the landscape of the locality;
- E) the extent to which the development at Germany Beck is consistent with Government policies and principles in PPS6: Planning for Town Centres, particularly:
- i. whether there is a need for additional local shops and services and the advice in paragraphs 2.55–2.59, and
 - ii. whether it has been demonstrated that an adequate, flexible and sequential approach has been applied in selecting the location and scale of the proposed retail development, taking into account the scale and format of the scheme, car parking provision and the scope for disaggregation and the advice in paragraphs 2.41 and 3.13–3.19;
- F) (*E*) the extent to which the schemes are consistent with Government policies in PPS7: Sustainable Development in Rural Areas, with particular regard to:
- i. key principles on siting, location, accessibility and design (paragraphs 1(i)-(vi));
 - ii. ensuring that the quality and character of the wider countryside is protected and, where possible, enhanced (paragraph 15);
 - iii. recognizing the importance of the countryside around urban areas to those who live and work there and also in providing the nearest and most accessible countryside to urban residents; securing environmental improvements and maximizing the beneficial uses of this land whilst reducing potential conflicts between neighbouring land uses (paragraph 26);
- G) (*F*) the extent to which the schemes would conflict with the national planning policy on biodiversity and geological conservation as set out in PPS9, in particular:
- i. the extent to which the schemes are likely to have an impact on the biodiversity and geology;
 - ii. whether or not there is likely to be any impact on a European protected species listed in the Habitats Directive;
 - iii. whether there is likely to be any impact on a species protected under the Wildlife and Countryside Act 1981 or any other legislation, and
 - iv. whether or not there is likely to be any impact on any site of national, regional or local biodiversity or geological interest;
- H) (*G*) the extent to which the proposed developments would conflict with national planning policy on Transport as set out in PPG 13, in particular:
- i. on the need to locate development in a way which helps to
 - promote more sustainable transport choices,
 - promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling, and
 - reduce the need to travel, especially by car;
 - ii. whether the proposals comply with local car parking standards and the advice in paragraphs 52-56 of PPG13;
- I) (*H*) the extent to which the schemes are consistent with advice in PPG15: Planning and the

Historic Environment, in particular:

- i. the desirability of preserving or enhancing the character or appearance of conservation areas;
- J) (I) the extent to which the proposed developments are consistent with advice in PPG16: Archaeology and Planning with particular regard to:
- i. the adequacy of any assessment and field evaluation to determine the character and extent of the archaeological remains and the options for minimising or avoiding damage;
 - ii. having regard to the assessment and field evaluation, whether the physical preservation in situ of archaeological remains is justified, taking into account the presumption in favour of the physical preservation of nationally important archaeological remains and their settings; and
 - iii. where the physical preservation in situ of archaeological remains is not considered justified in the circumstances of the case and development resulting in the destruction of the archaeological remains should proceed, whether appropriate and satisfactory provision can be made for the excavation and recording of the remains;
- K) (J) the extent to which the proposed developments are consistent with advice in PPG17: Planning for Open Space, Sport and Recreation with particular regard to:
- i. whether or not any assessment of the needs of the local area has been undertaken and specific needs and quantitative or qualitative deficits or surpluses have been identified;
- L) (K) the extent to which the proposals are consistent with advice in PPS23: Planning and Pollution Control;
- M) (L) the extent to which the proposed developments are consistent with advice in PPG24: Planning and Noise;
- N) (M) the extent to which the proposed developments are consistent with advice in PPG25: Development and Flood Risk with particular regard to the need to:
- i. avoid development that increases flood risk through its effect on flood plain flows and storage;
 - ii. give priority to lower-risk areas for the location of development; and
 - iii. ensure that development within areas vulnerable to flooding be protected to an appropriate minimum standard taking account of the likely effects of climate change;
- O) (N) whether planning permission should be granted for the developments set out in the applications;
- P) (O) what conditions should be imposed on any permission which might be given; and, in particular, the need for a condition to limit the likely significant environmental effects of the developments to those described and assessed in the Environmental Statements submitted with the applications;
- Q) (P) any other aspect of the proposed developments which the Inspector may feel is material to the decisions.

Summary of Recommendations: ~ That the applications be allowed subject to conditions.

1. Procedural Matters

- 1.1 I have the honour to report that between 13 June and 24 July 2006 I held an Inquiry at the Guildhall, St Helen's Square, York into applications for planning permission made by:
- Persimmon Homes (Yorkshire) Limited & Hogg Builders (York) Limited, relating to an outline application, save for the means of access, involving residential development of approximately 700 dwellings, the creation of public open space and community facilities, including local shops, with associated footpaths, cycleways, roads, engineering works and landscaping on about 34ha of land at Germany Beck, east of Fordlands Road, Fulford, York. In this report, this proposal will be referred to as the Germany Beck scheme. And by,
 - the Joseph Rowntree Housing Trust relating to an outline application, but with details submitted concerning the means of access and landscaping, for residential development involving some 540 homes on about 22ha of land west of Metcalfe Lane, Osbaldwick,

York. This scheme also entails the creation of public open space and community facilities, the provision of footpaths, cycleways and roads, together with various engineering and drainage works. In this report this proposal will be referred to as the Derwenthorpe scheme.

- 1.2 I would like to express my appreciation for the cooperation and help I received during the Inquiry from all participants and for the continual organisational ability and efficiency demonstrated by Sarah Kingston (Programme Officer) and Deborah Miles (assistant Programme Officer) throughout the proceedings.
- 1.3 And, I want to acknowledge the death of Bill Hall who made important contributions in opposing the Derwenthorpe scheme and who died after collapsing at the Guildhall during the Inquiry.

The schemes in outline; agreements and conditions

- 1.4 Both proposals have evolved since the initial applications were made. Indeed, it would be surprising had no changes occurred. The Germany Beck scheme was first submitted over 5 years ago and some 3 years have elapsed since the application for the Derwenthorpe project was originally made. Moreover, in both cases consultations with those living nearby have been undertaken and, although many objections remain, changes aimed at meeting some of the concerns expressed have been made in relation to both schemes. The proposals, as currently envisaged, are set out in section 3 of this report.
- 1.5 Both schemes are tempered by section 106 Agreements.
- 1.6 At Germany Beck Persimmon Homes and Hogg Builders covenant to¹:
- make suitable contributions to education;
 - provide or contribute to on-site and off-site recreational facilities (those off-site are intended to be associated with local schools);
 - provide up to 35% of the dwellings as affordable homes;
 - establish and support a 'liaison advisory committee' to advise on work undertaken in carrying out the development and on the allocation of funds for recreation;
 - support the provision of a ¼ hourly bus service across the site;
 - contribute to improvements to existing bus stops;
 - contribute to a 'car club' registration scheme for prospective residents;
 - prepare and implement a 'construction traffic management plan';
 - make suitable contributions towards highway improvements
 - make suitable contributions towards the provision of traffic signals, pedestrian refuges and signage at the site access and to promote pedestrian and cycle links;
 - make contributions for the provision of a Toucan crossing;
 - make suitable contributions towards flood defence works on the A19;
 - make suitable contributions towards improvements to the Millennium Way and Minster Way long distance footpaths.
- 1.7 At Derwenthorpe the Rowntree Housing Trust covenants to²:
- make suitable contributions to education;
 - create, manage and maintain open space, amounting to about 7.2ha;
 - create, manage and maintain areas of interest for nature conservation both at Derwenthorpe and at New Earswick, the latter amounting to a 5.7ha addition to an existing local nature reserve;
 - provide off-site recreational facilities (initially intended to be associated with local schools);
 - maintain the landscaping proposed;
 - provide up to 40% of the dwellings as affordable homes;

¹ Document 5

² Document 6

- build all the dwellings to a highly sustainable standard (currently indicated under the ‘Ecohomes’ system 2006 as ‘very good’) and incorporate design features to facilitate an up-grade to an ‘Ecohomes’ rating of ‘excellent’;
 - design 5 dwellings to an ‘Ecohomes’ rating of ‘innovative plus’ to provide models of what might be achieved;
 - establish and support several community initiatives involving a ‘partnership committee’, a management presence on the site and a ‘community fund’;
 - support the provision of a ½ hourly bus service across the site;
 - provide residents with a travel pass or a voucher with which to purchase a bicycle;
 - establish a ‘car club’ for prospective residents and provide the first occupants with a ‘sustainable travel pack’;
 - prepare and implement a ‘construction traffic management plan’.
- 1.8 Some of the differences between the respective Agreements are due to the acceptance of different conditions as potential controls for different aspects of the schemes as well as to differences in the schemes themselves. For example, both projects encompass adherence to sustainable forms of construction and development in attempting to conform to the ‘Ecohomes rating system’. At Germany Beck that is to be achieved by the imposition of a condition: at Derwenthorpe such provision is made in the section 106 Agreement. In addition, some controls would be imposed under other legislation. For example, the Derwenthorpe scheme would require the removal of the pylons on the site and the installation of a 33kv transmission line underground, together with the re-routing of another. And, the scheme may affect a small number of great crested newts found on the site. In both cases control can be exercised under other legislation.
- 1.9 At Germany Beck, apart from controlling matters of detailed design and access arrangements, suggested conditions would require the applicants to¹:
- submit details of how the development would conform to a rating of ‘excellent’ under the ‘Ecohomes’ system 2006;
 - create, manage and maintain open space, amounting to about 3.7ha;
 - maintain the landscaping proposed;
 - create, monitor and manage a ‘Germany Beck Nature Park’;
 - establish an archaeological zone, create an interpretive archaeological trail and undertake a wide programme of archaeological investigation;
 - limit the hours when construction and deliveries are undertaken;
 - install ‘sustainable urban drainage’ systems.
- 1.10 At Derwenthorpe suggested conditions would again control matters of detail and the proposed access arrangements. In addition, the applicant would be required to²:
- prepare a scheme of remediation for contaminated parts of the site
 - submit a detailed landscaping scheme;
 - ensure the provision of suitable highway improvements;
 - provide for a new one-way system at Temple Avenue and Lang Avenue;
 - provide for appropriate traffic signals, pedestrian crossings and signage to promote safety and directions to the pedestrian and cycle links;
 - provide for additional and improved footpaths;
 - provide for the improvement of the Sustrans cycle route across the site;
 - provide for a programme of archaeological work;
 - limit the hours when construction and deliveries are undertaken and prepare an ‘environmental management scheme’ to minimise noise and disturbance;
 - install ‘sustainable urban drainage’ systems.

¹ Document 7 and annex 1

² Document 8 and annex 2

The Pre Inquiry Meeting

1.11 A Pre-Inquiry Meeting was held in the Council Chamber at the Guildhall on Monday 6 February 2006¹. It was suggested there that several ‘Statements of Common Ground’ might be helpful to the Inquiry. The intention was to build on the level of agreement and cooperation already evident between the Council and the applicants, to ensure a common approach to the main issues identified in the ‘call-in’ letters and to provide a coherent core of evidence to help 3rd parties direct their concerns to those matters of most relevance to them. I am very pleased to record here that the effort expended by all main parties in the preparation not only of relevant SCGs, but also of useful Joint Statements, helped to address issues fundamental to the Inquiry, saved much Inquiry time and, I think, helped participants to focus their objections.

- There are 2 ‘traditional’ SCGs, one each for the Germany Beck and the Derwenthorpe schemes, that address such matters as the description of the sites, their condition and planning history; an outline of the proposals; an indication of the relevant policies; the status of the documents that contribute to the role of the Development Plan in York; and, an indication of the matters likely to be the subject of planning conditions.
- There are 2 SCGs relating to traffic and transport matters, one each for the Germany Beck and the Derwenthorpe schemes. Both refer to the submitted TIAs and set out the basis for agreements on highway matters.
- There is 1 SCG addressing those traffic and transport issues that arise from the combined operation of the developments proposed at Germany Beck and Derwenthorpe together with the proposal to substantially expand the University of York. All 3 proposals are located in the south eastern quadrant of the City.
- There is a Joint Statement (JS1 – Planning Policies) setting out the relevant aspects of national policies, the approved and emerging Regional Strategies and the approved Structure Plan together with the status and role of the City of York Local Plan.
- There is a Joint Statement (JS2 – Green Belt) setting out the evolution of the Green Belt around York and how policy documents or appeal decisions might affect the application sites.
- There is a Joint Statement (JS3 – General Housing Provision) setting out the basis for the housing requirements in York and the current estimates of the likely housing provision.
- There is a Joint Statement (JS4 – Housing Mix and Affordability) describing how the current provision of dwellings in York compares with the identified need for affordable homes as well as the distribution of dwellings in terms of size and type.
- There is a Joint Statement (JS5 – Joint Approach to Site Selection) indicating the criteria used in the selection of sites for housing and the way in which they have operated in relation to alternatives to the application sites.

The state of planning policy in York

1.12 The last statutory Plan for the whole city of York with proposals shown on an Ordnance Survey base was approved by the Minister of Housing and Local Government over 50 years ago in 1955. The current Development Plan consists only of the adopted North Yorkshire Structure Plan, last modified in 1995, which covers the period 1991-2006, and the Regional Spatial Strategy for Yorkshire and Humberside, December 2004, which covers the period up to 2016. The former was originally approved in 1980 and the current version is the result of 3 Alterations approved or adopted in 1987, 1989 and 1995. The latter was originally published as RPG12 in 2001 and subject to a selective Review that was completed in 2004; the matters ‘reviewed’ are not directly relevant to this Inquiry. Under the Planning and Compulsory Purchase Act 2004, the Review became the RSS for Yorkshire and Humberside.

¹ Document 10

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- 1.13 The dearth of statutory planning documents is reflected in a plethora of uncompleted, partial and abandoned Plans, together with various forms of guidance and Development Briefs, many of which have absorbed much energy and effort. The latest such 'planning' document is the City of York Local Plan. That Plan was placed on deposit 8 years ago (in May 1998) and went to an Inquiry towards the end of 1999 after 2 sets of Pre-Inquiry Changes. The Inquiry was adjourned to allow reconsideration of fundamental Green Belt issues. The Plan subsequently reached its 4th set of Pre-Inquiry Changes in 2005, but was 'abandoned' in April of that year, given the difficulty of complying with the requirements of the new planning system introduced by the 2004 Act; the Plan has been 'approved' for development control purposes. This muddle was addressed at the Pre-Inquiry Meeting. The line suggested was essentially that regard should be given to the allocation of land and the policies set out in the City of York Local Plan but that, equally, the scope of such consideration should encompass the cogency of any justification for those proposals and policies, the coherence of objections to them and the clarity of competing or alternative scenarios. So, although both application sites are shown as allocated for housing and beyond the Green Belt in the latest version of the City of York Local Plan, the status of that document means that the justification for such proposals and policies can be properly questioned and the cogency of competing proposals, alternative scenarios or different policy responses may be properly considered. Such matters form an important focus for the Inquiry; more detailed guidance on some of them was set out in the Notes of the Pre-Inquiry Meeting issued in March 2006.
- 1.14 The current paucity of statutory planning documents is reflected in the protracted period over which updated detailed Plans are likely to emerge. There is, of course, no emerging Structure Plan. The broad guidance set out in the RSS 2004 is in the process of being updated and extended from 2016 to 2021 in the form of the Yorkshire and Humber Plan submitted to the Secretary of State in December 2005. The EiP is to be held over the autumn of 2006 and the Panel report is scheduled to be submitted early in 2007, with final publication due in the autumn. In those circumstances, the issues relating to the need for housing, identified for this Inquiry, must depend partly on the annual housing requirements set out in the RSS 2004 or the draft Yorkshire and Humber Plan 2005. Given the matters to be discussed at the EiP the latter figures may well be minimum requirements. But such figures are likely to need revision. The basis of the housing requirements set out in the RSS 2004 are out of date and do not entirely reflect current policies or emerging scenarios. The requirements in the Yorkshire and Humber Plan have yet to be debated and could, of course, be reduced as well as raised.
- 1.15 The decision to abandon the City of York Local Plan means that detailed guidance must now emerge through the new Local Development Framework. The published Local Development Scheme indicates that a Core Strategy might be adopted in December 2007 after public participation both on the selection of 'preferred options' and the document finally submitted to the Secretary of State during 2006. More detailed Development Plan Documents are due for adoption in May 2008 with the 'allocations and proposals map' (showing the allocation of sites and inner Green Belt boundaries) identified for adoption in August 2009. As yet, however, only preliminary consultation has taken place on the Core Strategy in June 2006; the 'preferred options' version has yet to emerge making it likely that submission to the Secretary of State will take place well after 2006. It would be remarkable if such delays were not also to affect the emergence of more detailed Development Plan Documents and the 'allocations and proposals map'. Even if those delays were not especially significant, it is clear that the emergence of detailed planning guidance here, let alone its adoption, is not imminent.

New and emerging policy

- 1.16 Since the Inquiry closed PPS3 and PPS25 have been issued. At the time of the Inquiry only the draft versions of those documents were available.
- 1.17 The Inquiry addresses some of the key policies emerging in draft PPS3. In particular,

consideration is given to the quality of the design and layout of the schemes and the way in which open spaces, footpaths and cycle-tracks might integrate with the surroundings: dwellings are to be designed to high environmental standards, acknowledging the need to cut carbon and other emissions and to provide for the needs of households at different stages in the life cycle: the emphasis on family homes is reflected in the issues raised as is the encouragement to promote mixed communities: the affordable housing proposed here would all be for the social rented or 'intermediate' sectors: and, of course, the efficient use of land and the preference for developing brownfield sites before green fields formed an important focus for the Inquiry.

1.18 However, the emerging approach to 'planning, monitoring and managing' housing requirements is not fully applied to the housing needs identified in York. The identification of suitable housing sites further into the future and the possible disregard for 'windfall' sites would increase the urgency to develop the application sites. Indeed, provision from windfalls would exceed the provision on both the application sites over the period up to 2016. But, in the particular circumstances of York and in relation to these cases, I believe that the approach advocated in draft PPS3 (at least as I understand it) would be inappropriate. This is essentially because almost all 'windfalls' in York are on brownfield land and the only source of additional land that is either not allocated for housing or not likely to emerge as a 'windfall' site would be greenfield sites. Hence, to allocate housing sites too far ahead and to disregard 'windfall' sites as a source of provision would run the risk of failing to apply the appropriate sequential test. In my view, the sequential test is crucial here because it is necessary to test that development on these 2 greenfield sites would be essential. The points are indicated in the conclusions so that a different approach can be adopted if required.

1.19 In relation to draft PPS25 both schemes have been subjected to 'flood risk assessments' and incorporate measures to manage surface water and cope with residual flood risks. Neither scheme has been subjected to the sort of 'sequential test' now outlined in draft PPS25, although the site selection process undertaken for the Local Plan took account of the flood plain maps available at the time. Both schemes would make a positive contribution to reducing flood risks and do so in ways that would contribute to the ecological diversity of each site. I explain that, where relevant, both schemes would meet the requirements of the 'exceptions test'.

Criticism of some Council decisions

1.20 Some objectors sought to criticise the merits of the schemes by criticising the way in which previous decisions might have been made. I insisted more than once that the Inquiry should concentrate on evidence relating to the merits of the schemes and not waste time alluding to collusion, about which no evidence was adduced and little but vaguely expressed 'impressions' cited. Nevertheless, some of those criticisms remain in the cases reported here, so I set out my response. The main criticisms include:

- systematic neglect of the Derwenthorpe site by withdrawing effective management¹ in order to damage its biodiversity and potential SINC status²;
- collusion in selecting the Derwenthorpe site (largely owned by the Council) rather than the site at New Lane, Huntingdon for allocation as a site for housing;
- incompetence through incorrectly assessing flood risks³ at Murton Way, Osbaldwick and allowing compensatory flood storage to necessitate the extinguishment of a public footpath;
- inefficiency in failing to enforce compliance with approved plans, resulting in flooding of neighbouring property at Towthorpe Road, Haxby.

¹ ID84

² YNET2

³ ID202 and ID203

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- 1.21 I do not pretend that everything undertaken by the City of York Council and its officers is faultless. The Ombudsman's report relating to the drainage problems at Towthorpe Road, Haxby demonstrates that mistakes sometimes occur. It would be surprising if it were otherwise. But I do want to record here that everything I encountered during the course of the Inquiry indicated a high level of professionalism. Indeed, there are some spheres in which the Council is nationally recognised as a leader in the field. Moreover, I find it impressive that such expertise is combined with an open and straightforward approach to admitting mistakes and to making often finely balanced and difficult decisions.
- 1.22 So, it was quickly explained that the development at Murton Way had encroached into the flood plain, that the swales were necessary to provide compensatory flood storage and that the footpath to be 'extinguished' run parallel to, and barely 20m from, a pavement. The evidence reported later, demonstrating the effort expended in assessing the suitability of housing sites and the existence of cogent reasons for selecting Derwenthorpe rather than the site at New Lane, Huntingdon, speaks for itself. And, it is clear that the 'neglect' at Derwenthorpe does not stem from withdrawing effective management, but in recent difficulties in finding contractors to undertake the tasks required. Moreover, it is commendable, I think, that the quality of the Derwenthorpe site is straightforwardly explained to be of 'border-line' SINC status. The professional judgement that its quality is (and never was) quite sufficient to qualify is actually supported, on a proper reading, by all the evidence adduced from all the qualified ecologists involved.

Human Rights

- 1.23 Because neither site has been designated for development under any form of adopted Plan and because properly lodged objections have not been heard, it is claimed that allocating the sites for development without following that statutory process would prejudice rights under the Human Rights Act. Of course, the planning system allows for the development of land on unallocated sites and in the absence of any statutory Plan. This Inquiry has provided objectors with the opportunity to voice their concerns, the merits of which have been assessed in a context that encompasses issues likely to have been addressed in the context of a Local Plan Inquiry. In the circumstances, any effect on a human right is likely to be proportionate and appropriate.

The need for EIA

Germany Beck

- 1.24 The scheme is the subject of an Environmental Impact Assessment (EIA) as it is an Urban Development Project of more than 0.5ha; under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 it could thus constitute EIA development. Given the extent and scale of the project, and the advice set out in Schedule 3 to the Regulations, an Environmental Statement has been submitted. The first version of the Environmental Statement¹ is dated April 2001 and includes descriptions of the site and the proposal together with assessments of:
- the planning context
 - dust and air quality
 - noise
 - hydrology and drainage
 - transportation
 - landscape and visual amenity
 - ecology and conservation

¹ CD110

- agriculture
- ground contamination
- cultural heritage and archaeology
- socio-economic factors
- recreation.

1.25 Amendments to the project were made in response to consultations. A revised illustrative ‘master plan’¹ was submitted and the ES updated in August 2003². Further material was submitted during 2004 in January (a flood risk assessment and TIA) and March (including a sustainability appraisal and a statement of community involvement). In May 2005 additional archaeological work was undertaken. Finally, in May 2006 the illustrative ‘master plan’ was further revised³ and the ES updated⁴ and advertised in accordance with the Regulations; the period for making representations on the matters addressed in the second ES supplement ended on 3 July 2006. The provision for a bus route across the site with a ‘bus-only connection’ to Low Moor Avenue proved of particular concern to local people⁵. Other changes involved the incorporation of ‘sustainable urban drainage systems’, alterations to the drainage strategy, various layout and alignment details and the provision of a new ‘green corridor’. As the requirements for publicity and consultation have been met, the ES complies with the relevant Regulations and provides, together with the matters raised at the Inquiry, sufficient information to assess the environmental impact of the proposals.

Derwenthorpe

1.26 Similarly, an Environmental Statement⁶ accompanied the application relating to the Derwenthorpe scheme, dated July 2003; that too is an Urban Development Project of more than 0.5ha and so could constitute EIA development under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999. Given the extent and scale of the project, and the advice set out in Schedule 3 to the Regulations, an Environmental Statement has been submitted. The first version of the ES includes descriptions of the site and the proposal together with assessments of:

- the planning context
- agriculture
- air quality
- archaeology
- contaminated land
- drainage and water quality
- ecology
- landscape and visual matters
- noise
- transportation
- lighting.

1.27 As a result of comments received during consultation and the findings set out in the ES a revised ‘master-plan’ was submitted repositioning some of the housing and landscaped areas and making provision for great crested newts towards the eastern part of the site. The ES was updated to take

¹ CD112

² CD111

³ PH/PJR/1.1, dated April 2006, this was later revised in June

⁴ Document 9

⁵ See many letters listed in the Inquiry Documents

⁶ CD76-CD79

account of these changes in April and August 2004¹. The additional work mainly addressed:

- air quality
- contaminated land
- drainage and water quality
- ecology
- transportation.

1.28 The updated ES was advertised in accordance with the Regulations and the period for making representations closed long before the Inquiry began. As, the requirements for publicity and consultation have been met, the ES complies with the relevant Regulations and provides, together with the matters raised at the Inquiry, sufficient information to assess the environmental impact of the proposals.

¹ CD79a and CD80, respectively

2. The Sites and their Surroundings

Germany Beck

The site

- 2.1 The site is on the southern outskirts of the City and about 3.1 km from York Minster. It extends to nearly 33ha¹. Much of it is a flat expanse of arable land stretching across wide open fields to the east of Fulford and southwards from the schools and neat suburban dwellings behind Heslington Lane. Intermittent or 'flailed' hedgerows denote a few field boundaries: others have disappeared. But, here and there thick and ancient hedgerows remain, particularly beside sections of Germany Lane and along lengths of Germany Beck towards the southern boundary of the site². Beyond, the flat farmland stretches to the 'outer ring road' (about 1km to the south), here formed by the dual carriageways of the A64. The distant sound of traffic pervades the place, though the speeding vehicles can only be glimpsed across the farmland between the remaining lone trees and the occasional copse or plantation.
- 2.2 The bulk of the site (nearly 90%) is classified as 'the best and most versatile' agricultural land (grade 2 and 3a); indeed, about 57% of the land around York and within the 'outer ring road' is of a similar quality³. There are 3 separate landowners, but most of the land is actively farmed under tenancies by 2 agricultural businesses (G W Atkinson & Sons and Mr Geoff Headley). The main part of the site is set out in 4 large arable fields. Roughly, the eastern half is formed from one large expanse of arable land. In contrast, the western half (behind the dwellings along School Lane) still exhibits the barest vestiges of old 'enclosures' outlined in 3 'strip-like' fields. Tunnel Drain cuts across the middle of the site from north to south; there have been occasions in the past when the drain has been affected by overflowing sewerage. Tunnel Drain flows southwards into Germany Beck, an extensively engineered watercourse, which flows from east to west across the site towards (and sometimes on) the southern boundary; the beck discharges into the River Ouse to the west of Fulford. The land to the south also drains into Germany Beck via the Tillmire Drain. A main sewer pipe crosses the site.
- 2.3 Parts of the site are not in arable use. In the north west corner a rectangle of unkempt and largely unused land beside School Lane accommodates the few slab foundations of long demolished structures. To the south west 2 small meadows partially enclosed by thick hedgerows slope gently from Germany Lane towards Germany Beck. The eastern meadow is designated as a Site of Interest for Nature Conservation and is intended to be retained as the 'Germany Meadow Nature Conservation Site': the rank grasses and thick hedges beside the adjacent 'south western meadow' accentuate the apparent seclusion of the SINC⁴.
- 2.4 At the south western corner of the 'south west meadow' the site narrows to a gap of barely 16m between Germany Beck and the south eastern boundary of a home for old people beside Fordlands Road⁵. The home is run by the Council and it provides both 'care' for those residents in need of it and facilities for staff training. The boundary of the home here is formed by a hugely overgrown hawthorn hedge immersed amongst scrub and foliage beside the beck. Beyond that 'pinch-point' the site expands to encompass a triangle of land between the 'home', the beck and Fordlands Road shrouded by trees and thick foliage; this section of Fordlands Road (roughly

¹ Y3 and PH/PJR

² PH/RG/1

³ CD110 and CD111, agricultural sections

⁴ PH/PJR and PH/RG/1

⁵ Measured from plans at ID221 and in PH/BGH/1.1-1.20

100m) is included within the site¹. Similarly, the largely overgrown scrubland to the east, between the dwellings fronting the A19 (to the north) and the wooded banks of Germany Beck (to the south) forms the south western extremity of the site. The adjacent section of the A19 (again about 100m in length as Selby Road merges into Main Street, Fulford), and including the detached dwelling to the north (No.151), is within the site boundary.

- 2.5 Arable land to the south of both the SINC and the eastern section of Germany Beck is also within the site. Little distinguishes this area from the adjacent farmland. The southern boundary runs eastwards from the Tillmire Drain across open fields perhaps 80m to the south of the thick hedge beside the SINC and 150m to the south of Germany Beck.
- 2.6 Nearly all the land to the north of Germany Lane (save for a small area beside Tunnel Drain) is at 10m AOD or above. This is the main part of the site. The highest land (at over 13.5m AOD) lies to the north west towards School Lane; it falls eastwards to reach about 10.5m AOD on the eastern boundary. Land to the south of Germany Lane is lower. Most of the SINC lies between about 7m and 8.5m AOD; the 'south west meadow' is between 7.5m and 9.75m AOD; and, broadly, the land to the west (beside Fordlands Road and the A19) is between 7m and 8.5m AOD. The SINC, including the section of Germany Lane to the north, the 'south west meadow', the land to the west (including Fordlands Road and the A19) and a narrow strip of land beside Germany Beck are shown within the Environment Agency's latest estimate of the areas with a 100 to 1 chance of being inundated annually (zone 3)².

The surroundings

- 2.7 Built development, generally housing or schools, lies to the north and west of the site. Fields and farmland lie to the south and east.
- 2.8 The western boundary of the site is largely formed by School Lane, the garden hedges of the suburban dwellings to the south and the home for elderly people. School Lane once formed a medieval back lane behind the 'tofts' fronting what is now Main Street. The remnants of traditional long and narrow-fronted plots are still evident to the north, though much is now submerged amongst suburban bungalows, closes and culs-de-sac. School Lane itself (but not the little row of bungalows and interwar dwellings to the east) forms the eastern edge of the Fulford Conservation Area, designated in 1998; the village was listed as a settlement in the Domesday Book. The core of the Conservation Area is Main Street (part of the A19), an attractive though busy thoroughfare curving gently past short terraces of 18th and 19th century buildings behind wide grass verges. Fenwick's Lane is similarly the remnant of a medieval back lane to the west of Main Street. Here, however, the outline of the long narrow plots is more in evidence and the Conservation Area extends westwards to the low lying Ings beside the River Ouse³.
- 2.9 The village accommodates several public houses, a post office and one or two shops; a small general store is at the top of School Lane. Modern buildings now house St Oswald's Primary School and there is a large secondary school nearby. Other community facilities include churches and chapels and 2 recreation grounds⁴.
- 2.10 Further west, Fulford Ings is an important example of 'flood plain mire' located on low lying land between the River Ouse and Fulford Village. It is an SSSI, first notified in 1991. It supports an uncommon sequence of plant communities, including alluvial grassland on higher ground (adjacent to the flood bank), a transitional zone of rich fen meadow and a swamp in the low lying

¹ See photographs at ID200

² PH/DKM/1.01-1.22

³ PH/PJR/1, ID163, ID218, CD63

⁴ Y3 and PH/PJR/1

areas furthest from the river. This is a quiet wild place of sedge and reed. It depends upon the maintenance of a high water table as well as on mowing and grazing. Naburn Marsh SSSI, a species rich flood meadow, lies about 1km further south beside a bend in the River Ouse: Heslington Tillmire SSSI, an area of marshy grassland supporting a tall herb fen plant community, lies about 2km to the south east of the site¹.

- 2.11 The wooded banks of Germany Beck form a small part of the southern boundary of the site; beyond the Tillmire Drain this boundary simply strikes across open arable fields. An expanse of similar flat farmland stretches to the ‘outer ring road’ (part of the A64) about 1km away. To the south of Germany Beck, Fulford Cemetery is set out beside Fordlands Road. An area of overgrown land between the beck and the cemetery was once used as allotments. A neat recreation ground, owned and managed by Fulford Parish Council, is on land to the west of Fordlands Road and at a level slightly above the A19. This is partly ‘made-up’ ground and the northern edge of the recreation area slopes quite abruptly towards the beck. Further south, and strangely isolated amidst fields and farmland beyond the cemetery and the recreation ground, stands the Fordlands housing estate, an area of inter-war suburban housing arranged around crescents and a few cul-de-sacs. Beyond the A64, is the huge expanse of car parking serving the McArthurGlen Designer Outlet and a ‘park and ride’ facility².
- 2.12 An intermittent hedge and ditch separates the eastern edge of the site from the small paddocks, caravan park and old farmyard at the end of the unadopted Mitchel’s Lane. The Lane runs through to Heslington Lane and Walmgate Stray (an important area of open space) between hedgerows and back gardens, the occasional fence having encroached into the verge. An old nursery (owned by Persimmon Homes) stands further east on Heslington Lane, beyond which is part of the University Campus. The carefully honed and sylvan landscape of Heslington Golf Course lies beyond the small paddocks and stretches over Heslington Common to the Heslington Tillmire SSSI, well to the south of the A64³.
- 2.13 Suburban bungalows and houses back on to the north eastern boundary of the site in Tillmire Close and Low Moor Avenue; the latter ends at a gate on the site boundary. There are some hedges and one or two attractive trees here. These are quiet streets of inter-war housing. The rest of the northern boundary abuts extensive playing fields. Boundaries associated with Fulford School (now Fulford Mathematics and Computing College) are surrounded by a stout ‘industrial’ style steel fence, mitigated in places by hedges and trees. The utilitarian buildings are prominent beyond the fencing, though thicker vegetation surrounds a school ‘nature reserve’ in the vicinity of Tunnel Drain. An intermittent hedgerow separates the site from the ‘parish land’ beside School Lane, set out as playing fields and tennis courts. Further north, and behind more steel fencing, are the new buildings and grounds of St Oswald’s Church of England Primary School. Both schools stand amongst the suburban housing astride Heslington Lane.

Pedestrians and cyclists⁴

- 2.14 The nearest off-road cycle route to the site ends just north of Fulford Village at St Oswald’s Road; it provides a pleasant cycle-way into the City centre.
- 2.15 There are 2 footpaths across the site. Germany Lane runs between the ‘meadows’ and the southern field striking south beside Tunnel Drain across the flat farmland to the A64. The remnants of a crossing facility are evident, but the path now appears to peter out beside the busy carriageways. It does, however, provide an opportunity for circular walks across the flat

¹ PH/RG/1 and appendices

² PH/PJR/1

³ Evidence and site visits

⁴ PH/BGH/1 and PH/PJR/1

farmland, linking with a path beside the cemetery and a bridleway (Cross Lane) to Fordlands Road. And Germany Lane footpath continues as the Millennium Way beside Germany Beck, turning north along the eastern boundary of the site to reach Mitchel's Lane and Walmgate Stray. The cul-de-sac of School Lane (on the western boundary of the site) continues southwards as a footpath to Germany Lane. The old farm track across the north western field that now leads from the demolished buildings on School Lane to Tunnel Drain appears not to be a right of way, although it is clearly well used by walkers. There is no sign of any other path across the fields on the application site.

- 2.16 The Minster Way, a long distance path, runs along Fordlands Road and via bridleways over the A64 into the countryside beyond. It crosses Main Street and Fulford Ings to the River Ouse and thence into the centre of York.

Public transport¹

- 2.17 Several bus services ply along Main Street, Fulford; some of them also use Heslington Lane to the north of the site.
- 2.18 There are roughly 13 buses an hour in both directions along Main Street, though that frequency is only maintained during the day. After about 20.00hrs the service is much less frequent (barely 3 buses an hour) and services cease by about 22.30hrs. The core of the service is provided by the No.7, which connects the 'park and ride' facilities and the Designer Outlets to the south with the City centre at 10 minute intervals. Just over 3 buses an hour ply between Selby and York (and sometimes beyond, No.42 and Nos.412/3/5). The Fordlands estate is connected to the City by a half hourly service (Nos.22 and 23), via Heslington Lane. And, an occasional journey is made to outlying villages (No.18) or schools (No.27).
- 2.19 There are roughly 4 buses an hour along Heslington Lane. The Fordlands estate service (Nos.22 and 23) provided 2 buses an hour, though by September this year, barely an hourly bus service appeared to have been maintained². No.415 also uses Heslington Lane and, to the east beside the entrance to Mitchel's Lane, No.128 provides an hourly connection between the University and the City centre.

Roads and traffic³

- 2.20 Main Street, Fulford and Heslington Lane are busy traffic routes in the vicinity of the site. Main Street is part of the A19 between Selby and York; it serves as an important radial route into the City centre from the 'outer ring road' (A64). Much of the carriageway through the village is about 7.3m wide, though at the traffic light controlled junction with Heslington Lane (at the northern end of the village) it widens to 12.5m to accommodate right turning vehicles and continues at a similar width towards the City centre. There are wide grass verges between the carriageway and the pavements with a pelican crossing towards the centre of the village. The road carries over 1600 vehicles through the village during the morning peak hour (07.30-08.30hrs) with up to 1000 travelling into the City centre and just over 600 (actually about 630) journeying south. Of course, those flows are reversed during the evening. But the traffic is heavier. Some 1800 vehicles crawl through the village (16.30-17.30hrs), over 1100 travelling out of the City and nearly 700 travelling north. Traffic flows are slightly lower to the north of Heslington Road. However, a permanent traffic counter there offers a comparison between peak and average daily flows. Morning and evening 2-way peak flows of about 1350 and 1380 respectively compare with an average daily flow (over 5 weekdays of 16 hours) of about 1040. Clearly, Main Street is likely to be busy throughout much of the day.

¹ Y9, PH/BGH/1 and appendices

² September site visits

³ Y9, PH/BGH/1 and appendices

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- 2.21 Heslington Lane is a distributor road between the University (to the east) and the A19; the carriageway is some 7.4-7.8m wide flanked by pavements (though it is wider at the junction with Main Street). The road carries about 500 vehicles during the morning peak hour (07.30-08.30hrs) with some 330 travelling east (towards the University) and about 170 travelling west, most of which (about 130) turn left to pass along Main Street, Fulford. During the evening peak hour some 540 vehicles use Heslington Lane; about 340 travel west (from the University), most turning left into Main Street, and about 200 travel east.
- 2.22 All the roads that provide potential vehicular access to the site eventually lead to junctions with Main Street, Fulford or Heslington Lane. From the west, Fordlands Road, at the south end of Main Street, is a long cul-de-sac providing access to some 360 dwellings on the Fordlands Estate and the cemetery; it meets Main Street in a simple priority junction at an acute angle. A section of the road is within the site. The carriageway is about 6.1m wide with pavements on both sides. Peak hour 2-way traffic amounts to about 140 vehicles during the morning and 160 during the evening. Hence, this is a quiet road. It also provides access to Fulford Mews, the Fordlands Road Care Home and an entrance to Germany Lane.
- 2.23 From the north, School Lane provides access to the site from Heslington Lane. School Lane is a cul-de-sac serving St Oswalds Primary School, a shop and the village hall, as well as several suburban dwellings. There is a simple 'T' junction with the main road and, at that point, School Lane is about 6m wide with pavements on both sides; further south it narrows to some 4.4m and 2 speed humps provide traffic calming measures. Further east, Heath Moor Drive and Low Moor Avenue together provide a route, via at least 2 right-angled bends, between Heslington Lane and the site; Low Moor Avenue ends at a gate on the site boundary. There are about 90 neat suburban dwellings beside these quiet roads. The carriageways are about 5.5m wide with pavements on both sides and wide grass verges in places.
- 2.24 Possible access points also include Fulfordgate and Mitchel's Lane. The latter is a private and partly metalled track at the eastern edge of the site that provides access from Heslington Lane to a couple of dwellings, Bleak House Farm, the modest caravan park and, eventually, the Millennium Way. There is also access for pedestrians to the back of the dwellings in Heath Moor Drive and Tillmire Close. Although the nominal width of this lane may range from 4.6m to 5.3m, thick hedges and the occasional encroaching curtilage reduce the effective width to between 3.2m and 3.8m. Fulfordgate is a cul-de-sac providing access to the secondary school and some 50 dwellings. The carriageway is about 5.6m wide with pavements on both sides and a couple of traffic calming devices.

Derwenthorpe

The site

- 2.25 The site is on the eastern edge of the City about 2.3km from York Minster. It extends to nearly 22ha over 9 small fields, each largely surrounded by thick hedges¹. Much of the land is currently covered in rank grasses, though horses graze some of the southern fields. In the past, the grass was cut for hay or silage, though this has not been done recently save, unofficially, by gypsies². Now, the unkempt nature of the grassland and the burgeoning hedgerows contribute to the secluded enclosure of the place. The pattern of the field boundaries appear to stem from the Enclosure Award (in 1769 for Osbaldwick) disrupted only by the line of the old Derwent Valley Light Railway that bisects the site from east to west; this is now part of a Sustrans cycle track³. Beyond the site a patchwork of small fields (mostly grazing land) stretches across the damp

¹ Y2

² JRHT/RNH, Y13, YWT1 and YNET2

³ JRHT/NM

farmland to the dual carriageways of the A64 (about 1.5km to the east); Hull Road, part of the A1079, lies about 0.5km to the south and crosses the A64 at Grimston Bar. A muddle of pylons, power lines, masts, a gypsy site, an old sewage works, a messy industrial estate, retail outlets and a ménage all intrude amongst the small fields enveloped, to some extent, by the hedgerows and foliage¹.

- 2.26 The 9 small fields of the application site are owned by the City of York Council. They have not served much of any obvious agricultural use for some time. Even the ‘mowing’ that has previously occurred does not now appear to be part of an active management programme. The fields and hedges look neglected. A small part of the site (about 1.5ha) is within the National Grid land holding. This is a hard surfaced area towards the eastern boundary and just to the north of the Sustrans track. It contains an electricity sub-station and compound, some dilapidated buildings and a dwelling; it is surrounded by industrial steel fencing and a brick wall. A line of pylons march beside the Sustrans track to the sub-station: a further line of pylons extends northward from the sub-station over a small part of the site. Land beside Fifth Avenue (to the north west) is a private road, with ownership rights vested in 14 house-owners. The applicant has the benefit of a land sale agreement with the Council and has reached agreement (at least in principle) with the owners of the land beside Fifth Avenue; agreement has yet to be reached with other landowners².
- 2.27 The site is flat. It is highest (at some 15.25m AOD) in the north eastern corner and lowest (at 12m AOD) in the south west beside Osbaldwick Beck; the stream forms part of the meandering southern boundary. The fields to the south of the Sustrans track slope gently towards the Beck. The fields to the north have a less pronounced slope and appear to be less well drained. Indeed, that must always have been the case as there are clear the remnants of ridge and furrow here, some being quite severe, and a seasonal pond in field 9 towards the north east of the site³. Osbaldwick Beck flows from east to west the stream bed levels being almost 10.8m AOD in the east and nearly 9.9m AOD in the west. Although the banks are quite steep, the meanders and foliage create the impression of a semi-natural water-course. The Beck runs through the village of Osbaldwick further to the east and continues beyond the western boundary of the site through an area of open land behind the back gardens in Temple Avenue⁴.

The surroundings

- 2.28 Built development, mostly in the form of houses and schools, lies to the north, west and south of the site, usually beyond thick hedgerows. Even to the east there are a couple of dwellings; one is an old farmstead while the other is a relatively modern home⁵.
- 2.29 The southern boundary is largely formed by Osbaldwick Beck, which meanders past the long back gardens of the suburban dwellings in Osbaldwick Lane. One of the meanders includes a scout hut. At the south eastern corner, a sharp bend in the village street forms the boundary; the site is screened behind a thick roadside hedge. The bend in the road lies at a natural entrance to Osbaldwick Village. This is an attractive place designated as a Conservation Area in 1978 and listed as a settlement in the Domesday Book. The core of the village and the main focus of the Conservation Area is the elongated village green. The buildings to the north form a cohesive entity of traditional structures built in red or buff bricks with outbuildings extending along the remains of long narrow ‘medieval’ plots. Indeed, the Conservation Area was extended northwards to the line of the old Derwent Valley Railway in 2004 to include the long narrow

¹ Site visits

² Y2, Y13, JRHT/NI, YNET3.7

³ The plan at 4.2.4 of JRHT/RNH includes the field numbering system.

⁴ JRHT/NM and appendices

⁵ Y2

gardens, the ridge and furrow fields and the wooded paddocks. It was also extended westwards to include barely more than the road and Beck, but widening to encompass an old Methodist Chapel (now the village hall) and a 'pinfold'. The south east corner of the application site is thus adjacent to the Conservation Area. They are included in the Conservation Area together with the 12th century parish church¹.

- 2.30 The western boundary largely runs beside the back gardens of the dwellings in the Tang Hall area of the City; most of this is a hedge. Much of this area consists of modest semi-detached dwellings built in the 1930s around quite narrow closes and culs-de-sac. In most cases, it is the larger gardens at the houses around the head of those culs-de-sac that are adjacent to the site boundary. There are just 2 places where roads abut the application site. To the north of the Sustrans track, there is Fifth Avenue. That is a relatively wide thoroughfare with a carriageway generally over 6m in width, wide grass verges and pavements; it is flanked by suburban houses behind pleasant front gardens. To the south of the Sustrans track there is Temple Avenue. That is a fairly narrow road with a carriageway barely 4.6m in width. There are modest grass verges and pavements; the road is flanked by smaller suburban and dwellings behind smaller front gardens. Further west the private housing gives way to the Tang Hall Estate, a large area originally built by the Council as a 'cottage garden' estate².
- 2.31 To the north of the site there is an expanse of school playing fields and the Meadlands estate, largely built in the 1960s. Much of the open land forms the grounds of Burnholme Community College. There is also a 'special needs' school here, where most of the children are brought by some form of special transport. 'Meadlands' consists of a 'loop' and one or two culs-de-sac, serving about 115 dwellings. Nearly all the dwellings are detached bungalows or 'chalet' bungalows set in neat and attractive gardens accommodating garages and off-street parking. The carriageway is at least 5.4m wide and flanked by footpaths; a small 'spur' (of the same width) leads to the application site flanked by the side elevation of the relevant dwellings both behind thick hedges. To the north of Meadlands and the schools is Bad Bargain Lane and beyond areas of established suburban housing³.
- 2.32 Metcalfe Lane forms the eastern boundary. This is a tarmac track between Osbaldwick Village (in the south) and Meadlands (to the north). It is enclosed by high hedgerows and, beside the National Grid land, a 2m high security fence. It also serves the 2 dwellings (Langton House and Eastern House) that intrude into the farmland to the east. Otherwise small fields of poor pasture, hedges and blocks of trees characterise the countryside to the east of the site. The high hedge along the eastern side of the Lane serves to enclose the site from the nearby countryside and emphasise the inward-looking nature of the available views⁴.
- 2.33 Within a 10 minute walk of the site centre there are 4 primary schools, a secondary school, a special school, a range of shops (including local food shops and a Co-op), a library, a health centre, 2 churches, 2 public houses and several community buildings, including a village hall, a community centre and a scout hut. Those facilities are distributed around the site. For example, there are primary schools and local shops to the north, west and south of the site⁵.

Pedestrians and cyclists⁶

- 2.34 Metcalfe Lane provides a north-south link as a public footpath and cycleway between Osbaldwick

¹ CD82

² JRHT/CR and JRHT/AWM

³ MARA1, JRHT/CR and JRHT/AWM

⁴ JRHT/CR and JRHT/FF

⁵ JRHT/CR and JRHT/CR/1, appendix 2

⁶ JRHT/AWM and Y8

Village and Meadlands. The Sustrans cycleway provides an east-west link across the centre of the site. It too provides an off-road cycle route and footpath, which extends westwards towards the City centre as far as Layerthorpe and thence northwards to the Nestlé factory and New Earswick. There is also a pedestrian route and cycleway from the Sustrans track northwards to Burnholme Community College¹. Otherwise, although there are clearly signs of tracks around several of these fields and beside the Beck, there is no other public right of way across the site².

Public transport³

- 2.35 The main bus services go through Osbaldwick Village to the south of the site and along Bad Bargain Lane, to the north⁴.
- 2.36 The service through Osbaldwick Village (No.6) provides a link to the City centre and on to the Clifton Moor Retail Park at 10 minute intervals throughout much of the day. The frequency declines to about 20 minute intervals during the evening. But a ½ hourly bus service continues until quite late; the last bus into the City being at about 23.00hrs and the last bus back arriving at almost midnight. The buses stop in the village going east but in Osbaldwick Lane (about 200m to the south) travelling west⁵.
- 2.37 The service on Bad Bargain Lane (No.11) provides a ½ hourly link from Ashley Park (to the east) into the City centre and on beyond Bishopthorpe (to the south of the City). The section of the route on Bad Bargain Lane ceases to operate after about 18.30hrs⁶.
- 2.38 There are, essentially, school buses to Archbishop Holgate School and Fulford School (Nos.27 and 27A) in the morning and afternoon along Tang Hall Lane. And there are frequent services along the Hull Road, the core of which is provided by the route between the Grimston Bar ‘park and ride’ facility and the City centre (No.8), though that ceases by 20.15hrs and sometimes even earlier⁷. Hull Road is about 700m to the south of the application site and reaching it from Metcalfe Lane would involve a walk of about 800m⁸.

Roads and traffic⁹

- 2.39 The 4 vehicular access points into the site are all quiet residential streets or lanes¹⁰. The spur from the Meadlands ‘loop’ (to the north) is about 5.4m wide. Meadlands serves about 115 dwellings and accommodates a maximum peak hour flow of about 75 vehicles; for most of the time, however, it is very quiet. Fifth Avenue (to the west) is a wider road with a carriageway of over 6m and wide grass verges. The short spur that leads to the application site serves about 14 dwellings and a primary school (St Aelred’s). Surveys reveal that the road accommodates a maximum peak hour flow of about 149 vehicles. It too is very quiet at other times. Further south along the western boundary Temple Avenue ends at the application site. This is a narrow residential street about 4.6m in width, though grass verges enhance the apparent spaciousness of the place. The short spur that leads to the application site serves almost 20 dwellings. Maximum peak hour flows are indicated as about 75 vehicles, though the flows on the spur beside the application site must be much less. Finally, Metcalfe Lane, just a footpath along the eastern boundary, provides access to Osbaldwick Village (to the south of the site). The Osbaldwick

¹ JRHT/AWM and Y8

² CD81 and YNET3.7

³ JRHT/AWM and Y8

⁴ JRHT/AWM, appendices 1 and 2

⁵ First York timetables

⁶ op cit

⁷ op cit

⁸ Site visit

⁹ JRHT/AWM and Y8

¹⁰ JRHT/AWM and Y8

Village carriageway is generally over 6m wide: the maximum peak hour flow is about 74 vehicles.

- 2.40 All those access points lead either directly or via Osbaldwick Lane (in the south) or via Bad Bargain Lane (in the north) to Tang Hall Lane¹. That is a busy distributor road between 2 important radial routes into, and out of, the City centre along Malton Road (A1036) and Hull Road (A1079). Tang Hall Lane varies between 6.2m and 6.6m wide and accommodates peak hour flows of some 1330 vehicles. The road currently operates close to its practical capacity during peak hours (the flow is roughly 83% of the theoretical capacity of 1600 vehicles an hour). However, nearly all of the junctions with the roads leading to the site access points operate well below their estimated saturation level. The exception is the junction with Osbaldwick Lane. That junction reaches 80% of its 'capacity' during the evening peak. Osbaldwick Lane is used as a 'rat run' during peak hours with queues of traffic waiting to turn right into Tang Hall Lane during the morning and left into Osbaldwick Lane during the evening².
- 2.41 Alternative routes to the east would be possible from the access points at Meadlands and at Osbaldwick Village. The latter would offer a clear route via the Osbaldwick Link Road to the A1079 and the Outer Ring Road. The former would provide a route through the estates north of Bad Bargain Lane and thence, via Stockton Lane, to the Outer Ring Road at the Hopgrove Roundabout. It would be possible to follow that route from Fifth Avenue too, though that would entail traversing an additional section of residential roads. The access at Temple Avenue necessitates the use of Tang Hall Lane³.
- 2.42 The junction between Tang Hall Lane and Hull Road is a traffic light controlled junction currently operating in excess of its capacity during the evening peak hour (105%) and at about 67% during the morning. Hull Road (A1079) is a main radial route into the City centre some 8m in width; this single carriageway section of it accommodates over 1300 vehicles⁴.

¹ JRHT/AWM appendices 9 and 10

² JRHT/AWM and Y8

³ See RHT/AWM appendix 9 and the plans in Y8 and OS Explorer Map 290.

⁴ Y8

3. The Proposals

Germany Beck

3.1 The application for planning permission at Germany Beck is submitted in outline, save for the means of access, and it involves residential development of approximately 700 dwellings, the creation of public open space and community facilities, including local shops, with associated footpaths, cycleways, roads, engineering works and landscaping on about 34ha of land.

Design and layout

3.2 The ‘master plan’ shows a series of different local areas, linked by footpaths, greenways and roads, which would exhibit their own sense of place and design. It would provide a coherent structure allowing, design guidance, appropriate phasing and the provision of community facilities, including a local shop of about 200m² (conditions¹ 3, 4, 5 and 29). The design ‘cue’ for the spine road is to be Main Street, Fulford with active frontages and movement into the areas of lower density housing to the rear, where dwellings are to be arranged in groups, or ‘home zones’ or along pedestrian lanes. The range of net densities proposed at Germany Beck would vary between about 35dph to almost 60dph, though the estimated average net density of the housing areas is roughly 40dph². That would constitute an ‘efficient’ use of land. The housing is to be designed to reflect local style and character.

3.3 Footpaths, cycleways, greenways, play areas, open space and the ‘nature park’ are to be integrated with the housing to provide opportunities for safe and easy movement between neighbourhoods within the site and foster natural surveillance (condition 30 relates to a statement of crime prevention measures). In the same way safe and easy routes would be provided to and from the surrounding area and the community facilities, such as the nearby schools and shops³. A contribution of £2205000 would be provided under the terms of the section 106 Agreement⁴ to provide appropriate educational facilities. Design measures, subject to agreed conditions, would protect the amenities of adjacent residents either occupying the suburban or infill housing on the edge of the Conservation Area or the bungalows and houses in Tillmire Close (conditions 27 and 28).

Open space and landscaping

3.4 The proposal is designed to integrate with its surroundings. The footpaths, cycleways, greenways, play areas, open space, the nature park and the archaeological zone would offer new facilities and new routes to the open countryside for existing residents nearby.

3.5 Altogether, nearly 16ha of new open space is to be provided in one form or another⁵ (conditions 8-12). The Parish recreation area is to be extended together with a ‘multi use games area’ and indoor sports hall at the school for both community and school use. A recreational payment of £1740000 is to be provided for those purposes. A programme of management and planting would improve the wet grasslands of the Germany Meadow SINC (condition 10). An entirely new Nature Park with considerable ecological value for a variety of native local plant species, water

¹ Document 7

² PH/PJR/1 and PH/PJR/1.1

³ PH/GBH/1 and PH/BGH/16

⁴ Document 5

⁵ PH/PJR/1 and PH/PJR/1.1

voles, harvest mice, kingfishers, bats and other creatures will be created¹ (conditions² 10 and 11). A new foul sewage pumping station would prevent the pollution that has occurred in the past (condition 24). The incorporation of ‘sustainable urban drainage systems’, together with the swales, retention ponds and other drainage measures should alleviate flood risks and enhance biodiversity (condition 23). The archaeological zone would provide an interpretive archaeological trail; a wide programme of further archaeological investigation would be undertaken (conditions 12-14).

- 3.6 Landscaping and tree planting around the site would create an attractive sylvan edge to the urban area and a strong Green Belt boundary (conditions 2 and 5). Space and landscaping beside the Conservation Area would preserve the character and pattern of development evident there (condition 3). The ‘leisure’ routes beside Germany Beck are to be retained, landscaped and improved. A contribution of £165000 is to be provided for such purposes.

Housing and sustainability

- 3.7 The scheme is designed to facilitate the creation of a vibrant mixed community³. There are to be terraced, semi-detached and detached houses, mews dwellings and apartments offering from 2 to 4 bedrooms and arranged at densities from 35dph to almost 60dph (condition 3). Some 35% of the dwellings are to be affordable homes. That commitment is set out in the section 106 Agreement⁴ with a split between tenures (90% as social rented homes and 10% for intermediate housing); there is provision for amendments to be made to reflect changes in the relevant policies adopted; current indications are that a different distribution of tenures (60:40, respectively) might be required⁵. The document sets out the proportion of affordable homes to be provided on the site during the phases of development. It also insists that the completed affordable homes should be offered to a Housing Association approved by the Council and that the offer should remain open for a period of 18 months. If no agreement is reached within that period the ‘offer’ is to be ‘marketed’ to alternative Housing Associations (approved by the Council) for a further period of 18 months.
- 3.8 Some 15% of the dwellings are to be fully accessible by those in wheelchairs (condition 3). Every dwelling is to achieve an ‘EcoHomes’ rating of ‘excellent’ and incorporate the ‘flexible space’ to accord with the principle embodied in a ‘lifetime’ home⁶ (conditions 3 and 5).

Sustainable travel

- 3.9 The site is an ‘urban extension’ and well located in relation to public transport, shops, services and community facilities. The scheme incorporates further measures and designs to enhance the sustainability of the proposals.
- 3.10 Contributions are proffered under the terms of the section 106 Agreement to provide a ¼ hourly bus service across the site from Fordlands Road through Low Moor Avenue to Heslington Lane connecting to the town centre and beyond. Prior to the creation of that through route, services 22 and 23 are to be diverted into the site providing for a ½ hourly bus service, though the occupants of the early phases of the scheme would be within 400m of the buses on the A19 (due to the phasing indicated in the ‘master plan’ and condition 4). An index linked contribution of £460000

¹ PH/RG/1 indicates a carefully crafted scheme based on establishing various NVC community types including aquatic, wetland, meadowland, carr woodland and other woodland types. The scheme takes careful account of the existing habitats, see PH/RG/1.2.

² Document 7

³ PH/PJR/1 and PH/PJR/1.1

⁴ Document 5

⁵ CD163

⁶ The requirements and additional dimensions to provide the flexibility to meet these standards are set out in ID127.

is to be provided to support the bus service, to be paid in annual instalments over a period of about 7½ years. The possibility of upgrading Mitchel's Lane to accommodate the eastern end of the bus route would be provided for by a contribution of £220000. A further sum of £40000 is to be provided for bus stop improvements.

- 3.11 The access arrangements also include the installation of signals to provide priority for buses on the A19, so enhancing public transport facilities (perhaps crucially) on a major transport corridor in the City. That would involve a contribution of £200000 to provide new signals at the Junction of Naburn Lane and the A19. Provision of the new junction on the A19 with the spine road, in accordance with the submitted plans, is to be controlled by several conditions, including condition 32. Car journeys might be further reduced by the introduction of a car club (involving a contribution of £118000 under the terms of the section 106 Agreement¹), together with on-site parking spaces for 'car club' cars² (conditions³ 3 and 5).
- 3.12 Flood protection measures are offered to reduce the vulnerability of the A19 and Fordlands Road. The carriageway would be raised to about 9.81m AOD over a section of the road to tie in with the new spine road junction (condition 32). A contribution of £136000 is to be provided for additional flood defence works at Landing Lane and alongside the carriageway from Landing Lane to Fordlands Road.
- 3.13 The housing layout is to incorporate safe and direct pedestrian and cycle routes to local facilities and to the cycle network in the City, thereby creating routes to schools and local amenities for travel by means other than the private car; for such journeys. This is to be provided for from the contribution of £165000 to improve and landscape the Millennium Way and Minster Way footpaths and shared cycle-tracks. A contribution of £5000 is offered for appropriate signage. Improved crossings of the A19⁴ are to be provided at the junction of the A19 and the site access road, together with contributions of £40000 for a Toucan crossing further up Main Street; there is also to be a contribution of £20000 for improved refuges on Heslington Lane. Those crossings would enhance linkages to the wider footpath and cycle network, including routes into York City centre. The provision of community facilities, including a local shop of about 200m², would serve those towards the eastern end of the site and on the nearby estates.

Operations and environmental protection

- 3.14 The section 106 Agreement provides for the establishment and support of a 'liaison advisory committee'. This is intended to include representatives from the local community to advise on work undertaken in carrying out the development and on the allocation of funds for recreation.
- 3.15 The Agreement also insists that a 'construction traffic management plan' should be prepared and implemented. Conditions 15-21 impose several controls on the emission of noise, the hours of operation and the times when construction and deliveries are to be undertaken.

Derwenthorpe

- 3.16 The proposal is submitted in outline, though details concerning the means of access and landscaping are to be considered now. The scheme is for residential development involving some 540 homes on about 22ha of land. It would involve the creation of public open space and community facilities, the provision of footpaths, cycleways and roads, together with various engineering and drainage works.

¹ Document 5

² The car club is to be funded through the section 106 Agreement and the spaces provided under the suggested conditions.

³ Document 7

⁴ Fulford Design Statement's questionnaire responses identified a local desire for more crossings.

Design and layout

- 3.17 The most important aim of the design is to create a mixed tenure community offering real choice and a high quality of life for residents from a wide range of social and economic backgrounds. Rented houses and low cost home ownership properties are to be seamlessly integrated among the owner occupied houses. The mechanism for this would be provided by the preparation of an ‘affordable housing neighbourhood plan’ under the terms of the section 106 Agreement¹. That would involve a ‘strategy’ for the provision of the affordable units within each particular neighbourhood including their distribution to achieve an appropriate balance of tenure against the principle that they should be ‘pepper-potted’ (randomly distributed) throughout the neighbourhood; the plan would also contain details about how the units should be managed and maintained. Additional clauses insist that the affordable units would be built to ‘lifetime homes standards’ and finished to the same external quality standards as the market housing; the affordable units would also be provided with the same number of parking spaces as the market housing.
- 3.18 The intention is to complement the physical integration inherent in the scheme with administrative and community infrastructure. An important part of that provision would be the establishment of a ‘partnership committee’ (provided for by the Agreement) for the duration of the development, to include representatives from prospective residents and from those in the surrounding neighbourhoods, to consider traffic issues (including those relating to construction traffic), environmental issues and community issues (including expenditure from the ‘community fund’). The latter would include consideration of what community facilities might be appropriately provided within the scheme or in the surrounding areas (including proposals for the improvement of existing facilities); the ‘community fund’ would provide up to £650000 to be used for such purposes.
- 3.19 There would also be an office or similar accommodation provided to encourage the formation of a cohesive community by providing a focal point for the dissemination of information, assisting new residents to become assimilated into the community and pursuing with residents the objectives of sustainable living and travelling. The scheme is to be laid out to discourage anti-social behaviour and create an ambience in which residents of all ages feel safe² (condition 10).
- 3.20 Design codes and guidance³ are in place to ensure a high quality of design and construction using a coordinated variety of materials to reflect local characteristics in a contemporary manner (conditions 2 and 4). The development is to be arranged around a central square and community buildings with avenues extending into the 4 distinct neighbourhoods built up from ‘perimeter blocks’⁴, ‘home zones’, green lanes and mews courts⁵ (conditions 2 and 8). The dwellings within relevant neighbourhoods would be designed to integrate with existing housing; for example, bungalows would be located in the immediate vicinity of Meadlands (conditions⁶ 2 and 9). A hierarchy of routes, including footpaths and cycleways, are to be integrated with the housing, play areas, open space and the ‘natural’ zones beside the Beck, the pond and across the retained ridge and furrow (conditions 2, 4, 8 and 28). That would provide opportunities for safe and easy movement between the 4 neighbourhoods and link well with the surrounding development, so

¹ Document 6

² JRHT/CR

³ CD149 and CD150

⁴ The form provides a clear distinction between the public and the private realm, as suggested in CD104; ‘home zones’ are described in CD106.

⁵ JRHT/CR/1

⁶ Document 8

fostering natural surveillance. Safe and easy routes would be available to and from the surrounding community facilities, such as schools and shops. A contribution of £606330 would be provided under the terms of the section 106 Agreement¹ to provide appropriate educational facilities. Excluding the areas of open space, landscaping, internal roads, and non-housing land, the average net density is estimated as about 39dph².

Open space and landscaping

- 3.21 About 7.2ha of new open space is to be provided on the site, enhanced with orienteering routes, a jogging track and trim trail³. The section 106 Agreement insists that relevant details should be submitted for approval at the same time as the reserved matters application for the areas identified as public open space, including a timetable for their completion; the arrangements would encompass a 'public access and management plan'. A verdant residential environment would be created by the integration of the open areas with the residential neighbourhoods, the footpaths and cycleways. In addition to the controls on the structure of the open space provided by conditions 4 and 8, details of the relevant public access routes are to be submitted for approval at the same time as the reserved matters application, together with their management, under the terms of the section 106 Agreement⁴. The same mechanism would control the provision of 'local areas for play' within the housing areas rather than within areas of open space and the other 'recreational facilities' to be provided at Derwenthorpe. The distribution of the open areas would help to preserve the settings of the adjacent Conservation Area. The provision of substantial landscaping would reinforce the strong sylvan edge to the urban area and create a firm boundary to the Green Belt, as at Osbaldwick Beck and Osbaldwick Beck Park (identified on the 'master plan' and required by conditions 4 and 6).
- 3.22 The proposals include measures to enhance some of the nature conservation interest of the site. This would be partly provided for by reference to the 'master plan' in condition 2 and the control of details in condition 4. In addition, the Agreement would require, at the same time as the 'public open space details' are to be submitted, the submission of 'nature conservation measures details' indicating how the nature conservation measures would be undertaken. The 'master plan' currently indicates that field 9 is to be managed as wet grassland with ponds designed to benefit great crested newts; parts of fields 6 and 7 are to be managed as meadowland and the ridge and furrow retained; and, the balancing pond would be set in a broad wetland, which would be of considerable wildlife value. Roosting opportunities for bats would be provided. A 'hedgerow details and hedgerow management plan' is to be submitted to complement the incorporation of hedgerows into the scheme and ensure their protection during development.
- 3.23 Condition 11 insists that no work is to commence until the implementation of a programme of archaeological work to include a watching brief on all ground works by an approved archaeological unit has been secured.
- 3.24 The scheme is to incorporate 'sustainable urban drainage systems', together with the swales and retention ponds providing natural treatment to the run-off to alleviate flood risks and minimise pollution; the retention ponds are to be incorporated in the natural areas, so enhancing biodiversity and protecting wildlife (conditions 17-19).
- 3.25 New recreational provision is to be made elsewhere including a multi-use games area and enhanced facilities at local schools. A contribution of £318000 is to be offered under the terms of the Agreement to provide a multi-use games area at Osbaldwick Primary School and substantially

¹ Document 6

² JRHT/CR

³ This figure is derived from the section 106 Agreement, document 6.

⁴ Document 6

improved facilities at Burnholme College.

- 3.26 The proposals include measures to mitigate or compensate for the loss of nature conservation interests that cannot be retained on the site. Under the terms of the section 106 Agreement, some 7.2ha of land would be provided as an extension to the nature reserve at New Earswick for the creation of a new site of nature conservation interest. A scheme showing ‘replacement nature conservation land details’ and a ‘replacement nature conservation land management plan’ are to be submitted to the Council for approval. Those documents would show that the species rich-grassland found in pockets in fields 5 and 6 would be trans-located¹; that the loss of hedgerows would be partly mitigated for by additional provision²; and that compensatory habitats for species of birds³ would be provided. Those works would benefit the New Earswick SINC (0.6ha).

Housing and sustainability

- 3.27 A strong mixed community would be fostered by providing a mix of size and type of housing. There would be 1 and 2 bedroom flats, 2 bedroom bungalows and 2 to 4 bedroom houses arranged in terraces, semi-detached and detached forms of 1 to 3 storeys in height. The mechanism for this would be provided by the preparation of an ‘affordable housing neighbourhood plan’ under the terms of the section 106 Agreement⁴ and schedule 6 shows an indicative distribution of types, tenures and sizes of dwelling across the site. About 4% of the dwellings are to be specifically designed for occupation by older residents.
- 3.28 Under the terms of the Agreement, not less than 40% of the dwellings are to be affordable homes, with 25% rented and 15% offered on an ‘equity partnership’ basis; the equity available would vary between 25% and 75%. The affordable housing would be provided and managed either by the Trust or by another RSL approved by the Council.
- 3.29 The Agreement and condition 2 requires that every dwelling is to achieve an ‘EcoHomes’ rating of ‘very good’ and 1% are to serve as ‘models’ of an ‘innovative plus’ rating; all dwellings are to be designed to ‘Lifetime Homes’ standards⁵. The design would offer other opportunities such as the orientation of the roof slopes to take advantage of the potential to install photovoltaic panels. And, serious consideration is being given to the use of a biomass district heating scheme together with waste water recycling.

Sustainable travel

- 3.30 The section 106 Agreement provides for a contribution of £240000 to support a ½ hourly bus service across the site. Other than for neighbourhood D (Osbalwick), no dwelling within the development is to be occupied until a road suitable for use by buses is provided between Osbalwick Village and Fifth Avenue (condition 30). Car journeys across the site would be prevented and speed within ‘home zones’ limited to 10mph. Car journeys might be reduced through the introduction of a car club and the Agreement provides for either a contribution of some £86400 towards a Council sponsored scheme or requires the Trust to provide one for residents of the site. Within the first phase of the development 6 car parking spaces for use in connection with a ‘car sharing club’ are to be provided 6 such spaces retained thereafter (condition 31). Such provision would be complemented by information about buses, car club booking facilities and the provision of a cycle or of a bus ‘season ticket’, for which some £81000 would be available.

¹ JRHT/RNH 4.2 Table 3

² JRHT/RNH paragraph 4.5 Table 4

³ JRHT/RNH paragraph 5.26

⁴ Document 6

⁵ ID127

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- 3.31 The housing layout is to incorporate safe and direct pedestrian and cycle routes to schools and local facilities integrated with the Sustrans route across the site. Condition 23 provides for appropriate signage to identify footpaths and cycleways providing access to local facilities. Condition 28 requires a scheme for works to the Sustrans route between Metcalfe Lane and Tang Hall Lane to improve surface condition, available width, lighting and safety.
- 3.32 The access arrangements, road improvements, the special parking arrangements at Temple Avenue and the consequential improvements and signals at all other junctions are provided for by conditions 24-27.

Operations and environmental protection

- 3.33 Condition 13 requires the submission of an ‘environmental management scheme’ for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development. That would complement the ‘construction traffic management plan’ required under the terms of the Agreement to provide for the routing of construction traffic and the repair of any damage to the highways. Condition 12 would limit the hours of operation.
- 3.34 A risk-based remediation strategy is required by condition 14 in respect of contaminated land to be based on the previous findings set out in the ES.

CASES FOR THOSE IN FAVOUR OF THE APPLICATIONS

4. The Case for Persimmon Homes and Hogg Builders

The material points are as follows:

Plans and prematurity

- 4.1 The site at Germany Beck has been identified as suitable for housing for over a decade. Moreover that allocation has been maintained in several planning documents. Most of the site (about 24ha), but excluding the areas to the south of the beck and to the west of Fordlands Road, was allocated for ‘approximately 670 dwellings’ in the pre-deposit consultation draft of the Selby District Local Plan, published in June 1995¹. The apparent intention was that the site would be served by an access from the A19, much as currently proposed, with the observation that a ‘new road connecting the A19 near Stone Bridge to Heslington Lane could provide a positive benefit to the highway infrastructure, including the provision of an alternative access to Fulford School’. This allocation followed the Inspector’s recommendation, published in January 1994, that most of the site should be excluded from the Green Belt originally indicated in the deposited version of the York Green Belt Local Plan. The recommendation was that it was not essential that all the land should be kept open for Green Belt purposes. The suggestion was that land to the south of Germany Beck and Germany Lane (identified as a ‘more logical boundary’) would warrant Green Belt status. In the event North Yorkshire County Council accepted those recommendations and the post-modifications version of the Green Belt Local Plan was published in September 1995².
- 4.2 Both Plans were overtaken by the reorganisation of local authority boundaries around York in 1996 and fundamental changes to strategic thinking, including the decision not to proceed with a free-standing settlement of about 1000 people somewhere beyond the York Green Belt. However, the allocation of Germany Beck as a housing site excluded from the Green Belt was an integral part of the new City of York Local Plan, placed on deposit in May 1998³; and this remained the case through 2 sets of pre-Inquiry changes⁴. Some 23 objections were lodged to the allocation, but none were heard; the Local Plan Inquiry, which opened in 1999, was adjourned principally so that long term Green Belt boundaries could be defined. This further work led to the deposit of a revised Plan (the 3rd set of changes⁵) in 2003. Germany Beck remained as a housing site excluded from the Green Belt. The allocation attracted 122 objections and some 42 supporting representations. Further amendments were made. However, in April 2005 it was decided not to proceed with the Local Plan, but instead to start work on the preparation of a Local Development Framework, as introduced by the Planning and Compensation Act 2004. The final version of the City of York Local Plan was published ‘for the purpose of making development control decisions’ as the 4th set of changes in April 2005. The Germany Beck site (north of Germany Lane and Germany Beck) remains allocated to accommodate some 700 dwellings⁶.
- 4.3 Those emerging planning policies are reflected in a Development Brief for Germany Beck, first published in 2000. The Brief sets out a series of principles for the residential development of the site, which were revised in September 2001 following consultation and discussion with ward councillors, Heslington and Fulford Parish Councils, the developers, a number of local residents,

¹ CD66.

² CD11

³ CD12

⁴ CD131 and CD132

⁵ CD133

⁶ CD1, policy H1 and table 7.2

local schools and Council officers. Such community involvement reflects the advice in PPS12¹. The Brief² is intended to guide the master planning of the site; in particular, it establishes that the some 700 new homes should be provided with a wide mix of house types, including elements of affordable housing for both sale and rent.

- 4.4 It can be seen that the site at Germany Beck has been assessed as suitable for housing in the context of at least 5 different exercises over the previous decade. True, those assessments have not been subjected to independent scrutiny, but that element is provided by this Inquiry. Of course, the exclusion of the site from the Green Belt has been properly scrutinised at a Local Plan Inquiry and the Inspector's recommendation accepted by the appropriate local planning authority.
- 4.5 Should a decision on development at Germany Beck be delayed for fear of prejudicing the preparation of a Development Plan Document? As yet there is not even an inkling of a DPD that the scheme might prejudice. Although the published Local Development Scheme indicates the 'hope' that a Core Strategy might be adopted in December 2007, no detailed DPD is identified for adoption until May 2008 with the 'allocations and proposals map' scheduled for August 2009³. Given the housing requirements and housing needs in York (set out below), it is difficult to see how the development of the application site could prejudice the preparation of the Core Strategy. There is no indication, for example, of an over-provision of housing land or of a 'phasing policy'. Hence, permission now is only likely to have a bearing on the location of development identified in a detailed DPD reflecting the 'allocations and proposals map' scheduled for August 2009. It would be surprising if such a document were not to reflect the careful assessments undertaken over the last decade.
- 4.6 In reality, however, the programme outlined in the LDS appears to have slipped. The programme identifies 2 periods of public participation, one relating to the selection of 'preferred options' and another on the Core Strategy to be submitted for 'examination'. As yet, however, only preliminary consultation has taken place⁴; the 'preferred options' version has yet to emerge and there is no sign of any document for consultation prior to the preparation of the Core Strategy for submission to the Secretary of State. It follows that there is no Core Strategy that can even be regarded as having reached a 'consultation stage'. And, even if there was, its 'early prospect of submission for examination' would appear remote. In those circumstances, the advice would imply that refusal on prematurity grounds could not be justified due to the delay it would impose on determining the future use of land⁵.
- 4.7 Moreover, such delays would have serious implications for the provision of housing in York, as indicated below. Even if the current proposals were to be granted planning permission now, no housing is likely to materialise on the site until 2008/9⁶. Yet, that would represent the 'first fruits' of a planning application submitted at least 7 years previously (in 2001) which itself entailed much preparation, including an ES covering such matters as flooding, drainage, archaeology and the like, undertaken over the preceding 5 years⁷. Even assuming that a new application submitted in the context of an appropriate and adopted (or nearly adopted) DPD progressed through the system much more quickly (say in only 3 to 4 years rather than 7 with no further work on an ES being required), and that the relevant DPD were to be processed in accordance with the published

¹ See PPS12 paragraph 3.2

² CD62

³ CD2

⁴ ID79, June 2006

⁵ General Principles, paragraph 18

⁶ See ID13

⁷ Section 1

programme (approaching adoption in August 2009), no dwellings would become available on the site until 2012-2013. As is demonstrated elsewhere, the result would be that the annual housing requirement could not be met in almost every year up to 2016 and insufficient land would be identified to meet the 5 year requirement over the period 2011-2016¹. The reality is likely to be worse. Slippage in the published programme must almost certainly affect the adoption of any detailed DPD, so that the contribution of this site to the housing requirements up to 2016 might well be largely discounted were permission to wait on the adoption of a relevant DPD.

- 4.8 All the large sites that might contribute something to the housing requirements entail lengthy and complex preparation before any dwelling is likely to materialise. York Central is indicated to contribute just 525 dwellings over the period 2011/12-2015/16², but even that is considered optimistic given the complexities of the site, the need to appoint a developer, update the Development Brief, commence a ‘master plan’ and incorporate the scheme in the Central Area Action Plan³. Similarly, the possible availability of the British Sugar beet processing site, even on the most optimistic assumptions, is only likely to produce a maximum of 315 dwellings between 2013 and 2016, a contribution that is likely to be accommodated within the allowance for housing on brownfield ‘windfall’ sites⁴. It follows that there is an urgent need to grant planning permission for the proposal now to meet the housing requirements for York in terms of numbers, affordable units and the appropriate mix of dwellings to 2016. Those requirements must be met by utilising the site at Germany Beck unless it can be demonstrated that those needs could be met elsewhere on a sequentially preferable site. If no sequentially preferable site can be identified, then it is difficult to see that the planning process would be better served by waiting for the completion of a relevant DPD before deciding to release this ‘greenfield’ land.

Housing; numbers, markets and needs

Numerical housing requirements

- 4.9 In the absence of an up to date Structure Plan the housing requirements for York are set out in the approved and the emerging RSS. A numerical interpretation of those requirements set against estimates of the total provision has been prepared for the Inquiry⁵. It shows that without either of these 2 ‘greenfield’ sites the annual provision would fail to meet the annual requirement for every year between 2007 and 2016 and that, although the overall supply would exceed the requirement up to 2011 (on a residual basis), there would be a substantial deficit (amounting to about 1/3 of the requirement) over the period 2011-2016⁶.
- 4.10 However, the basis for assessing those requirements do not properly reflect the status of York as a main urban area⁷ of regional significance and a focus for economic development⁸; it is also recognised in the emerging RSS as a major sub-regional centre, key driver of the regional economy and a focus for the ‘science city’ initiative⁹. Because the approved RSS only identifies a combined figure for York and North Yorkshire, the relevant housing requirement for York must be derived by assumption. On a purely pro rata basis York would might be expected to accommodate a bit over 24% of the housing required in the combined area. But the assumption used in preparing the City of York Local Plan was that York should provide for about 27% of that

¹ ID13

² op cit

³ Mr Courcier’s answer to Qs

⁴ More detail is set out in relation to the Council’s case.

⁵ ID13

⁶ See table ...

⁷ As in the Structure Plan, CD9, see also JS1 section 6

⁸ As in the approved RSS, CD14, see also JS3 paragraph 2.3

⁹ CD15; see also JS1 and JS3

figure, given its identification as a 'main urban area' where housing development should be concentrated. The claim is that such a marginal increase does not properly reflect the predominant role of the City, given the characteristics of the other settlements in the County, and that a figure of 30% would be more appropriate; the average annual requirement should thus be about 750 dwellings rather than 675¹. Similarly, there are good reasons why the figure likely to emerge in the new RSS would be much higher than the current annual average of 640. Not only should it properly reflect the strategic role of the City, but it might also be necessary to take account of the new household projections implying a need to accommodate at least 846 dwellings per year². And, others suggest that even a higher provision should be made. Clearly, the possibility of having to accommodate higher housing requirements would exacerbate the shortfalls already identified and accentuate the urgency of developing the application site.

- 4.11 There are additional reasons for interpreting the results in ID13 as minima. First, a specific contribution from the York Central site is incorporated in the assessment from 2011. This assumption is highly optimistic. An Area Action Plan is programmed for 2009 as part of the LDF, but slippage has already occurred. It remains necessary to obtain a suitable planning permission, resolve considerable access difficulties and assemble land, all of which could well jeopardise the programmed timetable. Moreover, there are doubts about the overall level of production possible from the site. Second, the assessment is undertaken on a residual basis, thereby incorporating the unusually high level of recent completions achieved largely by a predominance of flatted development. For reasons explored elsewhere³, such development is unlikely to be replicated. However, a 'residual' presentation can mask the effects of a continual annual deficit on the operation of the housing market which, given the advice in draft PPS3, might be a more important focus for policy. Even on a 'residual' basis, the 'housing trajectory' demonstrates that, with these 2 'greenfield' sites, the level of over-provision would amount to less than 6% (in terms of the approved RSS) and just over 1% (in relation to emerging RSS)⁴. Given that these are large sites and that there is, inevitably, some 'lumpiness' in the provision of housing, such an over-provision must be minimal. In any case, a delay in the currently assumed start dates would almost certainly be enough to obliterate such modest surpluses.
- 4.12 Hence, even on the minimal assumptions adopted here, there is a demonstrated need for the proposed development to meet the housing requirements up to 2016 and to make up the increasingly significant annual deficits that would occur from 2007. Any increase in the housing requirement identified would render the proposal all the more urgent.

The market and the requirement for family housing

- 4.13 The evidence presented in JS4 and elsewhere⁵ demonstrates that the high level of recent completions has resulted in an imbalance in the size and type of dwellings provided in relation to those that are required. Recent completions have provided predominately flats. In contrast, the analysis indicates that about ¾ of those seeking 'market' housing 'require' houses rather than flats. Similarly, for those needing affordable housing a 'balanced market' would require almost twice the proportion of houses to be built than is likely to be achieved⁶.

¹ JS3

² JS3

³ See the relevant section in the Council's case

⁴ See table ... These percentages, for the approved and emerging RSS respectively are the differences between the cumulative balance over the period up to 2016 (-783 and -1036) and the provision on the application sites (1130) as a proportion of residual requirements over the same period (6270 and 6523).

⁵ See the relevant section in the case for the City of York.

⁶ CD152

4.14 The proposal at Germany Beck is designed to address that imbalance. Indeed, the advice in draft PPS3 implies that any emerging DPD should incorporate a strategy to do just that. The scheme currently envisaged is to provide a wide mix of houses and apartments with the majority (55%) of all the units containing 3 bedrooms or more; 20% of the dwellings are intended to be 4 bedroom semi-detached and detached houses¹. Moreover, the proposal would enable a planned approach to meeting the distribution of dwellings, in terms of numbers, mix and tenure, that would reflect what the market analysis indicates to be required in York.

Meeting the need for affordable housing

The need for affordable housing

4.15 The Housing Needs Assessment² undertaken in 2002 indicates an annual requirement for some 790 affordable dwellings to meet just the newly arising needs for affordable housing. The updated ‘needs assessment’³ undertaken in 2006 shows that there is now an annual requirement for some 720 affordable dwellings to meet newly arising housing needs. Clearly, the need for affordable housing in York exceeds the full annual housing requirement set out in the emerging RSS. And, the results from the ‘balanced housing market’ assessment suggest that future demands may be even greater. Moreover, within that substantial requirement for more affordable housing there is a special need to provide additional affordable family houses, for the reasons set out elsewhere⁴.

4.16 Policy H2a of the Local Plan has not yet been tested. Certainly the aspiration of achieving 50% of the completed dwellings as affordable housing on qualifying sites has not been achieved on any market site. Moreover, small ‘windfall’ sites would be most unlikely to contribute to meeting that need and the contribution from possible large ‘windfall’ sites must be unknown and uncertain, by definition. For the reasons explored elsewhere⁵, the identified potential supply would amount to little more than enough to meet the identified need for one year; it would represent just 12% of the estimated annual requirement. Moreover, current indications are that the supply of affordable housing is likely to consist if more flats than houses, whereas the assessments indicate that the opposite would be required. Hence, both the type and quantity of affordable housing in the pipeline would fail to meet the needs identified.

The provision of affordable housing

4.17 The scheme at Germany Beck would result in 245 additional affordable units (35% of the proposed dwellings), of which 55% would be 3 or 4 bedroom houses with the remainder being 2 bedroom houses or flats⁶. That commitment is set out in the section 106 Agreement with a split between tenures (90% as social rented homes and 10% for intermediate housing) that accords with Local Plan policy. There is, however, provision for amendments to be made to reflect changes in the relevant policies adopted; current indications are that a different distribution of tenures (60:40, respectively) might be required⁷.

4.18 The provision of affordable housing at Germany Beck exceeds the target set out in the Local Plan⁸. As it stands, the scheme would comply with current planning policy. Moreover, it is clear that the Council do not object to the proportion of affordable dwellings proposed, as they

¹ PH/PJR/1.1, page 3

² CD163

³ CD152, Y5 and Y6

⁴ See the relevant section in the Council’s case

⁵ See the relevant section in the Council’s case

⁶ This is the same distribution as for the scheme as a whole.

⁷ CD163

⁸ CD1, table 7.2

explain¹. Moreover, the fact that the project would not meet the 50% requirement set out in policy H2a, does not automatically count against the scheme; the policy itself allows for a lower level of provision where a ‘financial loss’ can be demonstrated. The request for such a demonstration stems from the Pre-Inquiry Meeting in response to the matters listed in the Secretary of State’s call-in letter.

- 4.19 The evidence submitted is based on applying the ‘toolkit’ developed for assessing the viability of providing affordable housing in London. This is now a reasonably well known device that has been tried and tested in the context of numerous appeals. As applied here, the ‘toolkit’ is simply an accounting model that can accommodate the relevant values pertaining to a particular scheme and a particular place². Appropriate unit costs of construction are used with additions for exceptional items (such as allowing for raft foundations, the spine road construction etc) and the cost of the obligations made under the section 106 Agreement. Those sums are estimated as over £8.7m and £4.7m, respectively. Modest returns for the developer and builder are incorporated into the model (in this case 15% and 10%, respectively). The development costs are then compared with projected sales (on a net present value basis) after allowing for the costs of marketing, finance, professional fees and the like. Based on past experience, sale values for the open market dwellings are taken to be £2044m² (£190ft²); the affordable dwellings are assumed to achieve an average of only £643m² (£60ft²) for rented dwellings and £965m² (£90ft²) for intermediate housing. The latter figure is derived from the 52.5% discount suggested as achievable in the relevant advice note³.
- 4.20 The ‘toolkit’ is applied to 3 different scenarios; the provision of no affordable housing, a scheme providing 35% of the units as affordable homes (as the application proposal), and a scheme achieving the 50% level sought under policy H2a of the Local Plan. The split of affordable dwellings between tenures is also assumed to comply with policy (that is, it is 90% rented and 10% intermediate). The ‘toolkit’ treats the cost of acquiring land and ‘profit’ as a combined residual equivalent to the difference between the total costs and the total returns from a scheme. Its application here demonstrates that, without any affordable housing, the Germany Beck proposal might achieve a positive ‘residual’ of nearly £26m; that with 35% of the dwellings being affordable housing the residual would be reduced to a little under £5m; and that insisting on a level of 50% would result in a loss or negative ‘residual’ amounting to just over £4m. Clearly, a scheme providing 50% of the dwellings as affordable housing could not be countenanced here, given the level of abnormal costs involved and the benefits sought through the section 106 Agreement. And, given that the £5m ‘surplus’ that might be achieved by the application proposal must finance the purchase of the land and accommodate unforeseen additions or delays, the current level of provision would appear reasonable⁴.
- 4.21 The robustness of the method obviously depends upon the credibility of the values used. The only 2 inputs questioned relate to the sale price likely to be achieved for the open market dwellings and the ‘saleable’ floorspace generated by the type and density of development proposed⁵. The claim is that because development nearby may be achieving an average sale value of some £213ft² to £270ft², a figure of about £220ft² should be used in the ‘toolkit’ rather than the £190ft² actually assumed. In addition, it is suggested that a developable area of some 18500ft² per acre would be a reasonable assumption here instead of the 15500ft² per acre incorporated in the analysis.

¹ See the relevant section in the Council’s case

² PH/DP/1, proof and appendices

³ CD8

⁴ Some of the ‘costs’ allowed for in the final section 106 Agreement exceed those used in PH/PD/1.

⁵ FPC/GEW/6

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- 4.22 Both those claims are incorrect¹. The sales figures quoted reflect ‘gross’ values sought rather than those achieved; the latter range from about £195ft² to £205ft². Moreover, the quoted figures relate to schemes that accommodate no affordable housing; it is reasonable to assume that the sales of market housing achieved at Germany Beck would reflect the high level of affordable housing incorporated into the scheme. As for the assumption about the developable area achievable, the figures quoted do not appear to relate to any specific site or scheme. As far as the application scheme is concerned, they overestimate the density likely to be achieved, do not allow for the range of house types or proportion of family houses proposed and fail to acknowledge the constraints imposed by the Conservation Area.
- 4.23 The conclusion must be that the proposal achieves as much affordable housing as can reasonably be expected, given the abnormal costs involved and the level of contributions sought through the section 106 Agreement. Indeed, the results are confirmed by the comparable analysis undertaken at Derwenthorpe.

Site selection; Germany Beck

Is there a sequentially preferable site?

- 4.24 In the absence of any additional ‘brownfield’ site either suitable for development or capable of being brought forward to meet the housing requirement, the identified shortfall must be addressed by developing greenfield land². In those circumstances, PPG3 suggests that sites within, or forming extensions to, urban areas are the most suitable locations. It is demonstrated elsewhere that insufficient greenfield land exists within the urban area of York. The best available location would thus be sites forming ‘urban extensions’ to the built up area. The site at Germany Beck is just such a location. Moreover, it has withstood the scrutiny of a protracted selection process undertaken in the context of the evolving Local Plan. The only potential alternative greenfield site identified as forming an ‘urban extension’ to the built up area is the land at New Lane, Huntingdon. But that is not sequentially preferable to the Germany Beck site. Moreover, other problems have now been identified there. Quite apart from its identification as part of the Green Belt in the Local Plan, it also accommodates the site of a Scheduled Ancient Monument³. And, its development with a large scale housing scheme is likely to exacerbate traffic problems on the A1237 and the Hopgrove Roundabout⁴. There is, thus, no sequentially preferable site to the application site at Germany Beck.

Is the location sustainable?

- 4.25 The site lies immediately to the east of Fulford Village. Main Street accommodates several public houses, a post office and one or two shops; a small general store is at the top of School Lane. The site is just to the south of St Oswald’s Primary School and adjacent to the grounds of a large secondary school (now known as Fulford Mathematics and Computing College). Other community facilities include churches and chapels in the village and 2 recreation grounds, one adjacent to the site in School Lane and the other just to the south beyond Germany Beck. All the housing proposed would be well within acceptable walking distances to school and much of it would be within the ‘desirable’ distance⁵. The site is also well located for the University, as an employment centre, and accessible by means other than the private car from the centre of York⁶.

¹ ID241

² See the relevant section in the Council’s case

³ ID73a

⁴ More detail is set out in the relevant section in the Council’s case

⁵ PH/BGH/1, as indicated the Institution of Highways and Transportation

⁶ Details are in section 2

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- 4.26 The site is well related to the footpath and cycleway networks (for which improvements and connections are proposed as part of the project). The nearest off-road cycle route ends just north of Village at St Oswald's Road and provides a pleasant cycle-way into the City centre. There are also 2 footpaths across the site. Both give access to long distance paths out into the countryside and into the City centre.
- 4.27 Roughly 13 buses an hour ply in both directions along Main Street (to the west of the site), at least until about 20.00hrs. This is a key public transport corridor in the City. There are also regular services along Heslington Lane achieving a combined frequency of roughly 4 buses an hour. The site is thus very well served by the existing public transport network, although it is an important part of the scheme to improve those connections still further¹. In those circumstances, the site must be regarded as being in a sustainable location.

The suitability of the scheme; Germany Beck

Is the scheme 'designed for quality'?

- 4.28 The proposed framework for the development has been devised to take account of the Conservation Area (to the west), the 'green wedge' (to the east), the estates and schools to the north and the open land to the south. The intention is to provide a series of different local areas, linked by footpaths, greenways and roads, which would exhibit their own sense of place and design. The 'master plan' would provide a coherent structure allowing, at the detailed stage, the highest standards of design to be implemented, appropriate phasing to be followed (particularly in relation to the provision of infrastructure and landscaping) and community facilities, including a local shop of about 200m², to be provided. The design 'cue' for the spine road is to be Main Street, Fulford with active frontages and movement into the areas of lower density housing to the rear, where dwellings are to be arranged in groups, or 'home zones' or along pedestrian lanes. The housing is to be designed to reflect local style and character. Every dwelling is to achieve an 'EcoHomes' rating of 'excellent' and incorporate the 'flexible space' to accord with the principle embodied in a 'lifetime' home².
- 4.29 The scheme is designed to facilitate the creation of a vibrant mixed community³. There are to be terraced, semi-detached and detached houses, mews dwellings and apartments offering from 2 to 4 bedrooms and arranged at densities from 35dph to almost 60dph; 35% of the dwellings are to be affordable homes and 15% are to be fully accessible by those in wheelchairs. Footpaths, cycleways, greenways, play areas, open space and the nature park are to be integrated with the housing to provide opportunities for safe and easy movement between neighbourhoods within the site and foster natural surveillance. In the same way safe and easy routes would be provided to and from the surrounding area and the community facilities, such as the nearby schools and shops⁴.
- 4.30 The proposal is designed to integrate with its surroundings. The footpaths, cycleways, greenways, play areas, open space, the nature park and the archaeological zone would offer new facilities and new routes to the open countryside for existing residents nearby. Altogether, nearly 16ha of new open space is to be provided in one form or another⁵. The Parish recreation area is to be extended together with a 'multi use games area' and indoor sports hall at the school for both community and school use. The proposals would restore and enhance the nature conservation interest of the

¹ PH/BGH/1

² The requirements and additional dimensions to provide the flexibility to meet these standards are set out in ID127.

³ PH/PJR/1 and PH/PJR/1.1

⁴ PH/GBH/1 and PH/BGH/16

⁵ PH/PJR/1 and PH/PJR/1.1

SINC: the new foul sewage pumping station would prevent the recurrence of the occasional problem experienced in the past: the incorporation of ‘sustainable urban drainage systems’, together with the swales, retention ponds and other drainage measures should alleviate flood risks. Landscaping and tree planting around the site would create an attractive sylvan edge to the urban area. Space and landscaping beside the Conservation Area would preserve the character and pattern of development evident there. Design measures, subject to agreed conditions, would protect the amenities of adjacent residents either occupying the suburban or infill housing on the edge of the Conservation Area or the bungalows and houses in Tillmire Close. The quality of the scheme is thus demonstrated.

Is the scheme sustainable?

- 4.31 The ‘sustainability’ criteria used in the site selection process and the fact that the site is an ‘urban extension’, means that it is well located in relation to public transport, shops, services and community facilities. The scheme incorporates further measures and designs to enhance the sustainability of the proposals.
- 4.32 At Germany Beck contributions are proffered to provide a ¼ hourly bus service across the site from Fordlands Road through Low Moor Avenue to Heslington Lane connecting to the town centre and beyond. Prior to the creation of that through route, services 22 and 23 are to be diverted into the site providing for a ½ hourly bus service, though the occupants of the early phases of the scheme would be within 400m of the buses on the A19. That level of public transport provision would always meet, and eventually exceed, the requirements of policy T7c¹. The access arrangements also include the installation of signals to provide priority for buses on the A19, so enhancing public transport facilities (perhaps crucially) on a major transport corridor in the City. And, car journeys might be further reduced by the introduction of a car club, together with on-site parking spaces for ‘car club’ cars². Flood protection measures are offered to reduce the vulnerability of the A19 and Fordlands Road.
- 4.33 The housing layout is to incorporate safe and direct pedestrian and cycle routes to local facilities and to the cycle network in the City, thereby creating routes to schools and local amenities for travel by means other than the private car; for such journeys, those routes are likely to be preferable in terms of length, time and convenience³. Improved crossings of the A19⁴ are to be provided at the junction of the A19 and the site access road, together with a Toucan crossing further up Main Street; there is also to be an improved crossing facility on Heslington Lane. Those crossings would enhance linkages to the wider footpath and cycle network, including routes into York City centre; contributions are to be offered to further improve those routes. Sustainable drainage systems are to be used and the swales and retention ponds are to be incorporated in the nature park, so enhancing biodiversity and protecting wildlife. A programme of management and planting would also improve the SINC. The ‘leisure’ routes beside Germany Beck are to be retained and landscaped.
- 4.34 The aim is that every dwelling is to achieve an ‘EcoHomes’ rating of ‘excellent’. Even at this stage a preliminary assessment indicates that a standard at the ‘top end’ of ‘very good’ is likely⁵. Some of the factors contributing to that assessment relate to the location of the site close to existing bus routes and facilities. Others relate to elements of the scheme such as the provision of enhanced public transport and cycle storage, or the provision of a local shop, or the proposal for a

¹ CD1

² The car club is to be funded through the section 106 Agreement and the spaces provided under the suggested conditions.

³ Y9 and Y7

⁴ Fulford Design Statement’s questionnaire responses identified a local desire for more crossings.

⁵ ID209 indicates a score of just under 68%; and ‘excellent’ rating requires a score of 70% or over.

nature park enhancing the ecological interest of the site. But, key parts of the assessment relate to the recycling of 'grey water', the insulating properties of materials and the use of 'efficient' lighting and domestic machines. The opportunities for increasing the score to an 'excellent' rating are straightforward and fairly easy to achieve. The main contributions would come from using a particular type of thermal insulating block in the external walls and in adhering to a 'site management plan' involving careful monitoring of the energy, water and waste used in the construction process¹. Achieving an 'excellent' rating would be the highest standard that can reasonably be expected and considerably higher than anything that has been achieved on a volume basis before. The suggested conditions require a demonstration of how the standard would be met².

Does the scheme make 'the best use of land'?

4.35 PPG3 indicates that the efficient use of land for housing should entail development at a net density of 30-50dph. The scheme would involve the provision of substantial amounts of open space, buffer strips of landscaping, internal distributor roads or bus routes and land intended to accommodate shops or community facilities. Such areas are to be excluded from calculations of net density. The range of net densities proposed at Germany Beck would vary between about 35dph to almost 60dph, though the estimated average net density of the housing areas is roughly 40dph³. That would constitute an 'efficient' use of land.

Does the scheme 'green' the residential environment?

4.36 The scheme includes substantial amounts of open space. At Germany Beck open areas constitute about 16ha or 47% of the whole site. It is not just the amount of land devoted to play areas, greenways, SINC's and nature parks that demonstrate the contribution made to the creation of a verdant residential environment. The significant contribution would also stem from the integration of the open areas with the residential neighbourhoods, footpaths and cycleways and their distribution to preserve the settings of the adjacent Conservation Area. The scheme includes substantial landscaping to create a strong sylvan edge to the urban area.

The Green Belt

The 'general extent' of the Green Belt and the status of the site

4.37 The 'general extent' of the Green Belt around York was first identified in 1980 under policy E8 of the then approved North Yorkshire Structure Plan. The Green Belt is described as 'a belt whose outer edge is about 6 miles from York City centre'⁴. Some parts of the outer boundary have since been identified in adopted Local Plans but there is no adopted Plan identifying any part of the inner boundary. PPG2 addresses just that situation. It explains that there are some areas where detailed boundaries have not yet been defined and goes on to insist that 'up-to-date approved boundaries are essential, to provide certainty as to where Green Belt policies do and do not apply'⁵. This can only mean that Green Belt policies cannot be applied with certainty until detailed boundaries are approved. And, of course, the only mechanism that has been available for such approval over the last quarter of a century is the adoption of Local Plans. Certainly, policy E8 provides no precision in relation to the inner boundary. And, such precision would be inappropriate in a strategic document.

4.38 Earlier documents do not alter that situation. True, there was an informal plan for the area to the

¹ ID209

² See list of conditions

³ PH/PJR/1 and PH/PJR/1.1

⁴ CD9

⁵ PPG2, paragraph 2.4

south of York (then in East Riding) and a formal amendment to the West Riding County Development Plan, both of which indicated areas proposed as Green Belt. But neither was ever approved: the former was never submitted¹. It is likely that the areas indicated as Green Belt on those Plans were the areas referred to in 1975 when the decision was made that ‘all the Green Belt around York should have the status of ‘sketch plan’ Green Belt’ until such time as a composite Green Belt could be drawn up². Whatever the effect of that decision, it could have provided little certainty as to where Green Belt policies might apply in relation to the inner boundary. As the *Myton*³ judgement demonstrates, the appropriateness of applying Green Belt policies to sites within such a ‘sketch plan’ Green Belt should always be considered.

- 4.39 Nor can documents subsequently prepared by North Yorkshire County Council officers be used to bestow certainty on the ‘general extent’ of the Green Belt shown in the Structure Plan. The document titles provide a clue. The first is a ‘discussion paper’ on Green Belts in North Yorkshire⁴ and the second is a ‘progress report’⁵. The ‘paper’, published in 1981, purports to show ‘existing’ and ‘proposed’ areas of Green Belt and the ‘report, published in 1983, indicates areas of ‘approved’ Green Belt and areas where Green Belt policies ‘are being implemented’ by the relevant District Council. The application site at Germany Beck happens to be shown as lying within all those descriptions of Green Belt. But it cannot become Green Belt by virtue of a ‘discussion paper’ or a ‘progress report’. Neither have any statutory status. Hence, the ‘general extent’ of the Green Belt must remain as identified under policy E8 of the 1980 Structure Plan and the application of Green Belt policies within it must be subject to the *Myton* test. Policy E9, which reproduces the list of ‘appropriate forms of development’ in Green Belt areas, does not help to define those areas any more precisely. On the contrary, since it can only apply definitely once policy 8a has been implemented and precise boundaries identified in Local Plans, it demonstrates that the application of Green Belt policy to any specific site is not a task that can be undertaken through the Structure Plan alone.
- 4.40 The only relevant process to properly address the issue of defining detailed Green Belt boundaries around York began with the Greater York Strategy⁶ and its evolution into both the York Green Belt Local Plan (1990-1991)⁷ and the Selby District-wide Local Plan⁸ (1995). In the deposit version of the York Green Belt Local Plan the site at Germany Beck is shown as being within the Green Belt. But, objections to that designation were heard at a thorough Local Plan Inquiry and the Inspector recommended (in 1994) that the application site should be excluded from the Green Belt. He found that the ‘openness’ of the site did not contribute to the main purpose of the York Green Belt (preserving the special historic character of the City), that the edge of the built up area in the vicinity of the site was both illogical and unattractive and that a more ‘realistic’ boundary might be provided at Germany Beck and Germany Lane, since it was essential to keep the land to the south open for Green Belt purposes⁹. That recommendation was accepted. The Plan was published with Modifications in 1994 and reached its post Modification stage in September 1995¹⁰ with the site at Germany Beck shown as outside the Green Belt; it was allocated for housing in the draft Selby District-wide Local Plan (1995). That has remained the case for the

¹ JRHT/JH

² op cit

³ *Myton v MHLG*, 1963 16 P & C R 240

⁴ CD91

⁵ CD92

⁶ CD47

⁷ CD130-CD130b

⁸ CD66

⁹ ID37, paragraph C69.14

¹⁰ Y1

last decade, including through 4 sets of Changes to the City of York Local Plan¹. There are several points to make. First, the exclusion of the site from the Green Belt is the result of a thorough and exhaustive process undertaken in the context of preparing statutory Plans. Second, at all stages through that ‘statutory’ process, Government advice requires some regard to be given to the emerging Plan². Third, the York Green Belt Local Plan advanced almost to end of its path to adoption. Fourth, the only reason for not adopting that Plan was the abandonment of the strategy to create a new settlement beyond the Green Belt, so leading to the current need to release more, not less, Green Belt land.

- 4.41 The decision as to whether or not Green Belt policies should now be applied to the application site must be taken on the basis of the evidence adduced at this Inquiry. The Secretary of State’s decision at Monks Cross involved a different site and different circumstances. Nor is it obvious how developing the application site as now proposed could prejudice decisions about the Green Belt to be considered during the examination of the RSS. Of course, some expanded or different strategic location or role for the Green Belt could be discussed in that context. But no detailed Green Belt boundaries are likely to be defined by the RSS process itself. It is simply inconceivable that permission for the proposed development could jeopardise the RSS in any way.
- 4.42 Of course, there is one part of the proposal that is shown to be within the Green Belt in the City of York Local Plan. The access arrangements necessitate works to construct the spine road and its junction on a triangle of land beside the A19 and Germany Beck within the Green Belt. But that has always been the case. Even when the site was allocated in the draft Selby District-wide Local Plan 1995, the intention was that an access would be required from the A19, much as currently proposed. The work done for this Inquiry demonstrates that the proposed access arrangements utilise the only appropriate location for the main vehicular access to the site³. Given the identified need for housing, the absence of any sequentially preferable site, the allocation of the site and the quality of the scheme, the development of this land must constitute ‘very special circumstances’, as recognised in PPG2. And, of course, such circumstances would justify the whole proposal, even if the site was included in the Green Belt.

The potential contribution of the site to the Green Belt

- 4.43 The principal purpose of the York Green Belt is to preserve the setting and special character of the City. The careful assessment undertaken in the context of the York Green Belt Local Plan⁴ found that the ‘openness’ of the site at Germany Beck would not contribute to that special purpose. The built up edge in the vicinity of the site was seen as illogical and unattractive and a more ‘realistic’ boundary would be provided by Germany Beck and Germany Lane, the land to the south being essential to keep open for Green Belt purposes⁵. A clear distinction was drawn between the site and the historic open area at Walmgate Stray strengthened by the ‘green wedge’ to the east. Nothing has subsequently changed to warrant a different assessment now.
- 4.44 The site is clearly not an important part of the countryside setting of York. It is not just that the Minster cannot be seen from the site itself. The photographic evidence and analysis⁶ also demonstrate that the site is contained by housing and other development to the north and west and by the numerous hedgerows around the small paddocks to the east. That ‘containment’, together with the subtle topography of the land, combine to render the site insignificant in views from the

¹ CD1 and CD12

² The General Principles

³ Y9, PH/GBH/1 and 2

⁴ ID37

⁵ ID37, paragraph C69.14

⁶ ID9, ID199 and ID220

open fields to the south or from the countryside beyond the A64. Development on the site would be seen against the estates, schools and houses already evident from those vantage points. And, although views of the Minster become more noticeable from further afield, development on the application site would not be intrusive; indeed, views of the Minster would largely remain unaltered and be seen over both the proposed and existing development, much as now. A minor exception may be from a very short length of Germany Lane close to the site boundary; that can hardly be significant.

- 4.45 Similarly, the clear distinction between the site and the ‘green wedge’ at Walmgate Stray remains¹. The open nature of the site is quite different from the landscape of small, hedged paddocks to the east and the more densely tree covered golf course beyond. Moreover, that contrast is reinforced by the ditch and hedge along the western boundary of the application site. It is evident that the open flat fields of the application site do not contribute to the enclosed and sylvan character typical of the ‘green wedge’. Indeed, the contrast is accentuated by the impact of the dwellings in Tillmire Close on the eastern portion of the site and the role of the small caravan site and old ‘farmyard’ on Mitchel’s Lane in visually intervening between the site and the land further east. The design of the scheme proposed would incorporate measures to emphasise the distinction between the development and the ‘green wedge’, so preventing any impact on the role and function of the latter. The scheme incorporates a ‘green lane’ along the western boundary some 10m to 15m wide incorporating the Millennium Way and benefiting from substantial additional landscaping².
- 4.46 The site fulfils none of the functions associated with Green Belt land. It would not be necessary to keep the site permanently open to prevent urban sprawl as Germany Lane, Germany Beck and Mitchel’s Lane would provide long term logical and defensible boundaries rounding off the urban area here. There is no question of any coalescence between settlements as there is no nearby settlement with which coalescence would be likely. And, although development on any open land might constitute a form of encroachment into the countryside, the evidence demonstrates that some such development would be inevitable if the future housing needs of the City are to be met³. In any case, encroachment here would be minimal; the site has housing on 2 sides and a ragged boundary with the urban edge; the proposal would provide well defined physical boundaries strengthened by landscaping and the nature park. Also, there is no need to keep this site open in order to assist urban regeneration in York; indeed, the evidence demonstrates that the site is required to meet the housing needs of the City⁴. And, of course, the absence of any serious impact on the countryside setting of York or the ‘green wedge’ to the east, demonstrates that the scheme would not harm the visual amenities of the Green Belt.

Appropriate Green Belt boundaries

- 4.47 The recommendation made in relation to the York Green Belt Local Plan was that the existing built up edge was an illogical and unattractive one to serve as a Green Belt boundary. A more ‘realistic’ boundary was implied in the suggestion that it was the land to the south of Germany Beck and Germany Lane that was essential to keep open for Green Belt purposes⁵. The scheme would do just that. And, a particularly strong boundary would be created by the natural barrier of the Beck reinforced with additional swales and retention ponds, the nature park and generous landscaping. Nothing has subsequently changed to undermine the recommendation made in 1994. Fencing has been erected around the school grounds and some larger new buildings have been

¹ ID228

² PH/PJR/1.1 and ID228

³ The role of the site in relation to the setting of the Fulford Conservation Area is considered later.

⁴ See the housing sections above and in the case for the Council.

⁵ ID37, paragraph C69.14

built within them. But those are minor changes. They might make those boundaries marginally more pronounced. But, the boundaries that would result from the scheme would reflect the advice in PPG2 to create secure boundaries following clearly defined features, such as streams, tree belts or woodland edges. And, they would enclose not just the development on the site, but also the development in this part of York, behind a wide swathe of parkland and tree planting.

The impact on the Conservation Area; Fulford

- 4.48 The Fulford Conservation Area lies immediately to the west of the site and to the north of the proposed junction between the A19 and the intended spine road. The village was listed as a settlement in the Domesday Book and the remnants of the traditional long and narrow-fronted plots are still evident towards School Lane (adjacent to the application site) and particularly in Fenwick's Lane to the west of Main Street; the core of the Conservation Area consists of short terraces of 18th and 19th century buildings behind the wide grass verges of Main Street.
- 4.49 The proposed junction between the A19 and the intended spine road would entail widening the carriageway of the A19 to provide a lane for left turning traffic into the site. Part of the front garden at No.151 Main Street (the southern property in a small group of Edwardian Cottages) would be required for that purpose, along with the removal of a section of garden hedge. That front garden would be the only part of the Conservation Area directly affected by the development. The impact would be very localised and limited. Indeed, as the cottages are a little divorced from the core of the Conservation Area by Fordlands Road, a bend in Main Street and their location at the southern extremity of the place, such an impact could hardly be significant.
- 4.50 The rest of the proposed junction would lie outside the Conservation Area, albeit only just to the south. As the various images and drawings show, the construction of the junction would entail some loss of vegetation, changes to the width of the A19 and the introduction of signals, signs and lighting at this 'entrance' to the Fulford Conservation Area¹. And, if the offer to prevent flooding of the A19 is implemented, then a low wall would be constructed on the west side of the road from Landing Lane that may entail some further loss of trees². But those changes would not harm the Conservation Area. The curve in Main Street would serve to limit views of the junction into, or out of, the Conservation Area and the greater prominence of the Edwardian Cottages might enhance the street scene³. In any case, similar works would be required, including the installation of signals and signs, if the desired bus priority measures on the A19 were to be installed⁴. As for the flood relief measures, the works would not fundamentally alter the character of this approach to Fulford. The proposal would also involve raising the level of the A19 to meet the level of the proposed spine road. The carriageway would be at 9.81m rather than just under 9m⁵. Such a difference would be imperceptible over the distances involved⁶.
- 4.51 The scheme has been carefully designed to avoid any adverse effect on the setting of the Conservation Area. So, open space, in the form of an extension to the Parish lands, is to be positioned towards the northern part of School Lane where the barest remnants of the narrow tofts are evident, albeit that suburban housing now overlays much of that medieval pattern. And, a swathe of parkland is proposed from that open space to the extensive 'nature park'. Housing is only proposed beside those parts of School Lane where the closes and culs-de-sac of modern development, together with ordinary suburban housing, obliterate any semblance of medieval

¹ ID140

² PH/DKM/1 and plans

³ ID140

⁴ CD5, Y9 and Y7

⁵ PH/DKM/1 and plans

⁶ ID140

boundaries and intrude into the street scene. In those circumstances, the suggestion that the open fields of the application site (as far as Tillmire Drain) contribute to the setting of the Conservation Area is bizarre. It is also at variance with the designation documents. Had the fields been considered to contribute to the Conservation Area, then they could have been included within it, as is the case at Osbaldwick and many other places. They are not. Moreover, the description indicates that the designation includes ‘areas extending behind Main Street, which are part of the historic field pattern and landscape setting of Fulford’¹. The implication must be that no part of the application site forms part of the historic field pattern or the landscape setting of Fulford. Indeed, as very little of the site would be seen from any important vantage point within the Conservation Area, it is very difficult to see how the proposal would seriously impair the setting or character of the place.

The impact on neighbouring residents

Visual impacts

- 4.52 Although the proposal would abut existing development on 2 sides, it would only be adjacent to a few existing dwellings in Tillmire Close and Low Moor Avenue (to the north) and School Lane (to the west). At Tillmire Close there are 6 bungalows; the other dwellings are houses. On the eastern side of School Lane there is a row of chalet style bungalows and, jutting into the surrounding fields, Osborne House. Elsewhere the site abuts schools and playing fields. A key design aim is that the scheme would not inflict adverse effects due, for example, to overlooking and noise, on neighbouring residents. To that end, it is proposed to limit the height of new dwellings backing on to the housing in School Lane and Tillmire Close; that is to be controlled by condition. Details relating to the distance and orientation between properties could properly be left to the detailed design stage; the Council would ensure that such arrangements would be acceptable, bearing in mind their guidance and the aims of the ‘master plan’. However, if such matters warrant control at this stage, then a suitable condition could be imposed. Nevertheless, it is suggested that it would not be appropriate to control the density of development in these locations now. That should be dealt with in the context of the overall layout of dwellings on the site at the reserved matters stage. The same applies to the detailed relationship of the scheme to Osborne House.
- 4.53 The visual amenities of those occupying the Fordlands Road Retirement Home would be protected by retaining the dense hedgerow and by landscaping. The latter would include measures to soften the impact of the raised spine road surmounted by an acoustic wall. Although that structure is estimated to reach a height of about 3.8m above ground level as it passes the south eastern corner of the Home, it would be positioned at an angle and pass close to only a small, and somewhat separate, part of the building.

Noise and air quality

- 4.54 The noise impact of the development is tested on a ‘worst case’ basis in relation to construction activities and the traffic generated by the scheme both in relation to the ‘spine road’ and the impact of additional traffic on local roads. Additional control over problems that may arise in relation to the construction works is offered under the section 106 Agreement and by the suggested conditions. The former requires the submission of a ‘construction management traffic plan’ that might govern routes, access and deliveries and offers to establish and support a ‘liaison advisory committee’, part of whose role would be to advise on work undertaken in carrying out the development. The latter includes conditions to limit the hours when construction and deliveries would be undertaken and to require the submission of an ‘environmental management

¹ CD63

scheme' to minimise noise, dust and vibration from the construction works.

- 4.55 There are no agreed standards to indicate what an acceptable level of noise emitted from a construction site might be. Using guidance¹ issued 20 to 30 years ago, a 'daytime' limit of 75dB(A) at an external façade appears to be an upper limit while the WHO advise that an average level above 55dB(A) (over a 16 hour day) would be sufficient to cause annoyance in 'outside living areas'. For present purposes², those figures are assumed to refer to $L_{Aeq,12hr}$ measures with anything above the higher one constituting a 'major' impact and anything below the lower being 'negligible'. The difference is simply divided at 65dB(A) into 'moderate' and 'slight' impacts. By far the most intensive construction is likely to occur for the works to build the spine road. The calculations (using BS5228:1997³) show that at a façade 20m distant (though with a generator positioned 30m away) and taking account of an intervening barrier⁴ some 2.4m in height, an $L_{Aeq,12hr}=70dB(A)$ would be experienced on days when piling was being undertaken and an $L_{Aeq,12hr}=67.9dB(A)$ would occur on other days. The claim is that such impacts would be 'moderate'.
- 4.56 It is important to note that the only location where such noise levels are likely to be experienced is at the Fordlands Road Retirement Home. Further mitigation there could be achieved by carrying out the road construction in two phases; the first would involve construction of the junction arrangements and phase 2, adjacent to the Home, would only occur over a period of 3-4 weeks. There would be scope to utilise taller hoardings. And, further controls, particularly relating to timing and duration, could be exercised through imposed conditions and the Agreement. Elsewhere, however construction works would be very much less intrusive. First, nearly all residents, except those few adjacent to the site in Low Moor Avenue and Tillmire Close would not be within 60m of the proposed spine road or near to a position where piling would be necessary; noise levels would be closer to about 58dB(A) or below at such locations⁵. Second, the activities closest to most residents would involve house construction, landscaping and the provision of 'neighbourhood' roads. Those activities would be unlikely to involve the most noisy equipment, such as breakers and large or tracked excavators, used in construction of the spine road. Third, the calculated noise emissions, even for the spine road, model a 'worst case' scenario. In practice such levels are only likely to be experienced over short periods. At other times noise emissions would be less. Fourth, although the noise from construction of the spine road would impinge on the Retirement Home, other construction activities would be further away from the Home and beyond Germany Meadow.
- 4.57 The worst effects of traffic on the spine road would be experienced by residents of the Retirement Home⁶. Assuming the building to be some 22m from the new carriageway and that trip generation rates would be typical of those found in the City as a whole, peak hour noise levels would be about $L_{Aeq,1hr}=63.7dB(A)$ and average daily noise levels would be $L_{Aeq,16hr}=62.8dB(A)$ at the façade. The intention is to construct a noise barrier some 1.8m above the level of the carriageway. That is estimated to reduce the sound of traffic by about 11.2dB(A) for those on the ground floor and by about 9.3dB(A) for those at first floor levels. The result would be that the worst noise levels experienced (at peak hours) would be $L_{Aeq,1hr}=52.5dB(A)$ for the ground floor of the Home and $L_{Aeq,1hr}=54.4dB(A)$ on the first floor. Such an impact would meet the standards

¹ The Wilson Committee 1963, BS5228:1975, an 'advisory leaflet 1976, see ID258

² ID258

³ CD90

⁴ The tables in ID258 indicate that the effects of a barrier are included in the calculations. So, it appears that a mistake is made in the final submissions.

⁵ Inspector's estimate using BS5228:1997.

⁶ ID258

for ‘outside living areas’ set by the WHO, being below of 55dB(A), so it should be insufficient to cause any annoyance there. With the existing double glazed windows shut further reductions of about 33dB(A) would be achieved, resulting in internal noise levels of only $L_{Aeq,1hr}=19.5\text{dB(A)}$ for the ground floor and $L_{Aeq,1hr}=21.4\text{dB(A)}$ on the first floor, well below the levels (of 35dB(A) and 30dB(A), respectively) recommended to facilitate conversation and prevent sleep disturbance. With the windows open reductions of only some 10-15dB(A) are possible. Internal noise levels would thus be $L_{Aeq,1hr}=37.5\text{dB(A)}$ - 42.5dB(A) for the ground floor and $L_{Aeq,1hr}=39.4\text{dB(A)}$ - 44.4dB(A) on the first floor. That would only marginally fail to meet the 35dB(A) internal ‘daytime standard’. But, of course, such levels would only be experienced at peak hours. At other times traffic flows would be less and noise levels would be lower. The standards recommended by the WHO would almost always be met¹.

- 4.58 Elsewhere potential traffic noise impacts would not be significant. Either existing dwellings would be much further from the spine road or peak hour flows would be much less. For example, very little traffic except the proposed new bus service would use the spine road in the vicinity of Low Moor Avenue and Tillmire Close. And, any additional traffic using the A19 or Heslington Lane would constitute much less than the 25% deemed to be necessary before any significant impact would be discernable in relation to ‘environmental noise’²; peak hour flows through Fulford Village and on Heslington Lane are estimated to increase by about 18% and 17%, respectively³.
- 4.59 The impact of the additional traffic generated by the scheme on air quality has been modelled at locations in Fulford, on Heslington Lane, and at Fordlands Road (including the Retirement Home)⁴. General improvements are predicted to 2010 and 2017. In the context of those improvements the worst impacts due to this scheme would be very small. Annual mean concentrations in NO₂ would be some 0.6% to 2.8% worse than they would otherwise have been in 2010 and some 0.7% to 4.6% worse in 2017, although the junction between the A19 and Heslington Lane would be 9.8% worse. In relation to PM₁₀ annual mean concentrations are predicted to be some 0% to 1.2% worse in 2010 and some 0% to 1.3% worse in 2017⁵. All those effects would be small and would, in any case, be swamped by the general improvements predicted over the same periods. Those minor effects would not have any significance for ‘air quality standards and objectives’.
- 4.60 The risk of dust affecting air quality during construction would be mitigated by proper controls and site management measures (as required by conditions and the Agreement) and by the prevailing wind (from the south west) being likely to take dust away from most sensitive receptors⁶. Construction vehicles would form too small a proportion of the traffic to noticeably add to pollutants. The effects of construction would be temporary and, in relation to any particular property nearby, relatively short lived. Such minor adverse effects would be ‘slight’⁷.

The impact of traffic

Access arrangements

- 4.61 The proposed junction between the new spine road and the A19 is designed to accommodate peak hour flows. The allocation has always been associated with a single access from the A19 initially

¹ ID258 and PH/RC/1

² PH/RC/1

³ Y7

⁴ PH/PC/1.1, 1.2 and 1.3

⁵ Tables in PH/PC/1.2

⁶ PH/PC/1.1

⁷ See also the relevant section in the ES

in the draft Selby District Local Plan¹ and later as required by the Development Brief². It is considered that the access arrangements now proposed would result in the least impact on the highway network³. The arrangements provide for a signal controlled 'T' junction with right and left turning lanes: the spine road would operate as a cul-de-sac for private cars but as a through route for buses and emergency vehicles via Low Moor Avenue⁴. The trip generation rate of 0.45 is derived from surveys at the Fordlands estate and Broadway West; an allowance of 50 vehicles is made for traffic diverting into the site to take advantage of the new approaches to the schools⁵. It would be unlikely that peak hour flows would be greatly affected by trips to the amenities, the leisure activities, the local shop or the community facilities provided as part of the scheme. Even so, it is demonstrated that the junction would operate safely and with ample reserve capacity. The maximum saturation level would be about 92% (no more than that predicted for the A19 itself) and the maximum queue length would amount to only 4 or 5 cars⁶.

- 4.62 In addition, the road and its junctions (with the A19 and with Fordlands Road) are intended to withstand a 1:100 year flood. Essentially the carriageways are to be raised to about 9.81m AOD. A section of the A19 would be reconfigured to 'tie in' with the new junction: it is also intended to raise the level of Fordlands Road to the north of its junction with the spine road to provide a 2-way emergency access in times of flood⁷. There would be access for buses and emergency vehicles from Low Moor Avenue, but no access for cars, vans or delivery and service vehicles⁸. Flood protection measures are offered to reduce the vulnerability of the A19 and Fordlands Road⁹.
- 4.63 The spine road would serve as a through route for buses from Fordlands Road via Low Moor Avenue to Heslington Lane. Contributions would support a ¼ hourly bus service across the site, though prior to the creation of the through route, services 22 and 23 would be diverted into the site and provide a ½ hourly bus service¹⁰. All the schemes submitted have incorporated some form of access arrangement in the vicinity of Low Moor Avenue or Mitchel's Lane. The impact of 8 bus movements an hour would not seriously impair amenities on this estate¹¹ and the roads here (at about 5.5m wide) could adequately accommodate the proposed service without the need to prevent on-street car parking¹². The junction with the A19 would incorporate traffic signals to provide priority for buses. That is expected to increase the reliability of buses using the A19 and so enhance public transport provision on a major transport corridor in the City¹³.
- 4.64 The site would be well served by footpaths and cycle routes to the north and to the west connecting to Fulford, Heslington and to the City centre¹⁴. The scheme provides for substantial financial contributions to improve those connections, including the installation of a Toucan crossing on Main Street and the provision of traffic signals, pedestrian refuges and signage at the

¹ CD66

² CD62

³ Y9

⁴ PH/BH/1.12

⁵ PH/BH/1

⁶ Y9, PH/BH/1 and PH/BH/1.4, 1.9 and 1.16-20

⁷ PH/BH/1 and PH/DKM, see also the submissions by the Environment Agency

⁸ PH/BH/1

⁹ See the section 106 Agreement

¹⁰ That would comply with policy T7c in CD1.

¹¹ PH/BGW/1, PH/RC1 and PH/RC/1

¹² PH/BH/1 and Y9

¹³ Y9

¹⁴ PH/BH/1

site access¹. Pedestrian and cycle links are also to be promoted.

Measures to reduce car travel

- 4.65 The housing layout is to incorporate safe and direct pedestrian and cycle routes to local facilities and to the cycle network in the City, thereby creating routes to schools and local amenities for travel by means other than the private car². For journeys to the local schools, to the facilities on Main Street or to the proposed local shop, those pedestrian routes are likely to be preferable in terms of length, time and convenience than attempts to undertake the same journey by car³. The latter would entail using the busy A19 and negotiating at least 2 traffic-light controlled junctions. The relative convenience and attractiveness of the pedestrian alternative is likely to reduce the propensity to undertake car-borne trips for those journeys. The improved crossings of the A19⁴ and Heslington Lane would enhance linkages to the wider footpath and cycle network, including routes into York City centre, and contributions are to be offered to further improve those routes. The footpaths beside Germany Beck, past the improved SINC and the proposed Nature Park would be retained and enhanced.
- 4.66 At Germany Beck contributions are proffered to provide a ¼ hourly bus service across the site from Fordlands Road through Low Moor Avenue to Heslington Lane connecting to the town centre and beyond. Prior to the creation of that through route, services 22 and 23 are to be diverted into the site providing for a ½ hourly bus service, though the occupants of the early phases of the scheme would be within 400m of the buses on the A19⁵. That level of public transport provision would always meet, and eventually exceed, the requirements of policy T7c⁶. The access arrangements also include the installation of signals to provide priority for buses on the A19, so enhancing public transport facilities (perhaps crucially) on a major transport corridor in the City⁷. And, car journeys might be further reduced by the introduction of a car club, together with on-site parking spaces for ‘car club’ cars⁸. Flood protection measures are offered to reduce the vulnerability of the A19 and Fordlands Road.

Congestion and other problems

- 4.67 The A19 is operating at capacity in the two peak hours⁹. The addition of the proposed development traffic would, therefore, have the effect of extending the peak hour slightly. It would not actually worsen conditions in those peak hours. It makes little difference whether the estimates of traffic generation and directional split are taken from the Council’s figures or the surveys undertaken by the applicants¹⁰. There is no junction where the differences would be critical. The capacity problems on the A19 may well encourage the use of other means of travel than the private car, particularly over the short distances to the schools, shops or community facilities.
- 4.68 The cumulative effect of both schemes, together with the expansion of the University, has been considered by the Council; all 3 proposals can be accommodated. It is also clear from the Local Transport Plan¹¹ that recently permitted developments have been taken into account in that

¹ See the section 106 Agreement

² PH/BH/1 and PH/BH/1.16

³ Y9 and Y7

⁴ Fulford Design Statement’s questionnaire responses identified a local desire for more crossings.

⁵ PH/BH/1

⁶ CD1

⁷ Y9

⁸ The car club is to be funded through the section 106 Agreement and the spaces provided under the suggested conditions.

⁹ PH/BH/1, PH/BH/1.4 and Y9

¹⁰ See the relevant section in the Council’s case

¹¹ CD5 and ID58

assessment.

- 4.69 The proposals provide positive benefits for public transport along the A19 corridor¹. In addition to providing an alternative route for the bus services Nos.22 and 23 (through the site rather than down the congested A19) traffic signals would be provided at the site junction and, together with signals and bus priority measures at Naburn Lane, would facilitate the introduction of priority for buses along the A19 corridor, so significantly improving the reliability of bus services in this corridor to match that achieved elsewhere. This is a key objective set out in the Local Transport Plan². Previous attempts to do so have met with local opposition³. The proposal provides both the finance and the opportunity for the improvements sought to take place, so freeing up any existing funds for other improvements along the corridor. This is a substantial benefit of the scheme which deserves to be given some considerable weight⁴.

The impact on flooding

- 4.70 The area proposed for housing lies well outside the area identified as likely to be subject to a 1:100 flood event⁵. Whilst no formal sequential assessment has been carried out in relation to the site it is clear that the housing site itself would score well in such an assessment⁶. Nevertheless, the proposed junction would lie within the flood risk area and, for that reason, it is proposed that the junction, the access road and part of Fordlands Road would be raised to 9.81m AOD to be above the level required to prevent flooding even in a 1:100 storm with a 20% increase to accommodate climate change⁷. Access would thus be maintained on to the A19 in the event of a 1:100 storm and the requirements set out in PPG25 would be met. The scheme would also provide for payment to be made to the local highway authority to carry out works to protect the A19. The carriageway would be raised to withstand a 1% storm event and above the level of the worst occurrence in recent years⁸. That would provide a significant benefit to the City as a whole.
- 4.71 The need to construct the spine road and the junction across part of the effective flood plain requires the provision of a compensating area for flood storage. Provision would be made mainly by the construction of storage ponds and a new water channel beside Germany Beck. That, together with further provision within the 'green corridor' would also accommodate the rate of flow from the development site itself with some capacity to spare. The flood water estimated to be displaced by those road works, and including an allowance for water displaced from the housing area but ignoring the effects of the SUDS proposals, would amount to about 18700m³. The additional flood storage provided by the ponds, the new channel and re-contoured Nature Park would be about 21900m³, so providing an additional storage capacity of some 3200m³ during the worst flood conditions⁹. The ponds and water channels would form an important element of the proposed Nature Park. Moreover, the ecological value of the SINC and the SSSI would not be affected as the flooding regime of the Beck would be maintained¹⁰.
- 4.72 A SUDS system of surface water drainage would be incorporated into the scheme¹¹. And, it is

¹ See the relevant section in the Council's case

² CD5

³ Y9

⁴ Section 106 Agreement

⁵ EA Flood Zone Maps, PH/DKM/1.4

⁶ See submissions from the Environment Agency and PH/DKM

⁷ PH/DKM ID139, ID181, ID192, and ID221

⁸ PH/BH, PH/DKM ID139, ID181, ID192, and ID221. In PH/DKM at paragraph 9.28 it is suggested that the access road would have a high point of about 9.9m AOD. The A19 would need to be at a commensurate level.

⁹ PH/DKM, see the table at paragraph 7.35. A slightly different figure appears in the summary section.

¹⁰ PH/DKM, PH/RG/1 and EA submissions

¹¹ PH/DKM

intended to install grey water recycling and rainwater harvesting to reduce run off¹. Doubts expressed about the operation of the drainage proposals², due mainly to concerns that the fall from the site to its discharge point in Germany Beck, particularly in times of flood, would be insufficient could be overcome. A suitable system could be successfully managed and maintained and the precise fall required would depend upon the detailed design of the system³.

- 4.73 The scheme would offer additional benefits to the local population by providing for a pumped system of foul drainage from the site, which would prevent the sort of surcharging of the sewerage system that occurred in 2000⁴. There would also be some improvements to the Tunnel Drain outfall in order to prevent it from being surcharged by flood flows⁵.

The impact on ecology and nature conservation

- 4.74 The arable fields of the application site have low ecological and biodiversity interest⁶. That does not mean that they are devoid of wildlife. But the fields are not of sufficient size to protect the birds that might nest on open arable land from predators. The land to the south contains better habitat⁷.

- 4.75 The hedgerows within the site, except that beside Germany Lane (No.6), appear to be modern and to offer little of any ecological interest⁸. Hedge 6 would be preserved and a condition would require matters of detail to be submitted to show the hedges and trees to be retained and requiring the employment of appropriate methods to do so. Whilst there may be remnants of recent hedges on old field boundaries, the evidence is that they would not constitute ‘important’ hedgerows under the Hedgerow Regulations⁹. For a hedgerow to have historical importance due to a connection with a pre-Inclosure field system it must be recorded in a document held at the relevant date at a Record Office as an integral part of a field system pre-dating the Inclosure Acts, or it must be part of, or visibly related to, any building or other feature associated with such a system, and that system must be substantially complete or part of a pattern which is recorded in a document prepared before the relevant date by a local planning authority. Those features are not present here. Whether or not there were hedges along the field boundaries prior to 1845 or 1859 is not known. But, the remaining hedges (save for No.6) show no signs of being old. The Field System shown on the old Inclosure Maps is not, in any event, substantially complete. Even if any of the hedges qualified for protection, that would not prevent development; it would simply mean that the hedges might require to be protected in the detailed design of the scheme¹⁰.

- 4.76 Of course, it would be theoretically possible to achieve greater biodiversity on this farmland, as suggested mainly by the York Natural Environment Trust. But, the hope of benefits in the future through an environmental stewardship scheme ignores the intensive farming regime practised by at least one of the tenants. There is no guarantee, indeed it is highly unlikely in view of the relative quality of the land¹¹, that any part of the site would qualify for the higher level scheme; nor is it likely that any of the tenants would find it economically worth their while to do so.

¹ This is in the context of achieving an ‘EcoHomes’ rating of ‘excellent’, controlled by conditions, see also ID209.

² See ID155

³ Mr Masters’ answers to questions

⁴ PH/DKM and EA submission

⁵ PH/DKM

⁶ PH/RG/1

⁷ PH/RG/1

⁸ PH/RG/1

⁹ See PH/RG/1.4 (ID217); the assessment in ID233 does not employ the correct methodology.

¹⁰ Mr Sauvain’s submissions

¹¹ See section 2

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- 4.77 The application proposals, on the other hand, bring with them two huge guaranteed biodiversity benefits. First, the existing SINC, which the evidence demonstrates to have deteriorated in the absence of a suitable management regime¹, would be improved and managed for its nature conservation interest through a management plan to be agreed with the Council². Second, an entirely new Nature Park with considerable ecological value for a variety of native local plant species, water voles, harvest mice, kingfishers, bats and other creatures will be created³. This area would have several functions. It would serve as part of the drainage system, as a flood water storage area, as a Nature Park and as a clear edge to the Green Belt. Again the conditions provide for the management of this area.
- 4.78 There would be some loss of trees and vegetation caused by the access road and that could marginally affect bat foraging areas within this site part of the site. But the evidence is that the area affected currently holds little else of any particular wildlife value and does not perform any significant role in providing linkages with the land on the other side of the A19⁴. There would be substantial new planting within the site as a whole and on the southern boundary (including the establishment of particularly attractive woodlands making up NVC type W10⁵); the habitat of the SINC would be greatly improved through the implementation of a coherent management plan; and, a substantial and ecologically diverse Nature Park would be created beyond the southern boundary of the housing proposed⁶. Such works would more than compensate for any losses of bat foraging area within the site of the access or within the site as a whole. Indeed, in ecological terms the scheme would present a positive benefit. This appears to be accepted by York Natural Environment Trust and Yorkshire Wildlife Trust in their representations to the Inquiry.

The impact on archaeology; the battle of Fulford

- 4.79 There are two issues here. The first concerns how the proven archaeological value of the site has been identified and how it would be protected as the scheme might proceed. That is addressed in the expert archaeological evidence⁷, supported by an extensive list of documents⁸, and in the Development Principles report⁹ (setting out the ‘master-plan’) together with the suggested conditions. The intention is that the identified area of archaeological interest would be protected within the archaeological zone and that there would be a programme of investigatory works over the site required by condition before development takes place. The second issue is whether the suggestion that the Battle of Fulford took place on or very near to the application site would constitute a reason for refusing development, bearing in mind that any development would be subject to standard archaeological conditions.
- 4.80 The starting point is paragraph 2.25 of PPG15, which refers to PPG16. The latter indicates that archaeological deposits of national importance, whether scheduled or not, should be preserved in-situ: protection for remains of lesser importance must be weighed against other factors. PPG25 refers to what was (back in September 1994) English Heritage's draft Register of Historic Battlefields. It is indicated that the Register should be comparable in status with the Parks and

¹ PH/RG/1.1 and PH/RG/1.2

² PH/RG/1

³ PH/RG/1 indicates a carefully crafted scheme based on establishing various NVC community types including aquatic, wetland, meadowland, carr woodland and other woodland types. The scheme takes careful account of the existing habitats, see PH/RG/1.2.

⁴ PH/RG/1

⁵ Pedunculate Oak above bracken and bramble, a typical bluebell woodland of the lowlands.

⁶ PH/RG/1

⁷ PH/PW1 and PH/PW1.1

⁸ CD70 - CD75, CD115 and CD129 prepared by the applicants and Y11

⁹ PH/PJR/1.1 identifies the protected archaeological zone

Gardens Register. The intention was that the Register should identify a limited number of areas of historic significance where important battles are sufficiently documented to be located on the ground. That non statutory Register of Historic Battlefields now identifies 43 English battlefields¹. It serves to provide protection and to promote understanding; tradition is not sufficient to warrant inclusion in the Register and a high standard of proof is required. The effects of any development on a 'Registered' site can form a material consideration to be taken into account in determining planning applications². If a site is listed in the Register of Historic Battlefields then the effects of any development on that site would be a material consideration. However, if a site is identified as an historic battlefield site which is not registered then, even though that may be of local interest, it cannot carry the same weight as a 'Registered' site. Where a site is alleged but not proven to be a battlefield site after proper investigation, then such matters cannot be a material consideration.

- 4.81 English Heritage do not now maintain a site specific objection to the development of this site³. By accepting that the local planning authority should be entitled to determine the application itself, they have clearly accepted that there is no overriding archaeological interest in preventing development from taking place.
- 4.82 Where development could affect a battlefield site, two issues need to be addressed. The first is whether development would damage any archaeological remains within the site. That is a familiar issue and it is applicable to any site which might contain artefacts of some archaeological interest. The second is whether the development would materially harm a landscape that would allow future generations to understand the course or the significance of the battle. Where a modern landscape is found to bear no relationship to the historic terrain over which the battle might have been fought, it must be highly questionable that any purpose would be served by preventing proposed development from taking place. Hence, it is suggested that it must be important to consider whether:
- There is any archaeological evidence that the battle took place on the site;
 - Whether the site can be identified as the site of the battle from the historic sources;
 - Whether the landscape retains significant characteristics in common with those known to have existed at the time of the battle.
- 4.83 In the case of the Germany Beck there have been extensive archaeological investigations. They start with a desktop study; they continue with a walkover survey, a geophysical survey and an earthworks survey; that evidence formed the basis for undertaking a series of archaeological trial trench evaluations; and, recently, a metal detecting survey, using members of a local metal detecting club, has been undertaken along the lines suggested by some of those claiming the site as the location for the Battle of Fulford⁴. All that effort, undertaken over more than a decade, has identified nothing that might be associated with the Battle of Fulford. Indeed no objects and no deposits dating from the 11th century have been identified in any phase of the archaeological evaluations⁵.
- 4.84 Nor is there anything in the historic sources to link the battle with the application site. Two commentators (Florence and Simeon) refer to the battle taking place on the north bank of the

¹ Y11

² PPG15

³ PH/PW/1.IV, Y11 and ID190

⁴ See PH/PW/1 and PH/PW1.1 as well as CD70 - CD75, CD115 and CD129.

⁵ PH/PW/1 and PH/PW1.1; Mr Raynor from the Battlefields Trust acknowledged that the site had been the subject of greater study than any they had known.

River Ouse¹. That might suggest that the battle took place at Middlethorpe and opposite Water Fulford. But, it does not link the battle with the Germany Beck site. Simeon refers to it as having taken place at Fulford. But the name Fulford would encompass both Water and Gate Fulford. It would also include a substantial area to the south of Germany Beck (as part of the parish) and it would extend as far as St Oswald's Church, and possibly as far as the City Walls². Again, there is nothing here to link the battle to the application site.

- 4.85 Snorrie Sturlason describes the battle location as one where a river is on one flank and a dike with a marsh beyond on the other. He describes a battle scene in which the Saxons were able to advance 'bravely' down the dike flank against the Viking (or renegade Saxon) force commanded by Tostig but where the Viking King Harald was able to advance along the River Bank driving Earl Edgar's force before him, wheeling inland to surround the remaining Saxons and drive them over the dike into the marsh³. The description is of a battle on two flanks. It is not a battle centred on defending or attacking a ford across a watercourse serving as a 'choke point', which is the picture portrayed by the objectors. There is no mention of the armies being arrayed on opposite sides of any watercourse. The whole tenor of the battle belies the suggestion that they were defending any specific crossing point.
- 4.86 In the face of a battle description that does not fit the terrain, the objectors fall back on an alleged principle of 'inherent military probability'. This is what the Battlefields Trust appear to have done⁴. But if the theory of 'inherent military probability' is actually applied in those submissions, then it would appear to require King Harald to outflank the Saxons, not on the river flank where Snorrie locates him, but beyond the marsh to the east on the Roman Road. This application of military probability therefore requires the complete rejection of the only historical account of the course of the battle.
- 4.87 In 'Fulford The Forgotten Battle of 1066'⁵, Mr Jones asserts that the Beck was in a deep ravine, '4m deep and the width of a spear throw'. There is no evidence of this and bearing in mind the topographical data and the geological dating from the MAP investigations⁶, this suggestion can only be interpreted as entirely fanciful. Furthermore, if the battle was fought across such a significant obstacle, then it is remarkable that it was not remarked upon by any commentator.
- 4.88 The theory of inherent military probability appears to require some understanding of the tactics and course of the original battle, together with the known features of the battlefield site and some understanding of what geographical features may have existed at the time⁷. Whilst there may have been some watercourse in this area in 1066, the present Germany Beck is clearly canalised⁸. It was described as a New Dyke in 14th century documentation and it is probably named after a 14th century landowner, German de Brettgate. The Beck was again laid out and described as a 'sewer' and drain in the 18th century Enclosure Award⁹. Even the Fulford Battlefield Society suggest that its course may have changed since 1066¹⁰. We can have no idea of whether, or in what form, any watercourse passed through this area in 1066. If there had been a ravine,

¹ PH/PW1 and PH/PW1.1

² PH/PW1 and PH/PW1.1

³ Both the Battlefield Trust and the Fulford Battlefield Society agreed that this was the description of the course of the battle; see also John Oxley's appendices (Y12) where extracts from the Battle of Fulford web-site are enclosed.

⁴ See the submissions from Glen Foard at CD138.

⁵ Fulford The Forgotten Battle of 1066; extract put to Mr Jones in cross examination; ID234

⁶ CD125

⁷ CD138 and BT/MR/1

⁸ CD70 and CD115

⁹ PH/PW1 and PH/PW1.1

¹⁰ Mr Jones; response to question

however, there would be some geological indication that it existed. There is none¹.

- 4.89 Modern day features offering a river on one flank with a watercourse on the other and a marsh beyond can be found elsewhere. The land well to the south of Germany Beck encompassing the Fordlands Road estate, the Dam lands area and extending close to the original Tillmire (former swamp) might be a more likely candidate². However, there is evidence from a number of other commentators that place the battle in other locations, including on both sides of the river³. And, the Fulford Battlefield Society tell of ‘finds’ made in the Water Fulford area⁴, even though such evidence does not appear to have been recorded or catalogued. There is also the possibility that the line of the Ouse may have changed significantly⁵. The Historic Landscape Assessment⁶ has identified that the current line and form of the Germany Beck is a post conquest creation and that the area has been the subject of major changes from the medieval period. The built form of Fulford and Fordland’s, the raising of the A19 road level, the creation of the recreation ground and the cemetery have all changed the original landscape significantly. Even if the battle, or some part of it, may have taken place in the general vicinity, there are now no features on the Germany Beck site that could be clearly linked to the description of the battle, particularly as given Snorrie.
- 4.90 The main response to the absence of any demonstrated historical, topographical or archaeological link between the proposed development and the Battle of Fulford is to assert that ‘finds’, once analysed, might provide it. The objectors produce no evidence to locate any particular ‘find’ to the Germany Beck site or to associate any ‘find’ with the 11th century or to connect any ‘find’ to a battle. It is difficult not to draw the conclusion that the objectors find it hard to distinguish between their own unsupported theories and objective historical evidence. Worse still, that theory would appear to be fanciful and self contradictory.
- 4.91 The comprehensive archaeological investigations undertaken and the lack of any evidence (archaeological, historical or topographical) to link the site with the Battle of Fulford, demonstrates that there can be no justification for preventing the scheme. All that remains is the mere possibility that the site may have some unknown and unproven connection with the battle.

Conclusion

- 4.92 The Germany Beck scheme is needed to allow York to meet its housing needs in a sustainable way and in a location which does not harm the character of the City. The scheme would achieve substantial improvements in local infrastructure and public transport provision; it would involve measures to reduce reliance on the private car and help to encourage the use of public transport. The development would also secure significant benefits in protecting the A19 from flooding, the creation of a new Nature Park and the improvement of the existing SINC. All proven archaeological remains of value would be investigated, preserved and monitored. The scheme would thus comply with national, regional and local policies and warrants a recommendation that the application be approved.

¹ CD70

² PH/PW1

³ PH/PW1 and Y11

⁴ Mr Jones; response to question

⁵ Mr Mulhearn’s evidence

⁶ CD70

5. The Case for the Joseph Rowntree Housing Trust ~ Derwenthorpe

The material points are as follows:

The Trust and the scheme

- 5.1 Ordinarily the identity of an applicant is of little consequence because planning permission runs with the land. In this case, however, the fact that the scheme is submitted by the Joseph Rowntree Housing Trust (JRHT) is of importance because the objectives, ethos and operation of the Trust would, in itself, contribute to the character and success of the proposal.
- 5.2 The JRHT has its origins in the Joseph Rowntree Village Trust established in 1904 by the Quaker philanthropist Joseph Rowntree¹. Today the Trust's objectives, subject to the governance of charitable law, are:

*To provide, develop, construct and manage housing estates, houses or other residential accommodation or similar facilities for the families and dependants of persons who by reason of poverty, youth, age, infirmity, disablement are in need of such facilities or of care, attention, assistance or supervision and to provide or assist in the provision of educational facilities for the dependants of any such persons*².
- 5.3 The Trust currently manages 1800 properties, of which about half are in New Earswick with remainder in York and North Yorkshire. It is at the forefront of advocating and facilitating mixed tenure communities and sustainable design solutions. In April 2006 the Audit Commission placed the Trust in the top 25% of recently inspected Registered Social Landlords (RSLs) identifying, in particular, its 'good housing management, income management and anti-social behaviour services' as well as its 'strong leadership, robust planning structures and focus on performance management'. The Trust adopts a 'hands on' style that would be replicated in relation to the Derwenthorpe scheme. The intention is to build the first 65 units, to be responsible for the affordable housing, public open space and 'green-space' for the life of the development and to place a manager on the site³.
- 5.4 JRHT has a strong track record. It has been awarded Chartered Developer status by the DTI⁴; its extensive research activities are internationally recognised; and the results of such research are to be applied here, particularly in relation to the innovative housing elements of the proposal. And, that is underpinned by assets (mostly occupied housing) amounting to some £200m backed by the resources of the Joseph Rowntree Foundation valued at about £270m⁵.
- 5.5 For those reasons, credence should be given to the assurances given by the Trust in the context of this Inquiry⁶. That does not mean that everything undertaken has been faultless. It is accepted that consultation on the 'design competition' and the outcome of the process could have been handled better. But rejection of the scheme favoured by those consulted was not a high-handed decision to ignore public views but a reflection of the planning difficulties involved in providing a completely new access across open countryside designated as Green Belt. And, the consultation exercise sought extensive engagement with the public on an entirely voluntary basis in a genuine

¹ ID122 provides an interesting history of some beginnings at New Earswick.

² JRHT/MWS

³ See JRHT/RSB, JRHT/MWS and JRHT/NI for different facets of these operations.

⁴ ID131

⁵ JRHT/RSB, JRHT/MWS and JRHT/NI

⁶ Mr Manley's submissions

attempt to offer an opportunity to influence the development of the site¹. The intention is to continue to involve local people in the evolution of the scheme and the management of the project. As a result, some have indicated that if the site must be developed then they would prefer the development to be undertaken by the Trust rather than anyone else².

- 5.6 Some concern was expressed during the Inquiry that the Trust has failed to manage anti-social behaviour at New Earswick³. As explained⁴, disturbances at New Earswick are relatively low in a York context. Nevertheless, the Trust does use a range of measures and sanctions to firmly address any anti-social behaviour when it occurs, as might be expected from a responsible and active landlord. Such measures are based on the 'New Earswick Village Scheme'⁵, which gives the Trustees control over such matters as alterations to properties, maintenance of dwellings and gardens and the general appearance of the Village; levies a charge in respect of such works; requires owners to seek approval from the Trustees for external and internal structural alterations; and, imposes certain restrictions on the use of properties. Such controls, and the way they are operated, encourage community awareness and shared responsibility. Similar devices are to be applied at Derwenthorpe although, because the proposal would involve a substantially higher level of owner occupation than exists at New Earswick (about 60% instead of only about 20%)⁶, more use would be made of covenants and leases. And, of course, just such a difference must imply that different patterns of behaviour are likely to pertain at Derwenthorpe.

Plans and prematurity

- 5.7 The formal Development Plan only consists of the RSS, 2004 and the North Yorkshire County Structure Plan, which was last altered in 1995 but substantial parts of which (including the sections on the Green Belt) were first approved in 1980. Neither of those Plans indicates how the application site should be allocated. Although earlier Plans had shown the site to be excluded from the Green Belt, the first document to identify the site for a specific land use emerged in 1981 as the draft Southern Ryedale District Plan⁷; the site was excluded from the Green Belt and allocated for housing. The allocation was reflected in the Greater York Study (1991)⁸, where one of 8 sites identified for housing was described as '34 acres at Osbaldwick'. The allocation was confirmed by the thorough assessments that led to the post Modification versions of the York Green Belt Local Plan (September 1995)⁹ and the Southern Ryedale Local Plan (January 1996)¹⁰. Following the Inspector's recommendations the site was shown as excluded from the Green Belt and allocated for housing. Under policy H5 of the latter some 23ha was allocated for residential development and open space with the proviso that it should not be developed before 1996 and the recommendation that the allocation should accommodate a significant area of open space suitable for laying out as playing fields.
- 5.8 It is, essentially, those recommendations and the work supporting them, that formed the basis for the proposals set out in the City of York Local Plan 1998. There the site was allocated for housing and excluded from the Green Belt. That has remained the position through all the Changes made to the Local Plan. It remains the case in the 4th set of Changes published in 2005

¹ Details are set out in JRHT/NI: also in answers given by Lord Best.

² At the evening meeting, in particular

³ OPC/WM/1 and ID45

⁴ Lord Best in evidence

⁵ ID149

⁶ JRHT/NI

⁷ This Plan was produced in response to criticisms made by the Secretary of State but later abandoned in favour of the Plan that emerged in 1991, see JRHT/JH

⁸ CD47

⁹ CD130

¹⁰ CD86

for development control purposes, although now abandoned in order to progress DPDs under the new planning system. A Development Brief¹ was published in 2002 setting out the aims and framework for development here and indicating the requirement to achieve a higher proportion of affordable housing than would then have normally been required. The site has, therefore, been mooted as a suitable housing site for a quarter of a century and been allocated as such in properly prepared planning documents for over a decade, albeit that none of those documents achieved the final statutory status intended.

5.9 For a scheme to be refused on the grounds of ‘prematurity’ it must be substantial enough, or entail sufficiently significant consequences, to prejudice decisions on the scale, location or phasing of development being addressed in a DPD policy². ‘Being addressed’ is an important phrase. It implies that there must be a relevant policy (at least in draft form) in a relevant and emerging DPD that might be prejudiced. And, even if a DPD is at a consultation stage but with no prospect of early submission for examination, then refusal on the grounds of ‘prematurity’ would seldom be justified. No relevant DPD exists here. Not even the Core Strategy has reached an appropriate consultation stage, although a ‘pre-consultation’ document has been issued to convey a series of ‘choices’ to the public³. Hence, as yet, there is no emerging DPD and no relevant policy that might be prejudiced by this scheme.

5.10 The draft version of PPS3 provides a slightly different ‘prematurity’ test:

Local planning authorities should not refuse applications for planning permission simply on the grounds that the preparation or review of site allocation development plan documents will be prejudiced. However, local planning authorities should not grant applications for planning permission where it can be shown that to do so would clearly discourage the development of allocated developable brownfield sites⁴.

5.11 No evidence is adduced to show that development either at Derwenthorpe or Germany Beck would discourage any scheme on allocated and developable brownfield sites⁵. And, of course, the requirement to build houses on both sites is predicated on the assumption that all allocated brownfield sites are developed. Given the results of the Urban Capacity exercise and the Development Briefs for York Central and Terry’s Factory⁶, it is unlikely that a significant and unknown brownfield site exists that would be capable of providing for sufficient residential development to address numeric and qualitative needs by 2016. The one ‘surprise’ that has occurred is the possible availability of the site at the sugar beet factory. But that is, as yet, no more than a possibility. In any case, such a site must entail much preparation, investigation and infrastructure works before any on-site completions could be realised.

5.12 It follows that awaiting the emergence of a relevant DPD would be pointless. First, given the likely difficulty in allocating land and defining inner Green Belt boundaries, no reliance can be placed on the optimistic (and already somewhat unrealistic) programme for the adoption of DPDs set out in the published LDS. Second, even if the process were to identify an alternative large brownfield site, it would then be necessary to embark on a protracted period of preparation involving not just the submission of a planning application, but also work to submit an ES, remediate land, resolve land ownership and undertake other tasks. The time taken in relation to both these application sites and York Central demonstrates just how long such a period might be. Significant contributions to meeting the housing requirements or housing needs for York would

¹ CD81

² General Principles, paragraph 17 and 18

³ ID79

⁴ Draft PPS3, paragraph 42

⁵ Details are addressed elsewhere, mainly in the Council’s case

⁶ ID53, ID18, ID14, ID43 and ID44

be unlikely before 2016. Third, such delay could, all too easily, jeopardise the Derwenthorpe scheme. Crucial to the proposal is the agreement of the Housing Corporation to provide funds in relation to the affordable housing proposed and the activities of the Trust as a Housing Association. Those funds could not be guaranteed if the scheme were not to proceed. On the contrary, it would be necessary to apply for a new Housing Corporation Grant, fiercely competed for on a biannual basis.

Housing; numbers, markets and needs

Numerical housing requirements

- 5.13 York is identified as a ‘main sub-regional Centre’ in the emerging RSS that is to serve as the ‘prime focus’ for development involving housing, employment, shopping, leisure, education and health facilities; there is to be a ‘radically more modern and wider range of housing’ concentrated in regional and sub-regional centres¹.
- 5.14 In purely numeric terms, sufficient land can be identified to meet the housing requirements derived from either the approved or emerging RSS until 2012/13 without developing either of the application sites; after that date the identified supply fails to meet the annual requirement resulting in deficits by 2016 of some 28% and 34% respectively in relation to the total requirement over the preceding 5 years. Even so, the emerging RSS requirement is substantially below the 2003 ODPM household projections². Hence, it is quite likely that higher ‘requirements’ will be included in the final version of the document; at the very least, the figure in the emerging RSS should be regarded as the minimum. Moreover, the numerical assessment³ incorporates optimistic assumptions about the development of York Central; there are 3rd party land ownership issues to resolve, appropriate access arrangements to identify and grant funding to secure. For those reasons, the estimated ‘oversupply’ of housing land that would result from bringing the 2 application sites forward for development could well evaporate. It is, in any case, fairly modest, amounting to an excess of just 638 dwellings (in relation to the approved RSS) and 500 units (in comparison to the emerging RSS) by 2011 and, similarly, 347 and 94 dwellings by 2016. In relation to the total residual requirement, those figures represent an oversupply of about 19% and 14%, respectively, by 2011 and just 6% and 1% by 2016⁴.
- 5.15 But, such calculations are derived from the residual method. The annual requirements under the emerging RSS are to be met, as near as is possible, year on year. The ‘trajectory’ clearly indicates that the annual requirements are in deficit from 2006/7, that the deficit is significant by 2010/11 (about ¼ of the annual requirement) and that it increases each year. Such a state of affairs is not consistent with the aims set out in either PPG3 or draft PPS3 to maintain a continuous and adequate supply of housing to meet a broad range of housing needs⁵.

The market and the requirement for family housing

- 5.16 The high level of recent completions has resulted in an imbalance in the size and type of dwellings provided in relation to those that are required⁶. As indicated elsewhere, recent completions have mainly provided flats whereas the ‘market analysis’ indicates that the requirement is mainly for houses⁷. Indeed, 67% of recent completions have been flats and it

¹ Policies Y1, YH5 and YH8 of the emerging RSS, CD15

² 640 as opposed to 931

³ ID13

⁴ See table 1. The figures relate to the cumulative balance (over the relevant period) with the addition of the dwellings on the application sites divided by the relevant residual requirement over the specified period.

⁵ See table 1.

⁶ See the relevant section in the case for the City of York and JS4.

⁷ See the relevant section in the case for the City of York, table 2 and CD152

looks as though 64% of the impending provision is likely to be the same¹. The suggestion that such an imbalance might be corrected by the operation of the housing market (and thus only be temporary) is unfounded. The analysis suggests² that some of the flats (the smaller one and two bedroom dwellings) are likely to be used to meet needs for affordable housing expressed in the private rented sector, particularly by newly forming households without the capital or means to afford anything better. The survey results indicate that although 16% of newly forming households would ‘like’ to occupy private rented accommodation, almost twice as many (31%) ‘expect’ to do so. The imbalance thus might reflect a fundamental problem of affordability. It may also be a consequence of developers seeking to maximise densities, and hence returns, on ‘previously developed land’ within the City centre. The result is that the housing market in York exhibits critical shortfalls in supply of both market and affordable family housing.

- 5.17 Such needs must be addressed by radically altering the existing ‘skewed’ supply. The scheme at Derwenthorpe can make a significant contribution in that respect. In broad terms about 80% of the intended dwellings would be houses with the majority (55%) of all the units containing 3 bedrooms or more; roughly 7% of the dwellings are indicated to be 4 bedroom houses³. As is shown elsewhere⁴, the imbalance in the housing market fuels a process of out migration for those seeking a suitable home and increased levels of commuting into the City for work. That pattern is not sustainable.

Meeting the need for affordable housing

The need for affordable housing

- 5.18 Government advice indicates that planning policies should be devised so that the legitimate housing needs of all members of the community are met⁵. Current draft advice expands that aim by suggesting that policies should facilitate a wide choice of housing to meet both market and affordable needs and so achieve a better balance between demand and supply⁶. The creation of sustainable mixed communities is an explicit goal and favourable consideration is to be bestowed on planning applications where there is evidence of an imbalance between demand and supply in relation to both market and affordable housing.
- 5.19 The approved RSS indicates a high demand for housing and a shortage of affordable units in York: the emerging RSS aims to increase in the provision of affordable dwellings. This is reflected in the most recent version of the Local Plan; policy H2a in the 4th set of Changes requires 50% of the units to be affordable on ‘qualifying’ sites unless it can be demonstrated that such provision would jeopardise the viability of the development. The updated ‘needs assessment’⁷ indicates an annual requirement for some 720 affordable dwellings to meet newly arising housing needs. And, although that might be slightly less than the previous level of need identified⁸, it remains greater than the overall housing requirement. Moreover, there is also a need to provide additional affordable family houses, for the reasons set out elsewhere⁹. The evidence indicates that both the type and quantity of affordable housing in the pipeline would fail to meet the needs identified.

¹ Table 2

² CD152, paragraphs 6.15 and 6.16

³ JS4, appendix 4a. The tables only provide information on the affordable sector, but the intention is that the market sector would entail a similar distribution.

⁴ CD152 and the relevant section in the Council’s case

⁵ PPG3

⁶ PPS3

⁷ CD152, Y5 and Y6

⁸ CD163

⁹ See the relevant section in the Council’s case

The provision of affordable housing

- 5.20 The scheme at Derwenthorpe would provide 216 additional affordable units (40% of the proposed dwellings) of which 55% would be 3 or 4 bedroom houses and about 20% would be 1 or 2 bedroom flats¹. That commitment is set out in the section 106 Agreement. The split between tenures is currently indicated as about 63% for social rented homes and 37% for intermediate housing²; that reflects the current indications of need emerging from the market analysis that a 60:40 split might be required³.
- 5.21 The provision of affordable housing at Derwenthorpe exceeds the target set out in the Local Plan⁴. As it stands, the scheme would comply with current planning policy. Moreover, it is clear that the Council do not object to the proportion of affordable dwellings proposed, as they explain⁵. Indeed, one of the fundamental aims of the proposal, identified in partnership with the Council, is to provide a significant level of affordable housing and the request to explore the possibility of providing 40% of the units as affordable homes (as has now been achieved) was pursued in that context⁶. In the same spirit the applicant confirms that if, for whatever reason, a level above 40% can be achieved, then that would be done. Given the record of the Trust, its objectives and its charitable status, such confirmation should be accorded substantial significance; the identity of the applicant is important here⁷.
- 5.22 Nevertheless, had the project necessitated assessment against the criteria of policy H2a of the 4th set of Changes, it would not necessarily have had to comply with the 50% requirement for affordable housing as the policy itself allows for a lower level of provision where a ‘financial loss’ can be demonstrated⁸. The request to demonstrate the financial viability of the scheme stems from the Pre-Inquiry Meeting in response to the matters listed in the Secretary of State’s call-in letter. The suggestion that the Trust should use its capital resources to provide 50% of the units as affordable homes regardless of viability considerations cannot be derived from planning policy⁹. The Trustees could decide on such a course. But funds would have to be siphoned from other programmes or affordable homes sold elsewhere¹⁰.
- 5.23 Because the Trust is not strictly a developer, many of the usual considerations that apply in ‘viability assessments’ would not be appropriate. A simple comparison between estimated revenue and costs indicates a surplus of about £8.5m¹¹. That would represent a return of less than 9% on the ‘costs’ of the scheme. But, that is not ‘profit’. The surplus must fund the purchase of the site. The purchase agreement (made in October 2002) guarantees £5.625m and the first £1.5m of any surplus to the City of York, with any additional excess being split equally¹². On that basis, therefore, the Trust might expect to receive roughly £0.69m from the scheme. However, that very small surplus is based on the initial proposal to provide 35% of the dwellings as affordable homes. The cost of increasing the level of provision is estimated at £1.3m. Hence, the proposal as currently envisaged would result in the Trust providing an additional subsidy of some £0.6m. The proposal would not be viable in a conventional sense. Hence, there would appear to be no

¹ JS4, appendix 4a

² JS4, appendix 4a

³ CD163

⁴ CD1, table 7.2

⁵ See the relevant section in the Council’s case

⁶ See the relevant section in the Council’s case

⁷ Mr Manley’s closing submissions and JRHT/MWS

⁸ CD1

⁹ The suggestion is mainly made by the Green Party and Mr Wilson.

¹⁰ JRHT/MWS

¹¹ JRHT/MWS

¹² op cit

scope to increase the level of affordable housing still further¹.

- 5.24 To provide comparison with the German Beck scheme and to help the Inquiry, an attempt has been made to apply the ‘London toolkit’ to the Derwenthorpe proposal². Not all the figures are directly comparable. The unit build costs include estimates for external works and the provision of infrastructure. They also include the additional costs of achieving an ‘Eco-Homes’ standard of ‘very good’ for the affordable units; the additional costs for the market housing (about £2.5m) is shown separately. The cost of exceptional items (such as putting power cables underground, relocating pylons and the ‘sustainable drainage ponds’) and the cost of the obligations made under the section 106 Agreement amount to some £6m and roughly £1.5m, respectively. Modest returns of 15% and 10% for the developer and builder are incorporated into the model, together with modest allowances for marketing, finance, professional fees and the like. Sale values for the open market (and the additional 5% of affordable intermediate) dwellings are based on an external valuation adjusted for recent house price rises and increased by 2% to reflect a possible demand for ‘sustainable’ dwellings. The average value is £2077m² (£193ft²), which is very similar to the figures assumed at Germany Beck. The average value of the remaining affordable homes is based on the Housing Corporation’s Total Cost Indicator.
- 5.25 The application of the ‘toolkit’ does not alter the overall result of the previous analysis. Rather, it helps to highlight the sources of some of the development costs. So, the £13.1m shown as the overall surplus of revenue over costs is attributable to the £8.5m residual identified above and a sum of about £4.6m to be used in the purchase of other parts of the site (like the electricity substation compound) and access to the development (such as at Fifth Avenue)³. What would remain would be required to contribute to the cost of increasing the level of affordable housing provided to 40%, which is about £1.3m; as indicated above, that would necessitate a subsidy of about £0.6m from the Trust. Clearly, the scope to increase the level of affordable housing still further would be very limited. It might arise if house prices were to rise faster than building cost, if the estimates for sales are too cautious or if the sustainability measures employed were to command a higher price than is currently anticipated. Otherwise an increase in the level of affordable housing catered for would require additional funds from the Housing Corporation, investment from the City Council (perhaps from the proceeds of selling the site) or from additional subsidies from the Trust itself. Such sources cannot be guaranteed. Indeed, additional funds from the Housing Corporation are unlikely as Derwenthorpe already represents the Corporation’s first and largest priority for the City of York. On the other hand, if market uncertainties were to lead to additional surplus of revenue, then the Trust has confirmed that additional affordable housing would be an important call on those funds. In the circumstances that currently apply, there is no scope to provide more affordable homes⁴.

Site selection; Derwenthorpe

Is there a sequentially preferable site?

- 5.26 It is demonstrated elsewhere⁵ that no additional ‘brownfield’ land can be identified to meet the housing requirement. It follows that the next best locations would be found within, or forming extensions to, urban areas⁶. A thorough trawl of all potential sites, including those being promoted by objectors in the context of the Local Plan process, has demonstrated that insufficient

¹ op cit

² See the relevant section in the case for Persimmon Homes for a fuller description of the ‘toolkit’. Its application to Derwenthorpe is in JRHT/MWS/1.

³ JRHT/MWS/1

⁴ JRHT/MWS and JRHT/MWS/1

⁵ See the relevant section in the Council’s case

⁶ PPG3

greenfield land exists within the urban area of York¹. Hence, the best available location for the additional housing land required would be sites forming ‘urban extensions’ to the built up area. The site at Derwenthorpe is just such a site. The only potential alternative identified through a protracted and exhaustive selection process is the land at New Lane, Huntingdon. That site is not sequentially preferable to Derwenthorpe and it may have other constraints². There is, thus, no sequentially preferable site to the application site at Derwenthorpe.

Is the location sustainable?

5.27 Numerous facilities are within a 10 minute walk of the site centre. There are primary schools, a secondary school, shops, a library, a health centre, churches, public houses and several community buildings. There are excellent links, both east-west and north-south, for cyclist and pedestrians using Metcalfe Lane, the Sustrans cycleway and the connection to Burnholme Community College. In particular, the Sustrans cycleway provides a link towards the City centre and there are proposals, as part of the scheme, to make further improvements.

5.28 There is a frequent bus service just to the south of the site and regular buses ply along Bad Bargain Lane to the north. Route 6 is a 10 minute service through Osbaldwick and route 11 is a ½ hourly service along Bad Bargain Lane. The site is thus well served by the existing public transport network, although it is an important part of the scheme to improve those connections with a ½ hourly service across the site³. In those circumstances, the site must be regarded as being in a sustainable location.

The suitability of the scheme; Derwenthorpe

Is the scheme ‘designed for quality’?

5.29 The aim of the design is to create:

- an environmentally sustainable development without adversely impacting on neighbouring communities;
- a model for an edge of town extension incorporating and advancing best practice principles applied to housing and the community;
- a strong mixed tenure community offering real choice and a high quality of life for residents from a wide range of social and economic backgrounds: rented houses and low cost home ownership properties are to be seamlessly integrated among the owner occupied houses;
- an attractive environment with a strong identity and robust character, where lives can flourish as individuals and as part of the community; and
- a development that discourages anti-social behaviour and within which residents of all ages feel safe⁴.

5.30 Design codes and guidance⁵ are in place to ensure a high quality of design and construction using a coordinated variety of materials to reflect local characteristics in a contemporary manner. The development is to be arranged around a central square and community buildings with avenues extending into the 4 distinct neighbourhoods built up from ‘perimeter blocks’⁶, ‘home zones’, green lanes and mews courts⁷. The dwellings within relevant neighbourhoods would be designed

¹ See JS5

² See the relevant section in the Council’s case and the case for Persimmon Homes.

³ JRHT/AWM

⁴ JRHT/CR

⁵ CD149 and CD150

⁶ The form provides a clear distinction between the public and the private realm, as suggested in CD104; ‘home zones’ are described in CD106.

⁷ JRHT/CR/1

to integrate with existing housing; for example, bungalows would be located in the immediate vicinity of Meadlands. A hierarchy of routes, including footpaths and cycleways, are to be integrated with the housing, play areas, open space and the ‘natural’ zones beside the Beck, the pond and across the retained ridge and furrow. That would provide opportunities for safe and easy movement between the 4 neighbourhoods and link well with the surrounding development, so fostering natural surveillance. Safe and easy routes would be available to and from the surrounding community facilities, such as schools and shops.

- 5.31 A strong mixed community would be fostered by providing a mix of size and type of housing. There would be 1 and 2 bedroom flats, 2 bedroom bungalows and 2 to 4 bedroom houses arranged in terraces, semi-detached and detached forms of 1 to 3 storeys in height. The average density would be just under 39dph. 40% of the dwellings are to be affordable homes and about 4% are to be specifically designed for occupation by older residents. The affordable units are to be ‘pepper potted’ across the site and be built to exactly the same design and structure as the open market housing. This is a key element in the design to foster integration and facilitate the creation of a mixed and sustainable community. Every dwelling is to achieve an ‘EcoHomes’ rating of ‘very good’ and 1% are to serve as ‘models’ of an ‘innovative plus’ rating; all dwellings are to be designed to ‘Lifetime Homes’ standards¹.
- 5.32 The footpaths, cycleway improvements, removal of pylons, the open spaces and the ‘natural’ zones would offer benefits for existing residents near the site. About 7.2ha of new open space is to be provided on the site, enhanced with orienteering routes, a jogging track and trim trail. New provision is to be made elsewhere including a multi-use games area and enhanced facilities at local schools and the creation of a new site of nature conservation interest at New Earswick. The scheme is to incorporate ‘sustainable urban drainage systems’, together with the swales and retention ponds providing natural treatment to the run-off to alleviate flood risks and minimise pollution. The retention of natural areas, additional landscaping and the swathes of space across, to the south, and to the east, of the site is intended to preserve the setting of the Conservation Area, protect the amenities of those nearby and reinforce the strong sylvan edge to the urban area. Design measures, subject to agreed conditions, would protect the amenities of other residents. The scheme is likely to be a ‘beacon’ for future major housing development both in its design and in its approach to social and community integration. There are long term management measures and arrangements for community involvement and an innovative approach to the provision of affordable housing. The quality of the scheme is confirmed by the support from such organisations as Shelter, the Housing Corporation, the Chartered Institute of Housing, the Royal Town Planning Institute and the National Housing Federation².

Is the scheme sustainable?

- 5.33 As the site selection process involved ‘sustainability’ criteria the site itself is likely to be in a reasonably sustainable location. It forms an ‘extension’ to the urban area and it is well located in relation to public transport, shops, services and community facilities. The scheme incorporates further measures and designs to enhance the sustainability of the proposals.
- 5.34 Funds are to be provided to support a ½ hourly bus service across the site, so ensuring that all residents would be within 400m of a bus stop³. The proposal would thus meet the requirements of policy T7c⁴. Car journeys across the site would be prevented and speed within ‘home zones’

¹ ID127

² Correspondence received

³ PPG3 and JRHT/AWM

⁴ CD1

limited to 10mph. Car journeys might be further reduced (by up to 60% on some evidence¹) through the introduction of a car club. That would be complemented by information about buses, car club booking facilities, the provision of a cycle or a bus 'season ticket' and cycle storage. In addition, car parking is to be limited to 1.1 spaces per dwelling.

- 5.35 The housing layout is to incorporate safe and direct pedestrian and cycle routes to schools and local facilities integrated with the Sustrans route across the site. The latter already provides traffic free access towards the heart of the City and the cycleway network, including the route into Burnholme Community College and Metcalfe Lane. The Sustrans route is to be improved by lighting and other means; it would offer a pleasant route to local amenities, schools and even work by modes other than the private car. Sustainable drainage systems are to be used and the retention ponds are to be incorporated in the natural areas, so enhancing biodiversity and protecting wildlife. Indeed, extensive studies show that the pond would reduce run-off to below the current rate and incorporate treatment to the surface water from the roads, so minimising pollution and contributing to wildlife habitats.
- 5.36 Every dwelling is to accord with the principle embodied in a 'lifetime' home². A committed objective is that every dwelling would also achieve an 'EcoHomes' rating of 'very good' and be designed to incorporate the flexibility to upgrade still further to an 'EcoHomes' rating of 'excellent'. 5 of the dwellings (about 1% of the proposed homes) would be built as 'models' of what can be achieved using the most efficient energy saving forms of construction; such dwellings would be rated as 'EcoHomes innovative plus'. There is flexibility in how such standards can be achieved. The ratings depend on the location of the site, enhanced public transport, cycle storage, ecological measures and the like. But the Trust is committed to building at the top end of the range to facilitate an upgrade to an 'excellent' rating if demand or funds exist. Indeed, the intended CO₂ emission rate (24Kgm² per year) would be equivalent to many 'excellent' rated schemes³. Further improvements would be possible. For example, some 78% of the dwellings are to be orientated so that their roof slopes would be within 35° of south to take advantage of the potential to install photovoltaic panels: serious consideration is being given to the use of a biomass district heating scheme: and, waste water recycling could be incorporated into the private sector dwellings as well as the affordable housing. The section 106 Agreement includes a commitment to achieve the 'EcoHomes' standards indicated.
- 5.37 The 'EcoHomes' standards are just one of 3 major 'scoring systems' currently being promoted; the latest revision being made in April 2006. There are also 'sustainability ratings' that could be achieved under the Code for Sustainable Homes (from 1 to 5 stars) and under the Energy Savings Trust's Energy Efficient Standards (from bronze to gold). Roughly an 'EcoHomes' rating of 'very good' equates with a '3 star' rating under the Code for Sustainable Homes and a 'bronze' rating in relation to the Energy Efficient Standards, though the latter relate only to energy and do not include criteria on water, materials or transport, for example. The '3 star' rating under the Code for Sustainable Homes is now the minimum level required by the Housing Corporation for all affordable housing. For private housing the current Building Regulations would require only a '1 or 2 star' rating; the scheme would provide substantially better 'sustainable homes'. Further comparison between the rating systems indicates that 'excellent' would be equivalent to '4 stars' and 'silver' while 'innovative' would equate to '5 stars' and 'gold'. It is possible that the 'EcoHomes' criteria may not finally provide the optimum measures for assessing sustainability. The Trust intend to opt for the 'equivalent' rating in the Code for Sustainable Homes, as it is expected to become the preferred standard shortly. It is the intention to push the energy efficiency

¹ Mrs Hubbard's answers to questions

² ID127

³ JRHT/N1/1

and green credentials of the whole Derwenthorpe scheme further than has been achieved in any comparable development in the region¹.

Does the scheme make ‘the best use of land’?

5.38 PPG3 indicates that the efficient use of land for housing should entail development at a net density of 30-50dph. Excluding the areas of open space, landscaping, internal roads, and non-housing land, the average net density is estimated as about 39dph². The scheme would thus represent an ‘efficient use of land’ in accordance with the guidance in PPG3

Does the scheme ‘green’ the residential environment?

5.39 The scheme includes about 7.2ha, or almost 33% of the site, as some form of open space; in addition, the same amount of land would be provided as an extension to the nature reserve at New Earswick. Moreover, a verdant residential environment would be created by the integration of the open areas with the residential neighbourhoods, the footpaths and cycleways. The distribution of the open areas would help to preserve the settings of the adjacent Conservation Area. And, the provision of substantial landscaping would reinforce the strong sylvan edge to the urban area.

The Green Belt

The ‘general extent’ of the Green Belt and the status of the site

5.40 The key question is whether the site should now be treated as if it was within a statutory Green Belt. Green Belts are established through Development Plans. Structure Plans provide the strategic context and set out the ‘general extent’ of Green Belts, represented diagrammatically on a Key Diagram. Local Plans define detailed boundaries on an Ordnance Survey base. The guidance is that up-to-date boundaries are essential to provide certainty as to where Green Belt policies do and do not apply³.

5.41 In York the North Yorkshire County Structure Plan (approved in 1980) indicated that ‘a belt whose outer edge is about 6 miles from York City centre’ should be designated as Green Belt (policy E8). The wording of the policy is carefully imprecise. It does not even enable the outer boundary to be precisely located. It does not say anything about the inner boundary. The suggestion that any open land beyond the existing built-up area should be treated as being within the Green Belt cannot be derived from the policy. Such a stance would, in any case, be contrary to the advice in PPG2 and judgements by the Courts⁴. It would also be contrary to long established practice in York. So, in the absence of defined boundaries set out in an adopted Local Plan, the question as to whether a site should be treated as if it were within a statutory Green Belt is one that can only be approached on a site by site basis⁵.

5.42 The history of the York Green Belt in relation to the Derwenthorpe site provides a starting point. The facts are that in:

- 1961, when the draft Flaxton Town Map was submitted to the Minister, the site was not shown within the Green Belt;
- 1973, when the revised Town Map and the County Development Plan were published, the site was excluded from the Green Belt in both documents;

¹ JRHT/NI

² JRHT/CR

³ PPG2

⁴ PPG2 indicates that it may be necessary to identify ‘safeguarded land’ to ensure the permanence of Green Belt boundaries and to avoid including land that does not need to remain ‘open’. The *Myton* judgement indicates that Green Belt policies cannot be assumed to apply in the absence of a statutory Green Belt.

⁵ This is consistent with the Monks Cross decision, see CD31

- 1981, when the draft Southern Ryedale District Plan¹ emerged the site was excluded from the Green Belt and allocated for housing;
- 1983, when the County Council published a ‘progress report’ on the Green Belt the site was excluded from any Green Belt so identified;
- 1990, when the consultation draft version of the York Green Belt Local Plan was published the site was excluded from the Green Belt;
- 1991, when a 2nd consultative draft version of the York Green Belt Local Plan emerged the site was excluded from the Green Belt. And, a ‘proposed change’ (responding to objections from Osbaldwick Parish Council) to include the site in the Green Belt was countered by a further ‘proposed change’ by the County Council to exclude it.
- 1994, after carefully considering those and other objections on a comprehensive basis at a Local Plan Inquiry, the recommendation was that the site should be excluded from the Green Belt and (in the context of the Southern Ryedale Local Plan) allocated for housing;
- 1995, when the York Green Belt Local Plan reached its post Modification stage, the site was excluded from the Green Belt.

5.43 It is true that in the Monks Cross² decision very little weight was attributed either to the York Green Belt Local Plan or to the City of York Local Plan because neither had progressed to adoption; the same reasoning would naturally apply to the Southern Ryedale Local Plan. However, the history demonstrates that the judgements of various professional planners and decision makers have, over a period of almost 50 years, consistently put the application site beyond the Green Belt. Even the fleeting suggestion that it might be included within the Green Belt was almost immediately superseded with a decision to remove it again, if anything serving to confirm its unsuitability as Green Belt land. Indeed, the North Yorkshire County Council accepted the Inspector’s recommendations, published Modifications to the York Green Belt Local Plan based upon them, considered representations to those Modifications and would have adopted them with the site at Derwenthorpe excluded from the Green Belt had the strategy on which the Plan was based not been revised in the context of up-dating the Structure Plan³. Subsequent Plans and all stages of the City of York Local Plan have excluded the site from the Green Belt⁴. The claim is that, even if such a history is not determinative of the status of the site, it does represent cogent reasons against treating the site as if it were within the Green Belt now.

The potential contribution of the site to the Green Belt

5.44 The site is enclosed by hedges and suburban housing. Views across it are limited. Certainly, there are no long distance views into the site and views out of it are curtailed by hedges and housing or impaired by pylons and urban paraphernalia. Glimpses of the Minster are possible but only bits of the towers can be seen incongruously protruding behind suburban roofs or between suburban gardens. The site is no more than an unremarkable parcel of urban fringe land. It is not part of any ‘stray’ or identified ‘green wedge’. And, the suggestion that it might be ignores the careful analysis undertaken as part of the Greater York Strategy⁵, the York Green Belt Local Plan (1990-1991)⁶ and subsequently⁷. The site simply does not possess any of the characteristics of a ‘green wedge’. It does not form an open and continuous stretch of countryside, it does not protrude far into the City and it offers no vantage points from which to witness the imposing

¹ This Plan was produced in response to criticisms made by the Secretary of State but later abandoned in favour of the Plan that emerged in 1991, see JRHT/JH

² CD32k

³ JS2 and JRHT/JH

⁴ CD1, CD12, CD13, CD130-CD132

⁵ CD47

⁶ CD130-CD130b

⁷ CD135 and CD157

majesty of the Minster or the medieval scale of the City centre.

- 5.45 Not surprisingly, those characteristics were found to contribute nothing to the York Green Belt. The principal purpose of the Green Belt here was, and still is, to preserve the setting and special character of the City. The recommendation of the Inspector in relation to the York Green Belt Local Plan were based on the findings that¹:

The objection site extends only a comparatively short distance into the urban area and its character is that of an indentation in the urban boundary rather than a green wedge penetrating the urban area from the countryside. There are no important views across the site and it is adjacent to normal suburban development. Because of these factors it makes no contribution to the special character of the historic city. The site does not separate two settlements but is simply an area of open land within the same built-up area and possibly the same parish. Its development could not be said to lead to the coalescence of settlements or to urban sprawl.

- 5.46 There have been no significant changes to Green Belt policy subsequently or to the urban boundary; nor has the character of the site materially changed. There is thus no cogent reason why those previous observations should not still apply². It follows that the ‘openness’ of the site would not make any significant contribution to the principal purpose of the York Green Belt to preserve the setting and special character of the City. Nor would its development undermine any other Green Belt purpose. The proposal would not lead to urban sprawl or to the coalescence of settlements. Although the scheme might be described as ‘encroaching’ across the site the evidence demonstrates that such development would be inevitable if the future housing needs of the City are to be met. However, building on a site with housing and development on 3 sides and with a couple of dwellings on the fourth could hardly be described accurately as ‘encroachment’, especially when the scheme would entail the strengthening of a well defined physical boundary by additional landscaping and the provision of open space³. Nor would development here undermine urban regeneration in York. Quite the contrary. The evidence demonstrates that such development is required to meet the housing needs of the City⁴. And, the enclosed nature of the site, together with its distance from any stray or ‘green wedge’, would ensure that the scheme would not harm the visual amenities of the Green Belt⁵.
- 5.47 It should be clear that the findings made by the Inspector in relation to the York Green Belt Local Plan were not predicated on a particular ‘need’ nor were they subject to a particular form of development being implemented⁶. They simply reflect an assessment of the site against the purposes of the Green Belt. Even the findings made in connection with the Southern Ryedale Local Plan do not depend on a particular form of development⁷. The observation that the public did not have a right of access to the site and that including it within the Green Belt would be unlikely to provide either access to it or public open space would be equally applicable now. Moreover, just as then, the evidence is that development would provide public open space⁸.
- 5.48 The one material change that has occurred since the findings made in relation to the York Green Belt Local Plan is the requirement to find more land for housing to meet the City’s housing needs. The recommendations were made in the context of a strategy to meet some of those needs in a

¹ CD37

² JS2 and JRHT/JH

³ JRHT/JH

⁴ See the housing sections above and similar sections in the case for the Council.

⁵ CD135 and JRHT/JH

⁶ As, for example, a scheme providing a large amount of open space, see ID21.

⁷ ID36

⁸ JRHT/JH

new settlement beyond the Green Belt¹. The abandonment of that strategy must imply a requirement for more housing land in areas originally envisaged as Green Belt. And, now that requirement is manifest in the explicit identification of needs for more dwellings, for more family housing and for more affordable homes in the City. Even if the view is taken that the site should be regarded as within the ‘general extent’ of the Green Belt, such housing needs would constitute ‘very special circumstances’ for permitting this scheme now.

Appropriate Green Belt boundaries

5.49 The advice in PPG2 is that, where detailed boundaries have not been defined, it is necessary to establish boundaries that will endure. Quite apart from excluding land that is unnecessary to keep permanently open, not being drawn ‘excessively tightly’ and allowing for future development, it is suggested that boundaries should follow readily recognisable features such as roads, streams, belts of trees or woodland edges. The thick hedge along Metcalfe Lane, reinforced with additional landscaping and open space, would represent exactly the sort of secure boundary advocated by that guidance². Moreover, the recommendation made in relation to the York Green Belt Local Plan indicated the site to be merely an ‘indentation in the boundary’ adjacent to normal suburban development³. The implication is that the current scheme would simply ‘round-off’ development here with the thick hedgerows beside Metcalfe Lane forming the natural boundary to the City⁴.

The impact on the Conservation Area; Osbaldwick

5.50 The south east corner of the application site, together with a short southern section of Metcalfe Lane on the eastern boundary, adjoins the Osbaldwick Conservation Area⁵. The Conservation Area was extended northwards in 2004 to the line of the old Derwent Valley Railway expressly to ‘include the long narrow gardens, the ridge and furrow fields and the wooded paddocks behind the Derwent Arms’. This land is indicated to form an ‘open rural setting’ to the village and to retain a ‘legacy’ of the village’s medieval past⁶. However, the high and thick hedge to the east of Metcalfe Lane serves to enclose the site from the small fields of poor pasture that form that setting and emphasise its separation from the countryside to the east. The proposal would retain that hedgerow and seek to reinforce that boundary with additional landscaping and swathes of open space⁷. The scheme would thus preserve the open rural setting of the Conservation Area⁸.

5.51 The site is also screened from the Conservation Area by a thick roadside hedge along the south eastern boundary. Here, however, it would be necessary to insert an access on to Osbaldwick Village to serve the south eastern neighbourhood of the scheme⁹. Part of the development would be clearly seen over that access, albeit beyond the open space, ponds and landscaping proposed. Nevertheless, the scheme would not damage the Conservation Area¹⁰. First, it is clear that the application site does not serve as a setting for the place. If it did, then it would have been included in the land encompassed by the extension to the Conservation Area in 2004. Second, this part of the Conservation Area, extended in 2004, includes barely more than the road itself. Moreover, it is a road that turns past ordinary suburban houses that reflect neither the traditional

¹ JS2

² JRHT/JH

³ ID37

⁴ JRHT/JH and JRHT/FF

⁵ CD82, JRHT/FF and JRHT/FF/1

⁶ CD82

⁷ JRHT/FF

⁸ JRHT/CR

⁹ JRHT/AWM

¹⁰ JRHT/FF

pattern of development nor the character of the buildings that contribute to the appearance of the Conservation Area. Views into the proposed development would not be damaging here. Third, the bend in the road past the application site forms a natural entrance to the village, the core of which is created by the elongated village green and the cohesive entity of traditional structures to the north¹. The core of the Conservation Area would thus be separated by distance and by that 'entrance' feature from the development proposed on the application site. For those reasons, the scheme would not seriously impinge on either the character or the appearance of the Conservation Area.

The impact on neighbouring residents

Visual impacts

- 5.52 The proposal would abut existing development on 3 sides. The southern boundary is largely formed by Osbaldwick Beck. The scheme would accommodate a swathe of open space beside the Beck and the south eastern corner of the site containing parkland and the retention ponds. That space, together with the thick hedges beside the stream or the roadside, the land around the scout hut and the long back gardens of the dwellings beyond, would screen the development from much of the adjacent housing. Almost the only place where development would be easily seen would be from the few dwellings fronting the proposed access on the bend at the entrance to the village street. Even from those vantage points, views would be filtered through some landscaping and planting; they would also be over some distance; the nearest dwelling would be about 50m from the houses opposite the proposed access road².
- 5.53 The western boundary is mainly formed by a hedge along the back gardens of modest suburban dwellings. Housing of a similar scale is envisaged on the adjacent parts of the application site, save that open areas are proposed in the vicinity of the Sustrans cycleway and towards the south west corner adjacent to a 'nursing home'. A condition could be imposed to control the layout and design of the proposed housing here, but it is suggested that adequate control would be available at the 'reserved matters' stage, given the use of 'design codes' and the imposition of other conditions, such as those relating to landscaping. Of course, the outlook from the rear of the existing houses would alter. But the fact that the prospect across these small fields would be transformed into one over back gardens and the rear elevations of 'suburban' houses of a similar scale would not seriously impair the visual amenities that existing residents might reasonably expect to enjoy³.
- 5.54 To the north of the site there are school playing fields and the Meadlands estate. A thick hedgerow runs along the boundary with the school playing fields. The current version of the 'master plan' shows fairly large rear gardens or open space beside this boundary. The boundary with Meadlands also largely consists of hedgerows along the rear of the back gardens of the detached 'chalet' bungalows there, although its size and thickness varies in the different gardens. An important aim of the scheme is to create an environmentally sustainable development without adversely impacting on neighbouring communities. And, to that end, the intention is that the dwellings adjacent to Meadlands would be designed to integrate with the housing on the estate in terms of scale and size. So, bungalows or 'chalet' bungalows would be immediately adjacent to Meadlands with gardens of a similar size to those nearby. Again, although the outlook would change, it would reflect the character and appearance of that typically available on the adjacent estate⁴.

¹ JRHT/CR and JRHT/FF

² Section 2, JRHT/CR and JRHT/FF

³ Section 2, JRHT/CR and JRHT/FF

⁴ Section 2, JRHT/CR and JRHT/FF

Noise and air quality

- 5.55 The noise assessments undertaken relate to the ambient noise levels on the site, the impact of the traffic generated by the scheme and the noise of construction traffic¹. Surveys carried out in August 2002 indicated that noise levels are low; during the day $L_{Aeq,16hr}=46dB(A)$ and during the night $L_{Aeq,8hr}=37dB(A)$. Such levels would demonstrate that ‘noise need not be considered as a determining factor in granting planning permission’ as the site would fall in NEC A, as defined by PPG24.
- 5.56 The noise from the traffic generated by the scheme would affect the surrounding residential neighbourhoods. Because the 4 separate neighbourhoods would be served by 4 independent access roads, the traffic from the scheme would be dissipated over 4 different areas, thereby substantially reducing the potential impact on any one street². Even so, the surrounding residential streets are quiet and, although even peak hour flows would barely amount to more than one extra vehicle a minute (save for Fifth Avenue where it would amount to about 1.7), that would almost double traffic flows on the quieter residential streets. That would increase noise levels but, as the analysis demonstrates, only marginally. After allowing for ‘natural’ increases in traffic and using the methodology set out in CD88, the scheme is estimated to increase road traffic noise by more than 3dB(A) at only 2 of the 13 positions assessed. As a change of less than 3dB(A) is not usually considered perceptible, the impact of the scheme must be very modest. Even where perceptible changes are likely (at Meadlands and Lang Avenue), noise levels would be low with $L_{A10,18hr}$ being below the ambient daytime noise level³.
- 5.57 The control of site construction noise is to be undertaken in accordance with BS5228:1997. The scope for such control is provided by the section 106 Agreement and by the suggested conditions. The former requires the submission of a ‘construction management traffic plan’ that might govern routes, access and deliveries. The Agreement also provides for the establishment of community initiatives involving a ‘partnership committee’, a management presence on the site and a ‘community fund’; that could offer channels of communication for raising problems that might occur during construction. The suggested conditions limit the hours when construction and deliveries would be undertaken and require the submission of an ‘environmental management scheme’ to minimise noise and disturbance.
- 5.58 The additional traffic would have some impact on air quality. Readings have been taken and air quality modelled at locations around the site, including Tang Hall Lane, Fifth Avenue, Osbaldwick Lane, Osbaldwick Village and Meadlands⁴. General improvements are predicted to 2012. In the context of those improvements the worst impacts due to this scheme would be very small. Annual mean concentrations in NO_2 would be some 0.1% to 1.4% worse than they would otherwise have been in 2012. In relation to PM_{10} annual mean concentrations are predicted to be some 0% to just over 0.6% worse in 2012⁵. All those effects would be small and would, in any case, be swamped by the general improvements predicted over the same periods. Those minor effects would not have any significance for ‘air quality standards and objectives’.
- 5.59 The risk of dust affecting air quality during construction would be mitigated by proper controls and site management measures (as required by conditions and the Agreement). Most properties, except those in Meadlands, would also benefit from the prevailing wind being from the south west. Construction vehicles would form too small a proportion of the traffic to noticeably add to

¹ JRHT/IMH

² JRHT/AWM

³ JRHT/IMH

⁴ JRHT/GAP and JRHT/GAP/1

⁵ JRHT/GAP/1, comparing tables GAP/2 to GAP/4

pollutants. The effects of construction would be temporary and, in relation to any particular property nearby, relatively short lived. Such minor adverse effects would be 'slight'¹.

The impact of traffic

Access arrangements

- 5.60 The scheme would result in 4 neighbourhoods separated by areas of green space, each with its own separate and independent vehicular access. About 33% of the site would be public open space. It is envisaged that²:
- 185 units would be served from Fifth Avenue,
 - 125 units would be served from Meadlands;
 - 105 units would be served from Osbaldwick Village;
 - 125 units would be served from Temple Avenue.
- 5.61 Each of the above routes would provide access to the site and the access would be marked by a gateway feature. Once in the relevant neighbourhood private cars would not be able to move through the site to other neighbourhoods (although the site would be permeable for pedestrians, cyclists, buses and emergency vehicles)³.
- 5.62 The main objections to the access arrangements proposed are voiced by Meadlands Area Residents Association (MARA) and the Osbaldwick Parish Council. It is clear that the main concern of MARA is the use of Meadlands as an access to the site. Since Meadlands now serves about 113 dwellings and the proposed neighbourhood would contain 125 homes, it is understandable that a potential 100% increase or so in the traffic using the street would cause concern. In reality, however, the place would remain a very quiet residential road. Using the trip generation rates for the City as a whole, demonstrated to apply to the areas surrounding the Derwenthorpe site⁴, the additional traffic along Meadlands would amount to barely 69 vehicles during peak hours⁵. As the road is 5.5m in width along its length, it would plainly be operating well below its practical capacity and even below the minimum flow (of 300-500 vehicles an hour) conventionally used to indicate acceptable environmental conditions in a residential street. Indeed, the combined flow generated by existing and prospective residents during peak periods would barely amount to more than 2 vehicles per minute. For obvious reasons, that would neither occur everywhere nor outside the peak hours. The road would clearly remain very quiet.
- 5.63 A similar conclusion would be justified for obvious reasons even if the trip rates were to be 6% or 25% higher, as the Parish Council suggests. Even so, the justification for using the higher rates suggested is far from clear. The rates used by the Council and the applicants are justified by surveys and local experience⁶. Moreover, not only would the scheme contain a substantial proportion of affordable housing, but also it would embody several measures designed to reduce the incidence of car-borne journeys; the project would be well served by public transport, integrated into the city-wide network of cycleways and footpaths, residents would benefit from a car club and information about alternative means of travel. The rates derived from the TRICS database do not appear to apply to comparable sites⁷. Many of the datasets apply to Northern Ireland or to much larger cities and conurbations; the private estates of flats and houses chosen do

¹ JRHT/GAP and see the relevant section in the ES

² JRHT/AWM and Y8

³ JRHT/AWM and JRHT/CR

⁴ The average for the City as a whole is 0.55 for the morning peak hours. Surveys at Derwenthorpe suggest very similar rates of 0.54 and 0.55 for morning and evening peaks, see Y8.

⁵ See table 5.3 in JRHT/AWM

⁶ Y8 and JRHT/AWM

⁷ OPC/GWB/2.6

not appear to contain significant proportions of social housing or to be the focus of efforts to encourage travel by means other than the private car. No evidence is adduced to demonstrate that the higher trip rates suggested would result in any adverse impact.

- 5.64 The complaints about the road layout and visibility at the junctions amount to no more than quibbles. Of course, the road layout in each neighbourhood normally available for private cars would not form a circuit or have 2 access points. But the road layout for all other forms of traffic (emergency vehicles, buses, cyclists and pedestrians) would follow the arrangements suggested in the current guidance¹. And, of course, it would be possible, if very unusual circumstances so required, to remove restrictions on internal links between neighbourhoods. As for the visibility at the junctions of Meadlands, Fifth Avenue, Lang Avenue and Temple Avenue with Bad Bargain Lane or Tang Hall Lane, those are all existing junctions. They appear to operate safely and conveniently at present²; no evidence is adduced to the contrary. The scheme would not alter the character of those roads from being quiet residential streets. However, minor improvements are allowed for and these would be agreed with the Council. Similarly, details of the gateway features and their exact position also remain to be approved. Arrangements could easily be made to position these within the site so that the sound of vehicles passing over rumble strips or speed tables would not disturb residents in the surrounding neighbourhoods.
- 5.65 The concern expressed about the access arrangements involving Temple Avenue fail to acknowledge that the proposed parking bays would replace the lost on street parking on a one-for-one basis and be designed to increase the capacity of the road³. Temple Avenue would be more than sufficient to accommodate the increased traffic; even on the basis of the 'excessive' trip rates suggested only an additional 73 or 86 vehicles would use the road during the morning and evening peak periods. Such increases would be very modest. The character of the road would not be materially altered.
- 5.66 The entrance to the site from Osbaldwick Village would incorporate a traffic calming feature. Given that the scheme is estimated to generate just 62 or 72 additional trips in the morning and evening peaks, it is simply unrealistic to suggest that queues of vehicles are likely to form back into the village street. The concern that construction traffic might ply back and forth through the village is more understandable, but exaggerated. The road is generally 5.5m wide and only reduces to about 5.1m at one or two pinch points. It accommodates a frequent bus service. Although construction activity could generate a maximum of 40 HGV movements per day, other arrangements are being made to accommodate most of that traffic; the chances of two HGVs meeting on Osbaldwick village would be remote⁴.
- 5.67 The claim that the scheme would fail to make adequate provision for car parking is equally divorced from reality. The provision made reflects car ownership rates derived from the latest census for the surrounding wards and the ward containing the application site⁵. Moreover, the scheme incorporates a high percentage of affordable housing, good public transport provision, a car club and other measures to encourage travel by means other than the private car. In addition, the site would be integrated into the city-wide network of cycleways and footpaths. Car parking standards are not to be applied thoughtlessly⁶. Here there are good reasons for providing for only a modest level of car ownership. And, of course, such provision can, in itself, serve to discourage

¹ DB32, paragraph 2.22

² JRHT/AWM

³ JRHT/AWM and OPC/GWB

⁴ JRHT/AWM

⁵ Y8

⁶ CD5

excessive reliance on car-borne travel¹. No evidence, save the application of current standards, is submitted to demonstrate why more car parking should be provided here.

Measures to reduce car travel

5.68 The main overt measures to reduce car travel include the establishment of a car club, the subsidy to provide a ½ hourly bus service across the site, the provision of vouchers to purchase a bicycle or a bus pass and information packs in respect of non car travel². There is anecdotal evidence that car clubs might dramatically reduce personal mileage by up to 60%³. And the bus subsidy would be adequate to encourage bus use and test the viability of the diversion⁴. Of course, it would be impossible to force people to travel in any particular way, but such measures could encourage a shift in the modal choices available. And, although research does not yet allow precise predictions to be made, it is clear that relative levels of convenience, reliability and cost would influence the outcome achieved⁵. In that context integration of the scheme into the city-wide network of cycleways and footpaths would provide safe, convenient and reliable travel opportunities by means other than the private car. Such opportunities might be particularly effective in providing for journeys to schools, the local shops and community facilities. The transport strategy pursued in formulating the scheme is designed to facilitate journeys by means other than the private car, but to restrict and discourage car-borne travel. That is also reflected in the approach to congestion, as indicated below⁶.

5.69 Nevertheless, it is important to note that, although the measures employed to reduce car travel may provide additional support for the trip generation rates adopted, those rates do not incorporate any allowance for the measures to discourage car travel⁷. The rates reflect the travel patterns currently experienced in York and the patterns, demonstrated by surveys, to be found in the vicinity of the application site. In those circumstances, the traffic modelling undertaken can be taken as representing the ‘worst case’. No discount in trip generation rates is assumed to emanate from the sustainable travel initiatives adopted.

Congestion and other problems

5.70 All the junctions examined as part of the TA are shown to be operating within their practical capacity, except for the junction between Tang Hall Lane and Hull Road (a main radial route). That includes the junction between Osbaldwick Lane and Tang Hall Lane, although that junction operates close to its practical capacity with the ‘degree of saturation’ on the most heavily loaded arm reaching about 0.8 at peak periods⁸. The evidence is that, with the exception of those junctions, all junctions would continue to operate well within their capacity once traffic from the application site is accommodated on the network⁹. Traffic flows at the Tang Hall Lane and Osbaldwick Lane junction and at the Tang Hall Lane and Melrosegate junction are expected to increase by less than 5%. Hence, in accordance with the standard approach recommended by the Institution of Highway Engineers¹⁰, no further analysis is necessary.

5.71 The exception is the Hull Road junction with Tang Hall Lane where the degree of overload

¹ PPG13

² Section 106 Agreement

³ Mrs Hubbard’s answers to questions

⁴ Y8

⁵ CD5 and Y8

⁶ It is also reflected in the long term strategy of the City, see CD5.

⁷ JRHT/AWM

⁸ JRHT/AWM and Y8

⁹ These assessments assume that all 3 schemes (the 2 application proposals and the expansion of the University) are implemented, see Y8.

¹⁰ CD49

increases by over 6% during the evening peak. As that junction is already operating above its practical capacity, the additional 'overload' can be dealt with by managing the potential increase in queue lengths to reflect the network priorities of the City. Hull Road is a key public transport route and the major link between the City centre and the Grimston Bar Park and Ride; it is crucial to keep those buses operating as freely as possible. Hence, the requirement is to minimise delay to traffic on Hull Road by reducing the 'green time' of the signals on Tang Hall Lane and, thereby, increasing traffic queues on that road. The result is that the attractiveness of Tang Hall Lane as a through route would be further reduced, so discouraging traffic from using it when it is at its busiest. The impact of the scheme would be to increase queues slightly on Tang Hall Lane, though conditions on Hull Road would continue much as now¹.

- 5.72 A consequence of that strategic management of the network is that it is important not to improve the junction between Osbaldwick Lane and Tang Hall Lane even though improvements might increase its capacity and alleviate the queuing now evident on occasions². Measures to improve capacity here run the risk of encouraging traffic to use the Osbaldwick Link Road, Osbaldwick Village and Osbaldwick Lane as a means of short cutting through Osbaldwick to and from Hull Road or, via Melrosegate, to other parts of the City. Such improvements have been consistently resisted. On the contrary, the Council seeks to maintain the 'status quo' by maintaining the current 'throttle' on vehicle movement along Tang Hall Lane³.
- 5.73 An annual traffic growth rate of 1% is assumed in calculating traffic impact. This is taken from the Local Transport Plan⁴. Moreover, attempts were made to validate this figure as part of the updated TIA⁵ by actual counts from the local network. This suggested an annual growth rate of 1.07% between 2003 and 2005, which endorses the assumption made.

The impact on flooding

- 5.74 PPG25 provides guidance on flood risks and it advises use of the latest flood plain maps produced by the Environment Agency⁶. The latest version of the relevant map⁷ reveals that the area likely to be flooded in excess of an annual probability of 1% is generally confined to the Beck itself. All the land intended to accommodate built development would fall within 'flood zone 1' (little or no risk) or 'flood zone 2' (low to medium risk); the advice is that the latter would be 'suitable for most development' (with exceptions being made for hospitals, fire stations, energy depots and the like). In fact 85% of the site would be in zone 1 (the 'little or no risk' category). Not surprisingly, neither the Environment Agency nor the Foss Internal Drainage Board objects to the scheme, providing appropriate conditions are met. Both have had extensive involvement with the proposals and the latter commissioned Arup to independently test the calculations and run off rates used in the modelling exercise. Only 1.1% of the site would lie within zone 3 and that would lie outside the proposed development area. No works would be undertaken to raise ground levels within the functional flood plain⁸.
- 5.75 The site lies between about 15.25m and 12m AOD: Osbaldwick Beck flows from east to west largely along the southern boundary, the stream bed varying from almost 10.8m to about 9.9m AOD⁹. The historical flood outlines for the events of March 1947, December 1978, January

¹ This is mainly set out in Y7 and Y8, but also in JRHT/AWM

² Y8

³ Y8 and JRHT/AWM

⁴ CD5

⁵ CD151

⁶ Paragraph 24 in the draft version of PPS25 published in December 2005.

⁷ Published in July 2006 and made available to the Inquiry

⁸ JRHT/RJA

⁹ JRHT/RJA

1982, and the most recent November 2000 flood, demonstrate no significant flooding of the development site. The construction of the Foss Barrier in the 1980s has now reduced the risk of downstream floods (in the Foss and Ouse) being transmitted back along Osbaldwick Beck. The results of the hydraulic modelling demonstrate that the '1% flood levels' vary from just under 12.1m AOD at the south western corner of the site to 12.7m AOD at the south eastern corner¹. When the potential effects of climate change are taken into account, those levels would increase to 12.16m and 12.75m AOD respectively. Guidance on climate change² now seeks a precautionary approach up to 2110 and recommends increasing peak river flows by 30% and rainfall intensities by 15%. Here, however, climate change is accounted for by increasing flows by 25% (used in the Environment Agency's Floodplain Mapping study) and by increasing rainfall by 20% (used in the initial sizing of the proposed balancing pond). The more recent guidance would have only a marginal effect on 'climate change levels', given that the 25% increase allowed for would only raise flood levels³ by around 0.05m.

- 5.76 The Environment Agency require that finished floor levels of new properties should be constructed at least 600mm above the '1% flood level', largely as a contingency measure against the effects of climate change⁴. Clearly, the existing topography would ensure such provision everywhere except within the south east corner of the site. Here, ground levels on the periphery of the area for development would fall to about 13m AOD; the minimum finished floor levels required would be around 13.25m AOD. Given that normal house construction would set finished floor levels at about 200mm above the surrounding ground, only a modest increase of 50mm would be required to provide the required freeboard of 250mm⁵.
- 5.77 The proposal is to incorporate various SUDS techniques⁶ and discharges from the development are to be controlled by the provision of an attenuation pond, with restricted outflows into Osbaldwick Beck. The optimum configuration has been tested. The pond would consist of a Main Pond and 'the Western Valley' connected hydraulically by pipe-work. The maximum operating depth of the pond would be 1.4m, the side slopes would have a maximum gradient of 1:6 and the operating storage capacity would amount to some 7700m³. The size of the pond is designed to accommodate extreme rainfall events (a 1 in a 100 year event with a duration of 12 hours and with a 20% increase in rainfall depth to account for climate change) modelled against floods with a 2 to 100 year return period⁷. The chance of such a 'coincidence' occurring would have an annual probability of substantially less than 1%. Although the 2 events would not be independent they would each be rare with annual probabilities of 1%. The results of the modelling demonstrate that the operation of the pond would limit peak discharges into the Beck to about 160-190l/s⁻¹, substantially less than the peak rates currently predicted under the modelled rainfall conditions of 300l/s⁻¹. The results also demonstrate that, during extreme events, discharge from the pond would not commence until after the peak of the flood has passed⁸. The discharge characteristics of the site would be altered; peak discharge rates would be reduced, but the duration of the discharge would increase⁹.
- 5.78 The fears expressed by residents should be allayed. The extensive modelling and studies undertaken demonstrate that, even under extremely onerous conditions, the proposal should result

¹ See Table 6.1 of the Flood Risk and Drainage Issues Addendum Report at CD80, also JRHT/RJA and JRHT/RJA/1

² As proposed in Annex B of the then draft version of PPS25

³ JRHT/RJA

⁴ See EA submissions

⁵ JRHT/RJA

⁶ CD60

⁷ JRHT/RJA

⁸ See Figure 5.1 (graph) in the Flood Risk and Drainage Issues Addendum Report at CD80 and Appendix F in JRHT/RJA

⁹ JRHT/RJA

in a reduction of flood levels in the Beck. The reported inundation of local roads and residential areas is likely to be associated with poor drainage, blocked ditches and the 'slowly permeable' soil structure rather than the Beck¹. Ground levels around the periphery of the site would remain largely unaltered, thereby obviating the possibility of increased runoff from the site onto surrounding land; shallow surface drains (swales) would convey runoff to the attenuation pond from the south eastern corner, thereby reducing the possibility of flooding onto Metcalfe Lane; and, close to Meadlands a formal surface water drainage system would convey runoff from hard surfaces towards the attenuation pond. Moreover, the Floodplain Mapping Study included a scenario generated by the Foss Barrier being 'Closed, and the Pumps Not Working'. The resulting flood levels are predicted to be in the order of 10.5m AOD, some 2.5m below the lowest ground levels on the site².

- 5.79 Similarly, the intention is to maintain the status quo and not to alter the local drainage regime on the site boundary. No formal land drainage would be provided close to the site boundary. Where drainage is provided to serve the impermeable areas it is possible that drainage paths might form, for example in granular material around pipes, and result in a temporary local reduction in the water content of the adjacent clay soils. However, their 'slowly permeable' nature would prevent such an effect impacting on areas beyond the site boundary³. Moreover, investigations undertaken in 2002 found low ground water levels on the site. A borehole located in the vicinity of Meadlands recorded groundwater at 10.8 m below ground level⁴. Site drainage would not have any noticeable effect on that level. It is more likely that the 'groundwater' reported by residents of Meadlands results from saturation of the soils or the infiltration of surface water.
- 5.80 The concerns expressed about the 'flood storage' pond are unfounded. The maximum side slope of 1 in 6 would be shallower than that recommended for safety within SUDS design guides (1 in 4). The edges of the permanent pond would be planted with 'barrier' plants that would discourage entry; the fringes would be shallow, only reaching 0.5m deep some 6m from the water's edge. All necessary safety precautions would be taken (such as signage, lifebelts, and the like). Similar schemes are in widespread use. Many industrial and institutional developments now incorporate such facilities. There are also many examples of the use of attenuation ponds within, or adjacent to, residential developments⁵.

The impact on ecology and nature conservation

- 5.81 Guidance on the conservation of biodiversity and geological interests is set out in PPS9. The document indicates that:

The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. When granting planning permission that would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If

¹ EA submissions and JRHT/RJA

² EA submissions and JRHT/RJA

³ JRHT/RJA

⁴ See ES

⁵ JRHT/RJA

that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

- 5.82 There is clearly a hierarchy of considerations here. Only if ‘significant harm’ to nature conservation interests can be demonstrated should alternative sites be sought and only if such sites are unavailable should mitigation or compensation be required. There is no sequentially preferable site to that at Derwenthorpe. The one ‘competing’ site identified is at New Lane Huntingdon. But, although that site holds little of ecological interest, it is shown elsewhere that it would perform poorly on other criteria. The claim is that the Derwenthorpe scheme would not cause ‘significant harm’. But, irrespective of whether or not the site might merit SINC status, the mitigation and compensatory provision involved in the proposed development would be appropriate and proportionate. The scheme would thus satisfy the policy set out in PPS9.
- 5.83 The policies set out in the City of York Local Plan require a similar approach. Policy NE5a seeks to prevent development that would have an adverse effect on a Local Nature Reserve or ‘a non statutory nature conservation site’ unless the reasons for the development would clearly outweigh the substantive nature conservation value of the site. The latter are identified in the City of York Biodiversity audit (1996) as ‘wildlife sites’. Derwenthorpe is not so identified. If it were, then policy NE5b would require the implementation of appropriate compensatory measures and site management. Again, the claim is that the site is not of sufficient quality to merit designation as a SINC. But even if it were, the need for the proposed development is compelling and the compensatory provisions are appropriate. Finally, policy NE6 seeks to avoid demonstrable harm to protected species, so reflecting the requirements of the Wildlife and Countryside Act 1981; the policy allows for the translocation of species and habitat, as is proposed here.
- 5.84 The proposals include measures to enhance some of the nature conservation interest of the site and to mitigate or compensate for the loss of others.
- Field 9 is to be set aside as a wet grassland area with ponds designed to benefit great crested newts whose marginal presence on site has been inhibited by the lack of a suitable breeding habitat;
 - Parts of fields 6 and 7 are to be managed as meadowland and the ridge and furrow retained;
 - The balancing pond (in the southern part of the site) would be set in a broad wetland, which would be of considerable wildlife value;
 - The species rich grassland found in pockets in fields 5 and 6 would be trans-located to an additional area provided to extend the Local Nature Reserve at New Earswick¹;
 - The loss of about 60% of the internal hedgerows and a small section of the boundary hedging would be mitigated for by a combination of on site planting and additional provision at New Earswick²;
 - The works at New Earswick would also provide compensatory habitats for 4 species of birds³ listed under section 74 of the CROW Act;
 - The works at New Earswick would be of considerable benefit to the New Earswick SINC (0.6ha) and extend a nature conservation area by almost 6ha, to be managed by the Trust;
 - Roosting opportunities for bats would be provided although few such opportunities currently exist.
- 5.85 Leaving aside the policy implications relating to the scheme, the main area of dispute is whether the site exhibits sufficient nature conservation interest to qualify for SINC status. A great deal of effort has been expended on assessing precisely what the nature conservation interest of the site

¹ JRHT/RNH 4.2 Table 3

² JRHT/RNH paragraph 4.5 Table 4

³ JRHT/RNH paragraph 5.26

might be.

- In the spring of 2002 and summer of 2003, the site was surveyed by Mr Hammond, a well respected local ecologist who sits on the North Yorkshire SINC panel;
- In July 2002, the site was surveyed by a specialist bat consultant;
- Between April and June 2002, the site was surveyed for breeding birds and this work was supplemented by a walkover survey in May 2003;
- In April 2004: the site was subjected to an invertebrate survey by specialist surveyors;
- In 2004, and in the light of representations made by the Yorkshire Natural Environment Trust, the grasslands to the north of the Sustrans track were re-surveyed by two walkover surveys in May and June and a transect survey in mid-July involving 39 quadrats undertaken by Mr Hammond. This work confirmed findings from surveys undertaken in 2002 that ‘only around 0.425ha can be classified as species rich grassland, this being distributed as fragmentary patches amongst semi-improved grassland’. The mean number of species per quadrant was 8.68 compared to a sub-regional averages of 14 for type MG1 (an unimproved neutral grassland) and 23 for type MG5 (a lowland species-rich neutral grassland)¹. The fragments of species rich grassland totalled about 2% of the site as a whole and about 5% of the ‘northern’ fields. The conclusion was that the grasslands on the site were only of local significance and did not warrant designation as a SINC².
- In March - May 2006, bat, breeding birds and amphibian surveys were undertaken³;
- In June 2006, additional grassland surveys were carried out;
- In May 2006, surveys were made of the ponds around the site;
- In May and June 2006 a moth survey was undertaken.

5.86 English Nature have been made aware of all the survey data. They have no criticism of it and offer no objection to the scheme, being satisfied with the mitigation and compensation measures proposed.

5.87 In contrast to all that professionalism and effort, the assertion that the site warrants SINC status appears to be based on shifting views and scant data. It is not put forward by a qualified ecologist. Moreover, although initially (October 2003) the view was that only fields 5 and 6 might merit SINC status, it now appears that the whole site should be so designated. None of the evidence would support such a stance. The survey work undertaken has been minimal, recent and sketchy, in spite of the fact that the last 3 years would have provided ample opportunity to visit the site.

- No survey was undertaken until May 2006, when a hedgerow survey, the raw data of which has not been produced, was carried out, though not in accordance with the Hedgerow Regulations;
- The claim⁴ that all the bats on the site are included in Annex 2 of the Habitats Directive (implying that the site is potentially of SINC quality under guideline M2⁵) is demonstrably wrong. None of the bats on site are to be found within Annex 2;
- It appears that a tree survey was carried out but not disclosed because it did not support the objections made⁶;
- A very limited grassland survey was undertaken in June 2006 across fields 5, 6, 7, and 8 and a walkover survey on parts of fields 5 and 6¹;

¹ Supplementary Information August 2004, Chapter 6 ES and CD80

² JRHT/RNH 3.23

³ This and other subsequent survey work is in ID40, ID41 and ID143

⁴ See paragraph 13.25 of YWT1

⁵ See ID61

⁶ Mr Masheder’s straightforward answer to Q’s

- A single bat survey was undertaken on 30 June 2006 between 22.15 and 23.40 hours;
- No on-site survey of great crested newts nor of invertebrates was undertaken despite there having been ample opportunity to do so.

- 5.88 Not surprisingly, such surveys add nothing to the abundant data available to English Nature, who do not object to the scheme. It is they who are responsible for protected species and they have taken an active interest in the mitigation and compensation measures proposed. Worse still, the survey work appears to have been undertaken to support a case already made rather than the other way around. And, the case is one which conspicuously fails to acknowledge the compensatory measures proposed involving the extension and enhancement of a recognised SINC at New Earswick.
- 5.89 In relation to particular items of contention, there is no evidence at all that great crested newts breed on the site. Nor has any survey identified the existence of a meta-population of the animals nearby. The scheme would ensure that habitat in field 9, and associated with the balancing pond, would encourage a population to settle on site and the proposals at field 9 would provide sufficient habitat to support a small population. In addition, it is not doubted that water voles make use of the Beck in the vicinity of the site. However, there is little evidence that they are regularly resident there and such residence would be unlikely given the high population of rats. The scheme would enhance such habitat. And, although domestic pets might prey on, or disturb voles, that would hardly alter the habitat as the site is already surrounded by housing.
- 5.90 The most contentious issue relates to the claim that the site merits SINC status largely due to the grassland communities it contains. Selection guideline GR1² seeks to identify areas (down to 0.1ha) of ancient semi-natural neutral grassland supporting particular NVC types; in this case type MG5 is relevant. The claim that this type was present was initially based on the surveys carried out in 2004 and the suggestion that the elements of species richness identified may represent remnants of that type in fields 5 and 6³. That data has now been re-analysed by a nationally recognised authority on grassland communities. The finding is that the grassland is ‘infected’ with other community types, mainly MG1(e) and MG7(d). The grasslands have been re-surveyed in June 2006 and a comparison made between the key ‘constant’ species found with the ‘constancy class’ tables for the type MG5. There is little correspondence⁴. Indeed, that would be consistent with the fact that the site was farmed until well into the 20th century, implying that the grasslands would not be ‘ancient’.
- 5.91 Selection guideline GR4⁵ seeks to identify areas (down to 0.25ha) of ancient semi-natural neutral grassland that contain at least 8 species listed in particular tables. The fact that the Guidelines list individual species implies that those species are to be identified rather than the reference being applied generically. It is clear that areas of the site might qualify under this ‘guideline’⁶ were it not for the advice that ‘if the species recorded from the lists are present, but in low numbers or restricted to small patches within the sward or to edges of the site, then the site should not normally be eligible for SINC selection’⁷. That is the case here. Moreover, the species surveyed by the objectors, even looked at generically, are present in low numbers and poorly distributed⁸.
- 5.92 Finally, the claim that the site supports a mosaic of semi natural habitats (guideline Mh2) or a

¹ See appendices 3 and 5 of YWT1

² ID61

³ Supplementary Information August 2004, Chapter 6 ES and CD80

⁴ ID40, ID41 and ID143

⁵ ID61

⁶ JRHT/RNH table 2

⁷ ID61 page 30.

⁸ YWT1, appendix 5

high structural diversity (guideline Mh3) in relation to particular specified features¹ is refuted². The grassland on the site is not unimproved and the hedges are not 'scrub'. Only the Beck, the wetland in field 9 and the 'bare land' on the National Grid site might qualify and they would not constitute a 'mosaic' as each is isolated from the other. Similarly, almost none of the features listed as contributing to 'structural diversity' are present on the site. In any case, the identification of such features should be done in conjunction with an experienced invertebrate ecologist. Such expertise has not informed the claims made.

- 5.93 The evidence thus demonstrates that the site does not merit designation as a SINC; it does not benefit from that status. The mitigation and compensatory measures provision proposed would be appropriate and proportionate. The scheme would satisfy the requirements of local policy and national advice.

The impact on archaeology

- 5.94 Advice on archaeological issues relating to development sites is set out in PPG16. It emphasises that archaeological remains are irreplaceable; they should be seen as a finite and non-renewable resource; they should not needlessly or thoughtlessly be destroyed and appropriate management is therefore essential to ensure that they do survive in good condition. It may not always be feasible to save all archaeological remains. The key question is where and how to strike the right balance. In respect of nationally important remains and their setting, there should be a presumption in favour of their physical preservation³. Hence, early consideration should be given to whether archaeological remains exist on a site where development is planned and how they might affect the proposal. If physical preservation is not feasible, an archaeological excavation for the purposes of 'preservation by record' may be an acceptable alternative. From the archaeological point of view this should be regarded as a second best option⁴.
- 5.95 The City of York Local Plan seeks to balance the requirements to preserve the historic environment with the need for sustainable development, consistent with national advice. Policy HE9 ensures that the desirability of preserving an ancient monument and its setting is a material consideration in determining planning applications, whether the monument is scheduled or unscheduled. Policy HE10 insists that archaeological surveys of development sites should be undertaken in order to assess their archaeological value. In most cases valuable deposits are to be retained *in situ*, but where that is impossible the professional excavation of known deposits, prior to development, would be required.
- 5.96 The approach to investigating the archaeology of the site was devised in consultation with the Head of Excavations at York Archaeological Trust and the City Archaeologist. It involved a desktop study⁵, a walkover survey, a geophysical survey⁶, an earthworks survey⁷, an archaeological trial trench evaluation⁸ and a metal detecting survey⁹. There are no Scheduled Ancient Monuments within the study area or close to it. Nor does the development area lie within York's Area of Archaeological Importance (or its seven zones). The nearest portion of York's Area of Archaeological Importance is about 1km to the southwest of the development area¹⁰.

¹ ID61

² ID41

³ PPG16, paragraph 8

⁴ PPG16, paragraph 13

⁵ CD147

⁶ CD77

⁷ CD77

⁸ CD77/1

⁹ JRHT/NM

¹⁰ JRHT/NM

5.97 The results of those surveys and excavations are that:

- No evidence for prehistoric activity was found, though the glacial moraine to the south may have been used as a prehistoric route-way.
- A Roman road was constructed on top of the glacial moraine about 500m to the south of the development area in about 70AD. This linked the forts of York (Eboracum) and Brough (Petuaria). Some 500m to the northeast of the site there is a second Roman road, which heads northeast from York (Eboracum) to the fort at Stamford Bridge. Beside the latter, Roman pottery kilns have been located by archaeological excavations, dated to the 2nd century AD. Burials of probable 4th century date were located here as well as ditches.
- The Domesday Book refers to Osbaldwick in 1086. The exact location of the original village is unknown, but it may lie beneath the present settlement.
- During the medieval period the site was used for agriculture and degraded ridge and furrow is still visible across 8 of the 9 fields.
- A moated site (perhaps the manor of Osbaldwick) was found at the western end of the village close to the development area. This was developed for housing in the 1960s.
- Enclosure of the fields probably took place in two phases. The earliest dating to the mid-17th century and the second in the mid to late 18th century by Act of Parliament (the Award and Map are dated 1772).
- The Derwent Valley Light Railway was constructed through the site in 1912 and was closed and dismantled in the early 1980s. It now provides the basis for the Sustrans cycle route.
- Several ponds, probably post-dating the construction of the railway and filled in, were found close to Osbaldwick Beck.
- An electricity transformer sub-station linking York to the national grid was built in 1932. The site was decommissioned in 1969.
- All of the fields were subject to a geophysical survey¹, except the old railway line and the former electricity sub-station; the survey confirms the presence of ridge and furrow across the entire site to within a few metres of Osbaldwick Beck. Several minor ditched features were also detected, as well as several pipes and a concentration of dumped material close to the Beck.
- The earthwork survey² revealed a complete contour plan of the ridge and furrow; the feature has thus been fully recorded.
- The archaeological trial trench excavations³ involved 22 trenches targeted at all of the geophysical anomalies identified and some blank areas. A series of 15 geotechnical test-pits were also excavated. Some gullies were found (trenches 5 and 6 in field 3). These were interpreted as a sequence of possible Roman (2nd or 3rd century AD) field boundaries or enclosures for the purpose of drainage or stock enclosure. Small post-holes (trenches 2 and 21) may also be of Roman date, but are not associated with any settlement evidence. An enclosure gully for a possible toft or croft (trench 1 in field 1) pre-dates the ridge and furrow and may suggest a farm of the 10th or 11th century, but that was not corroborated by any artefact found. Ridge and furrow appears to date from the 12th century and to be created by medieval ploughing practice, indicating the area to be part of the medieval fields of the village. And, attempts to drain the land during the 18th, 19th and 20th centuries were uncovered together with modern features, including culverts, pits, post-holes, filled ponds, a horse burial, gullies and a sewer trench.

¹ CD77

² CD77

³ CD77/1

- 5.98 Although the hedgerows appear to have been planted in 2 periods, research on the 1772 enclosure map is not conclusive as the map is in a poor state of repair and only shows the southern edge of the development area. However, the geometrically linear form of the internal fields might indicate that the hedges were planted at the time of the parliamentary enclosure (about 1772). The straight lines are in direct contrast to the hedges adjacent to Metcalfe Lane and the northern boundary, which are curvilinear in form and are characteristic of older enclosures. The latter may date from the 1650 enclosure of larger land parcels within the parish of Osbaldwick. Enclosures hedges to the east of Metcalfe Lane (and now within the Conservation Area¹) also still exhibit the earlier curvilinear form and their association with the village is indicated by the narrowness of the strip fields. The enclosures are imposed on the earlier medieval ridge and furrow. All the hedgerows would be ‘important’ under the terms of the Hedgerow Regulations 1997².
- 5.99 The scheme would destroy the Roman gullies, post-holes, most of the medieval ridge and furrow and some of the internal hedgerows. But none of those archaeological features could be described as being of national importance. On the contrary, their limited quality and relatively common occurrence would warrant only local interest. The Roman gullies and post-holes appear to be associated with isolated agricultural activity and offer little to the existing body of knowledge. The medieval ridge and furrow is not unique within this part of York and the impact would not be total; an area of ridge and furrow bounded on two sides by ‘important’ hedgerows would be retained and managed³. Similarly, the internal hedges are not unique, but several lengths of ‘important’ hedgerow would be retained, including almost all of the older boundary hedgerows; those features would be actively managed for conservation purposes⁴. The 10th or 11th century toft enclosure in the south eastern corner of the development area would be within a wide area of open space and could be preserved *in situ*⁵.
- 5.100 As the archaeological deposits are of only local importance, a mitigation strategy has been agreed involving an archaeological watching brief in the areas associated with the Roman gullies to monitor the works and recover and record any archaeological deposits or features unearthed. The ridge and furrow earthworks have already been fully recorded. The 10th or 11th century toft enclosure within the site would be preserved *in situ*. As a result, the scheme would not have any serious impact on the archaeological interests identified here.
- 5.101 The project has provided an opportunity to involve the local community in archaeological work, as well as the planning and development of the site. A public open day was held during the archaeological trial trench evaluation. And from that, a series of metal-detecting open days were organised using the skills of the York and District Metal-detecting Club and staff from York Archaeological Trust. The ‘finds’ illustrated how the site had been used during the 19th and 20th centuries and it suggested that the topsoil had been formed during this time period⁶.
- 5.102 Objections to the scheme from Osbaldwick Parish Council refer to a refusal for residential development at Wheldrake and suggest that the scheme at Derwenthorpe should be prevented for similar reasons. The refusal at Wheldrake was based on the loss of a remaining undeveloped ‘garth’ consisting of narrow strip field medieval enclosures running back from properties which fronted onto the linear village street and enclosed for the personal use of villagers as yards, gardens or paddocks. At Derwenthorpe the ridge and furrow was not enclosed until at least the mid-17th century and it was not enclosed as personal yards, but as agricultural land for the whole

¹ CD82

² JRHT/NM

³ JRHT/CR and JRHT/NM

⁴ JRHT/RNH

⁵ JRHT/NM

⁶ CD148.

village. It is not a 'medieval grazing enclosure'. Similarly, the claim made by Mr Adrian Wilson that the ridge and furrow is rare is wrong. The ridge and furrow has been degraded by ploughing in the modern period¹. In particular the field in the northeast corner of the development area has seen the ridge and furrow completely levelled, and those to the west and south considerably reduced in overall height and profile. Hence, the ridge and furrow ranks as being of local importance only, as their survival and condition is degraded, and they hold limited archaeological potential or diversity. In any case, this is not unique within the City of York. Indeed, there are much better undesigned examples of ridge and furrow within the city boundary at Hobmoor Stray, Shipton Road and Grimston Deserted Medieval Village, which all survive in better states of preservation. In addition, no evidence was found that the site was ever used for the burial of contaminated (anthrax infected) cattle carcasses. Since the geophysical survey and the excavation of trial trenches uncovered a horse burial, it is highly likely that any similar large scale activity would also have been recorded.

Conclusion

5.103 The evidence adduced shows that the site is not in the Green Belt. But, as a greenfield site its use must be justified. There is no prohibition on the use of greenfield sites if justified by reference to need and sequential testing or if the benefits derived from development would outweigh such harm as might arise. In this case there are numeric needs and existing needs in respect of family and affordable housing. Such needs have been demonstrated to be pressing. It is an important aim of national policy to address those needs. The site is available to do so. Its proximity to services and facilities indicates that the site is in a sustainable location. The details of the scheme, and the commitment to build to an EcoHomes standard of 'very good', indicates that the scheme itself would embody pioneering sustainable features. The approach to design demonstrates that these needs can be met in a way which addresses the highest aspirations for design quality. There is no material harm, in planning terms, arising from the proposal in relation to flooding, ecology, traffic impact or any other matter and, indeed, all the problems identified have been shown to be capable of being satisfactorily addressed. Hence, the Secretary of State is invited to grant planning permission for the development.

¹ This is corroborated by the finds from the metal-detecting survey at CD148, page 220.

6. The Case for the City of York Council

The material points are as follows:

Plans and prematurity

- 6.1 It is unnecessary to summarise all the points made in JS1. Essentially, if the application sites are not in the Green Belt and a need for additional housing can be demonstrated, then the policy framework would permit the schemes. If, on the other hand, the sites are either within the Green Belt, or should be treated as such for the time being, then ‘very special circumstances’ would be required to justify their development. ‘Very special circumstances’ exist, due to the general housing need, the absence of any sequentially preferable site, the limited extent to which either site serves an appropriate ‘Green Belt purpose’ and the need to foster mixed communities, for mixed forms of accommodation and for ‘affordable housing’.
- 6.2 Moreover, draft PPS3 would appear to further encourage the proposed developments¹. There is more emphasis on providing homes where they are wanted and needed²; artificially delaying development on suitable housing sites is discouraged³; and, allocations in DPDs are to be sufficient for 5 years without allowing for contributions from even ‘brownfield windfall’ sites, unless the allocation of sufficient land is impossible (or would have unacceptable impacts) and local circumstances justify a ‘windfall’ allowance⁴. The stance is reinforced by the definition of ‘prematurity’ set out in the draft document⁵.

Housing; numbers, markets and needs

Numerical housing requirements

- 6.3 The housing requirements for York are set out in table 1 as at 1 April 2005 (the latest date on which figures are available) in relation to the RSS, both approved (1998-2016) and emerging (2004-2016). The residual annual average requirement under the approved RSS is 570 dwellings⁶. That is due first to an assumption, used in preparing the City of York Local Plan. York is assumed to provide for about 27% of the housing requirement identified for the whole of North Yorkshire (about 3% more than its ‘fair share’ on a ‘pro-rata’ basis), given that it is a ‘main urban area’ where housing development should be concentrated; the basic net annual average requirement is 675. And second, it is due to the very high level of provision achieved since 1998. Indeed, over the 4 years from 2001 to 2005, annual completions have averaged 931 units, with net additions amounting to 880 dwellings, well above the 675 actually required⁷.
- 6.4 The residual annual average requirement under the emerging RSS is 593⁸. There are pressures to increase the underlying net annual average requirement of 640 to properly reflect the strategic role of the City, the Regional Economic Strategy and the impact of the ‘science city’ initiative. But the Council believe that the suggested figure reflects the constraints imposed by the historic heritage of York. In any case, the role that might be played by an historical ‘environmental capacity assessment’⁹ and arguments about what should be required in the emerging RSS are not

¹CD18

² draft PPS3 paragraph 1

³ draft PPS3 paragraph 41

⁴ draft PPS3 paragraphs 12-14

⁵ See the section on Derwenthorpe

⁶ See the notes to table 1 for the calculation.

⁷ JS3

⁸ See the notes to table 1 for the calculation.

⁹ Suggested by English Heritage

matters for this Inquiry. However, just as with the approved RSS, the requirement is influenced by the very high levels achieved in the recent provision of new dwellings, albeit in this case just for the one year in 2004.

- 6.5 The high level of recent completions is unlikely to endure. First, several of the sites allocated in the context of the City of York Local Plan¹ have already come forward for development. There are about half a dozen sites where the bulk of the development is indicated to be largely complete by 2005/6. On the whole, those sites have been where development has been easiest. Development of the remaining sites is likely to entail greater problems (some of which are considered in more detail later), so that future completions are likely to be at a lower rate than in the recent past and extend over a longer period, at least in relation to the sites currently identified.
- 6.6 Second, recent provision from ‘windfalls’ (about 356 dwellings annually) have significantly exceeded earlier historic trends². There are good reasons why such a level is unlikely to be sustained. It is partly the result of a change in practice. In the earlier versions of the Local Plan more of the allocated housing land consisted of greenfield sites with fewer allocations consisting of brownfield land within the City. Of course, housing development of unallocated brownfield land was acceptable, as a matter of policy, but being on unallocated land, could only be classified as a ‘windfall’ provision. In addition, the recent ‘windfall’ rates are largely due to the development of substantial sites within the City centre for flats and apartments rather than houses. Some of those sites were identified in the course of preparing the Urban Capacity Study³. Naturally, the best sites have been developed first. Not surprisingly, developers are now finding it harder to identify further sites, and indeed, the Urban Capacity Study confirms the lack of any obvious potential that has been overlooked. Moreover, the high price of housing in York, together with the popularity of flats, has fuelled the high level of recent provision. That is unlikely to continue, given the supply already achieved and the number of flats already in the pipeline, for example, at Hungate⁴ and the Barbican.
- 6.7 Third, the announcement of the proposed change in the requirements for ‘affordable housing’, now incorporated into the latest version of the Local Plan, fostered a ‘rush’ of planning applications. Obviously, developers were keen to avoid the more onerous policy, which insists that 50% of the units should be ‘affordable’ on qualifying schemes.
- 6.8 The table shows that total completions from existing allocations (including those estimated from York Central), from sites with planning permission and from the ‘windfall’ allowance are likely to diminish substantially from 2005. There is no major housing site currently identified either in the Local Plan or elsewhere except the site at York Central⁵, and that is not expected to contribute to the provision for housing until after 2011 at the earliest. The application sites are thus crucial to achieving an adequate housing supply. Indeed, it can be seen that the completions expected on the 2 application sites would amount to about 1/3 of the average annual total provision after 2011. Without that provision the annual completion rate would be below the annual average requirement for the emerging RSS for every year between 2006 and 2016. And, a similar deficit would be only marginally delayed in relation to the approved RSS, even though the residual requirement in relation to that document is significantly influenced by the ‘excessive’ provision recently

¹ CD1, table 7.2 and ID56

² JS3

³ ID53

⁴ The site at Hungate has recently benefited from planning permission for 720 (mostly flats) rather than 600 dwellings originally assumed in the allocation, as indicated in answers to questions put by Mr Adrian Wilson.

⁵ See CD1, table 7.2 and JS3. The additional dwellings permitted at Hungate could contribute to the ‘windfall’ allowance. It is not a new site. Other sites suggested to the Inquiry are discussed later.

achieved. The result is that by 2016 a shortfall of 783 and 1036¹ units would have accumulated in relation to the approved and emerging RSS respectively. Those are significant deficits, and, in relation to the emerging RSS, it would represent nearly 2 years of provision at the rate indicated by the currently suggested average annual requirement. Even by 2011, the dwindling ‘surplus’ would be modest, just 273 and 135 units, respectively.

Table 1: Housing requirements for York 2005-2016 based on residual calculations

Year	05-06	06-07	07-08	08-09	09-10	10-11	2005-2011	11-12	12-13	13-14	14-15	15-16	2011 - 2016	Total to 2016
Permissions	614	331	165	118	47	47	1322	47	12				59	1381
Allocations with pp	437	187	167	100	97	32	1020						0	1020
Allocations without pp			63	198	232	215	708	140	140	95	70	50	495	1203
Windfalls	0	71	143	143	143	143	643	143	143	143	143	143	715	1358
York Central							0	105	105	105	105	105	525	525
Total Provision	1051	589	538	559	519	437	3693	435	400	343	318	298	1794	5487
Approved RSS requirement	570	570	570	570	570	570	3420	570	570	570	570	570	2850	6270
Annual Balance	481	19	-32	-11	-51	-133	273	-135	-170	-227	-252	-272	-1056	-783
Cumulative Balance	481	500	468	457	406	273		138	-32	-259	-511	-783		
Emerging RSS requirement	593	593	593	593	593	593	3558	593	593	593	593	593	2965	6523
Annual Balance	458	-4	-55	-34	-74	-156	135	-158	-193	-250	-275	-295	-1171	-1036
Cumulative Balance	458	454	399	365	291	135		-23	-216	-466	-741	-1036		
Derwenthorpe				65	30	80	175	80	80	80	80	45	365	540
Germany Beck				30	80	80	190	80	80	80	80	80	400	590
Total from application sites				95	110	160	365	160	160	160	160	125	765	1130
Annual Balance emerging RSS				61	36	4	101	2	-33	-90	-115	-170	-406	-305
Cumulative Balance emerging RSS				460	496	500		502	469	379	264	94		

Notes: Source is ID13 with a minor error in the annual balance for the emerging RSS in 2006-7 corrected. This difference of 3 amounts to a difference of 30 on a cumulative basis over a 10 year period.

Approved RSS (1998-2016): 18 years at 675 pa = 12150 – 5879 (net completions to 04/05) = 6271 over 11 years = 570 pa
Emerging RSS (2004-2016): 12 years at 640 pa = 7680 – 1160 (net completions in 04/05) = 6520 over 11 years = 593 pa

6.9 Nevertheless, although modest, the table shows that small ‘surpluses’ exist at 2011, at least on the basis of an assessment conforming to a ‘standard’ residual method. Could development of the sites be delayed until after 2011, by which time a relevant DPD might have been adopted? It is easy to see from table 1 that such a delay would exacerbate the predicted shortfall. In relation to

¹ The relevant figure in ID13 is 1006 as a result of the error referred to in the notes to table 1.

the emerging RSS, annual deficits would pertain for the whole of the decade from 2006 to 2016. And, far from a cumulative surplus being maintained throughout the last 5 years, a cumulative deficit would set in from 2012 and grow to about ½ the average annual requirement. In any case, even with such a delay it would be necessary to grant planning permission for either scheme by about 2009. It cannot be certain that a relevant DPD would have reached a stage to warrant much consideration by that date¹.

6.10 The accumulating annual deficit forecast in table 1 would have several dire consequences. It must fail to accord with the RSS. It must also exacerbate housing needs and distort the housing market in York. Of course, past completions are now likely to have been sold and occupied. There is no evidence that any past ‘excess’ has yet resulted in a pool of unoccupied dwellings available for future occupants. Hence, if York is to serve as the focus for growth in the sub-region (as the RSS indicates and initiatives such as ‘science city’ imply) the failure to meet the RSS requirements must exacerbate problems of in-commuting, make it all the more difficult for York residents to satisfy their housing needs in the City and accentuate the upward pressure on house prices. Such consequences have implications for the sustainability of the City and the mix of the communities within it. There is, thus, a clear need to identify sites to accommodate around 1000 additional homes in the period to 2016.

6.11 How could that shortfall be addressed? The solution that has been identified in various planning documents over the last decade is to develop the 2 application sites². The estimated contribution from both sites would be sufficient to eradicate the predicted annual deficit until 2012 (in relation to either version of the RSS) and to prevent the accumulation of a deficit up to 2016. On the contrary, by that date there would be a small surplus amounting, in relation to the emerging RSS, to about 94 dwellings (barely 1.4% of the overall requirement³). Of course, those results are predicated on the basis that dwellings are actually made available on the 2 application sites by 2008/9. Even if permission is granted in the first half of 2007, that is an optimistic forecast, given the preparation and preliminary works likely to be required by the suggested conditions and Agreements. Similarly, for reasons set out later, the realisation of dwellings on York Central is likely to be optimistic. The theoretical ‘surplus’ achieved by developing the 2 application sites now is much too small to be significant, especially in the context of such uncertainties.

6.12 The main challenges to that analysis question:

- the ‘windfall’ assumption used in the ‘housing trajectory’ and suggest that additional ‘windfall’ sites are likely to emerge;
- the comprehensiveness of the Urban Capacity Study, suggesting that other potential sources of additional housing have not been properly identified;
- the inability of other major sites, including York Central, employment sites and schools to accommodate significant housing provision up to 2016; and,
- the absence of sequentially preferable ‘urban extensions’ to the 2 application sites.

‘Windfalls’

6.13 The reasons why the current ‘windfall allowance’ is substantially less than that previously achieved are set out above. The actual numbers are taken directly from the latest version of the Local Plan, which also includes further justification for the figures⁴. The allocations and housing provision set out in the 4th set of Pre-Inquiry Changes is based on a properly conducted Urban

¹ See the sections on prematurity in the cases relating for Persimmon and Rowntrees.

² For example, CD1, CD62, CD66, CD81, CD85, CD86, CD131, CD132, CD133, CD144, CD145, ID36, ID52

³ That is 94/6523, the requirement on a residual basis over the whole period

⁴ CD1, pages 63 and 64

Capacity Study incorporating a ‘market appraisal’ of the sites identified¹. Of course, it is always possible that new sites might come forward for housing in response to changing circumstances. But, as will be explored below, the consequences of such possibilities are unlikely to require any alteration to the ‘windfall assumption’. And, the likelihood of a significant unidentified site existing now must be remote, given the comprehensive coverage of the Urban Capacity Study.

- 6.14 Otherwise the difference between the assumption used here and those used elsewhere (for example, in the Annual Monitoring Report 2005²) is largely a matter of definition and consistency. In table 1 no ‘windfalls’ are assumed to materialise in the first year because it is very unlikely that any dwelling would be available on a site without any form of planning permission at the base date. And, for similar reasons, only half the ‘windfall allowance’ is assumed to materialise in the second year. Those assumptions are reasonable and realistic. In all the circumstances that pertain, the ‘windfall allowance’ is claimed to robustly reflect the situation facing the City.

*The Urban Capacity Study*³

- 6.15 The Urban Capacity Study has been undertaken in accordance with national advice⁴. It has not identified any significant untapped source for additional housing. It is a comprehensive exercise which should be accorded significant weight. Indeed, the inability to find sufficient brownfield capacity to satisfy the housing requirements necessitated the identification of further greenfield allocations in the evolving progress of the Local Plan. The claims that omissions are significant are misconceived. Small sites are not excluded from the calculations. In accordance with Government advice, a threshold is adopted in relation to the size of site warranting examination in the context of the Urban Capacity Study. But the York study adopted a lower threshold (0.2ha) than is common elsewhere to reflect local circumstances⁵. Even smaller sites are incorporated into the assessment of potential supply because they are included either in the ‘windfall allowance’ or as sites benefiting from extant planning permissions. Nor does the study omit the possibility of reducing the number of vacant dwellings as a means of providing more housing. On the contrary, the point is explicitly addressed⁶. It is found that the level of vacancy is low, so that temporary absences (due, according to the study, to occupants being in prison or hospital) contribute to the vacancies identified. The situation is confirmed by the subsequent Housing Market Assessment⁷, which demonstrates that vacancies in any sector are well below 2%. Such a limited level of vacancies can hardly exceed what is necessary for the efficient functioning of the housing market. It certainly does not suggest that this represents a significant untapped source of future housing.
- 6.16 Similarly, the claim of an untapped potential of additional dwellings above shops is something of chimera. The point is addressed by the study⁸. Concerted programmes pursued by the Council (such as the City Centre Living Initiative) and benefiting from grant aid are directed at bringing floors above shops into use for housing. Of course, those successes will be recorded in the monitoring of new dwellings and reflected in the appropriate figures for sites with planning permission or as part of the ‘windfall allowance’. A previous survey suggests that the opportunities that remain are modest. And, partly for that reason and because the data is

¹ ID53

² ID12

³ ID53

⁴ As set out in PPG3 and supporting documents

⁵ ID53, page 8

⁶ ID53, page 8

⁷ CD152

⁸ ID53, page 9

relatively old, it is recommended that no allowance is made for additional dwellings created above shops. Even so, any scheme involving a planning permission would still be included in the figures as a 'windfall' or as a 'planning permission'.

York Central and other sites

- 6.17 The numerous sites raised as possible 'alternatives' to the 2 application sites are set out in detail in ID17. There is no need to deal with those sites listed there that are already identified for housing and included in the supply figures (for obvious reasons) or that are shown as within the proposed Green Belt; the latter would be no more suitable for housing than the application sites. In addition, the Bustardthorpe allotments are protected by Local Plan policies and by legislation. That leaves about a dozen sites consisting largely, apart from York Central, of recently vacated 'factories', existing employment sites, schools and playing fields.
- 6.18 The claim that the York Central site could be brought forward to accommodate housing well before 2011 is supported by no evidence and misconstrues the nature of the problems to be overcome before any development is likely to materialise. Nor can the building rate be expected to exceed the rate identified in table 1. There are substantial obstacles to overcome. The size and complexity of the site requires that a 'master plan' must be prepared to guide and coordinate development¹. But, before that can be undertaken sensibly, major issues on transport, access, contamination and an acceptable mix of uses must be considered. Currently, the 'master plan' is not expected until 2008² with an area action plan to follow in 2009. Even if an outline planning permission is granted shortly afterwards, numerous stages would remain before house building could commence; reserved matters would need to be approved, CPO proceedings might be necessary, existing uses could require to be relocated, demolition and decontamination works have to be undertaken, highway and other infrastructure would have to be installed. The evidence is that the first completions would not occur until about a year later³. The assumption of 105 completions in 2011/12 is thus very optimistic⁴.
- 6.19 Moreover, it is most unlikely that the building rate achieved on York Central, even when development commences, would exceed the assumption of 105 units a year. On the contrary, it might be more realistic to assume a lower rate. York Central is not yet an established location for housing in the City and it may take some time for the site to become recognised as part of the housing market and for housing development to 'take off'. In addition, even when the scheme finally gets underway, developers would not want to flood the market. Hence, there are cogent reasons not to expect York Central to produce more dwellings more quickly than the rate assumed in table 1.
- 6.20 The site of Terry's Factory, vacated in autumn 2005, is not identified as a housing site and does not contribute to the housing figures set out in table 1. Potentially, therefore, any housing materialising there would constitute an additional resource. The mistake is to believe that the site would contribute significantly enough to represent anything more than a portion of the 'windfall allowance'. The site would actually be treated as an existing employment designation under policy E3b in the Local Plan. The Development Brief⁵ clearly indicates that any scheme is to be

¹ ID18

² The most recent information is at ID201, which includes a reference to a 10-20 year timeframe. The 'programme' advanced in ID92 (2004) is clearly far too optimistic.

³ Mr Courcier's answer to questions

⁴ The AMR 2005 incorporated 600 units at York Central by 2011. However, subsequent work by York Central Steering Board has set a development process that is expected to produce no dwellings on the site until 2011. There is also now an intention to produce an Area Action Plan as part of the LDF, which may also affect the time taken to deliver dwellings on the site.

⁵ ID44 and the report to committee at ID43 supersede ID14. The Development Brief has been through normal consultation processes and should be accorded significant weight.

an employment led redevelopment incorporating, if not actually focusing on, the ‘science city’ initiative. A wide range of other uses are envisaged from ‘production warehouses’ to hotels and leisure facilities. There is scope for some housing but it is limited. Some of it is seen as being complementary to the employment uses (live-work units and the like). And, although other forms of housing are indicated to be acceptable, the Brief appears to imply that the scale envisaged would be modest enough not to require the provision of ‘affordable units’; under policy H2a that mean that it would constitute less than 15 dwellings¹. In any case, there would be significant additional constraints on large scale housing development here. More than half the site lies within the Green Belt; the Brief makes it plain that this part of the site should remain largely open. The developed areas are dominated by imposing Listed Buildings; any new housing would need to respect the setting of those structures. It is impossible to read the Brief as permitting anything more than a limited element of housing. Hence, any housing materialising here could be adequately accommodated within the ‘windfall allowance’.

- 6.21 The Nestlé site is not currently available. It is occupied by a major employer that, so far at least, appears to intend to remain in the City, even if only on a reduced scale. If the site, or any part of it, were to become available, then it would also be treated as an existing employment designation under policy E3b of the Local Plan. The aim would be (just as in the case of Terry’s factory) to retain employment uses on the site, together with complementary activities, considered through community consultation as part of a Planning Brief. The possibility of any housing on the site before 2016 is far too uncertain to realistically contribute to the housing requirement. In any case, any contribution that might accrue would be unlikely to exceed the current ‘windfall allowance’.
- 6.22 The announcement about the possible closure of the British Sugar factory does not necessarily mean that closure is inevitable. There is a long history of uncertainty surrounding this site². If closure were to take place in 2008, then the site would represent a significant opportunity. But it would also present substantial problems. The existing industrial infrastructure would have to be removed and the site, including lagoons, cleaned. A ‘master planning’ exercise would be necessary to establish the extent of any employment use (favoured under policy 3b of the Local Plan), the need to retain or expand playing fields and community uses to make up deficiencies in the area (a significant proportion of the site is currently used as such now) and how to provide adequate transport infrastructure. It is likely that the latter would have implications for the York Central site and might require additional capacity on the northern ring road and a link road to the City centre. There is no prospect of such investment now. But, if such a scheme could be supported in the context of an area action plan, then a very optimistic programme might deliver some dwellings on the site by 2013, amounting to about 315 units by 2016. Clearly, in those circumstances it is not appropriate to rely on units accommodated on the British Sugar factory site, given the importance of meeting the RSS requirements in the period up to 2016. In any event, the ‘windfall allowance’ does not preclude ‘windfalls’ on large sites and would accommodate any provision likely to materialise here.
- 6.23 Three large employment sites are suggested as being suitable to accommodate housing. All of them are designated as existing employment sites and, under policy 3b of the Local Plan, they are to be retained as such³. Most already accommodate industrial or commercial development and, indeed, a recent permission on the York Business Park at Poppleton would result in the remaining areas of this prime site being developed for employment purposes. It is doubtful that housing would be a suitable neighbour to the industrial and commercial concerns already in operation. But, even if it was, the justification for policy 3b is to ensure that the City retains an appropriate

¹ Policy H2a, CD1, as the site is an urban one

² ID148 and ID151

³ ID17

mix and range of employment sites to accommodate the future needs of business and enterprise. No evidence is adduced to show either that the sites referred to do not contribute to that aim or that so much land has been allocated for employment purposes that substantial tracts of it can now be used for other purposes. On the contrary, what evidence there is demonstrates the opposite. For example, policy Y1 of the draft RSS identifies York as a key driver in the regional economy. The aim is to diversify and expand economic activity by encouraging financial services, fostering knowledge based industries (with such programmes as the ‘science city’ initiative) and supporting leisure and tourism. The Regional Economic Strategy emphasises the point and seeks to create some 15000 science and technology jobs up to 2021 in the City through the ‘science city’ initiative; overall some 19000 new jobs are sought by that date. Some of those jobs are likely to require land for new offices, research establishments, factories and warehouses. The average annual take up of ‘employment’ land over the last 10 years was 4ha; in 2005/6 that increased to almost 7ha. Clearly, an adequate supply, and a wide range, of employment sites are necessary both to foster and accommodate the emerging aspirations for the City and the needs of potential employers there¹.

- 6.24 Perhaps further evidence that there is demand for employment land or that the land allocated would be inappropriate for housing is indicated by the very limited pressure from land owners to alter the allocation of employment sites through the series of 4 changes and protracted consultation incurred in the Local Plan process². If allocations were seriously misconceived or the prospect of securing a higher value land use realistic, such pressure might have been expected. Moreover, it is also clear that the Monks Cross decision³ was predicated on the existence of an adequate supply of undeveloped brownfield and part built out greenfield employment allocations to meet future requirements. Nothing in that decision implies that too much employment land has been allocated under policy 3b. In any case, this Inquiry is not the forum in which to consider the future allocations for the City as a whole. The material is simply not available to assess, for example, how many jobs should be assumed and whether existing employment allocations can be released for housing.
- 6.25 It is suggested that plans to consolidate some schools would provide redundant sites that could be re-used to provide additional housing. There are proposals to relocate Manor School to a site in the Green Belt and to merge Lowfield School with a school nearby. But in neither case are the statutory processes complete nor has planning permissions been granted; in relation to the new Manor School, ‘very special circumstances’ will need to be demonstrated. Moreover, both schools are in areas where there is a deficiency of public open space and recreation facilities⁴, so that it is likely that only the existing built up part of each site would be redeveloped; in any case, the requirements set out in PPG17 would need to be fulfilled. Development of the built-up part of each site would realise a total of about 150 units (about 1.5ha at Manor School and 2.2ha at Lowfield School): development of the whole of both sites might accommodate some 360 dwellings⁵. Even if both sites come forward and are fully developed for housing before 2016 (which is very uncertain) such development could be accommodated within the ‘windfall allowance’.

¹ The employment chapter of the Local Plan CD1, page 75), allocates just under 100ha for ‘premier’ and ‘standard’ sites and shows that, over the 18 months from April 2000 to October 2001, land was developed at the rate of about 9ha a year. The RES envisages a more buoyant local economy and the decision at Monks Cross (CD31) implies that not all ‘premier’ sites can be considered to be ‘currently available’.

² The one exception seems to be at the Clifton Grain Stores. A housing allocation was sought but resisted; the site is now being marketed for employment purposes.

³ CD31

⁴ ID17

⁵ Mr Suter’s answer to questions; the calculations assume 40 dwellings per hectare.

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- 6.26 An outline planning permission and a Development Brief support the provision of about 50 dwellings on 2 former school sites (Derwent and Shipton Street Schools)¹. An application at St Barnabas School has been refused planning permission, but the scheme was only for 9 dwellings. Again, development on this scale could be accommodated within the ‘windfall allowance’.
- 6.27 The ground used by York City Football Club amounts to some 1.6ha. It is considered to be a ‘community facility’ and for that reason, as well as to allow the continued operation of the Club, its potential development for housing would require the provision of a replacement facility². No replacement ground has yet been identified, although the preferred location is the site at York Central. There is simply no prospect of such a relocation taking place and housing being built at Bootham Crescent before 2016. Indeed, the Club’s own website indicates that relocation would not occur until 2015³.
- 6.28 Assuming the sites at Derwent and Shipton Street Schools are developed before 2011 (as planning permission or a Development Brief exists) and all the remaining sites were to be developed for housing on the basis of the most heroic assumptions contemplated above, then little more than 710 dwellings might materialise before 2016. It can be seen from table 1 that the ‘windfall allowance’ would contribute 715 dwellings in the period 2011-2016. At the very best, therefore, the sites might represent no more than the ‘windfall allowance’ over the later part of the RSS. In reality, of course, the playing fields at the Manor and Lowfield Schools are most unlikely to be developed for housing at all and no housing would be likely to materialise at the British Sugar factory site before 2016, if ever. Hence, less than 1/3 of the ‘windfall allowance’⁴ assumed to accrue between 2011 and 2016 would be likely to be built on the ‘alternative’ sites identified, even on the basis of the optimistic assumptions employed in this assessment.
- 6.29 The claim that ‘sequentially preferable urban extension’ sites can be identified in place of the 2 application sites is explored later in relation mainly to the site at New Lane, Huntington. Clearly, if the ‘windfall’ assumptions are reasonable, if no additional ‘brownfield’ sites can be identified and the development of those that are cannot be brought forward or speeded up, then the shortfall identified in table 1 remains. In the absence of suitable brownfield sites that shortfall can only be rectified on greenfield land. As PPG3 indicates, sites that could be regarded as ‘urban extensions’ are to be preferred over more isolated sites in the vicinity of nodes within transport corridors.

The market and the requirement for family housing

- 6.30 The high level of completions over the 4 years from 2001 to 2005, (averaging 931 units, with net additions amounting to 880 dwellings) has resulted in an imbalance in the size and type of dwellings provided in relation to those actually required. Table 2 indicates that whereas about 3/4 of those requiring ‘market’ housing ‘require’ houses rather than flats, recent completions have been, and the impending provision is likely to be, the opposite. The imbalance is not so marked in relation to those requiring affordable housing, but it remains significant; the proportion requiring houses is approaching twice the proportion of houses actually, or soon likely to be, built. The differences are more marginal in relation to dwelling size, suggesting that it is the type, rather than size, of dwelling that is out of kilter with expressed requirements. It is exactly that imbalance that the proposals on the 2 application are likely to address.
- 6.31 The number and type of dwellings ‘required’ here are derived from a Balanced Housing Market Analysis⁵. It is thus the result of survey material which, in this case, is based on respondents’

¹ ID17

² Sport England also objects to redevelopment here without any replacement facility.

³ ID17 and JS5, also Mr Suter’s answer to questions

⁴ That would be about 240 dwellings.

⁵ CD152, Y5 and Y6

expectations of what type and size of dwelling they will occupy tempered, for market tenures, with an assessment of whether such expectations are likely to be affordable. Those ‘expectations’ are then applied, essentially, to the difference between the supply (from household dissolutions, out-migration and moves within the City) and demand (from household formation, in-migration and moves within the City). The result indicates that some 1175 new dwellings are ‘demanded’ each year, of which 470 would be in the ‘affordable’ sector and 705 would be ‘open market’ dwellings. The implications of this analysis for the level of affordable housing required are considered later. But it is clear that the level of housing to accommodate ‘expectations’ would be close to double the level required in the emerging RSS. It should also be noted that ‘expectations’ reflect an element of realism on the part of the respondent, albeit that they are not based on a thorough knowledge of the housing market.

Table 2: Housing mix required and recent provision in York

		Flats	Houses	1 or 2 bedrooms	3 or more bedrooms
Annual Requirement	Market housing	27%	73%	58%	42%
	Affordable housing	41%	59%	75%	25%
Council waiting list applications		57%	43%	89%	11%
Recent completions; 3/2004 to 2/2006		67%	33%	72%	28%
Impending provision; sites with pp @ 3/2005		64%	36%	68%	32%
Germany Beck		10%	90%	45%	55%
Derwenthorpe		9%	91%	44%	56%

Notes: Sources are JS4, ID24, ID25 and CD152

6.32 Although the 2 application sites would help to address the imbalance in the type of dwelling needed to achieve a ‘balanced housing market’, it is not claimed that inner city sites cannot, in principle, deliver ‘family housing’. But, in the circumstances confronting the City, there are severe impediments to rectifying the ‘requirement’ for more houses other than by development of the 2 application sites. First, the mix of units actually delivered on inner city sites has been dominated by the provision of flats¹. Second, the most viable inner city sites have already been developed and it is difficult to see how less viable sites could be developed at the densities likely to be compatible with the provision of houses². Third, the possibility of identifying alternative brownfield sites, or bringing forward development of those actually identified, has been thoroughly explored and found to be unrealistic even as a means to meet the shortfall in the number of dwellings required. Such measures would thus also fail to rectify the significant imbalance in the type of housing needed³.

6.33 Perhaps the existence of such an imbalance now is also a natural consequence of the 4th set of Pre-Inquiry Changes to the Local Plan. The allocations are dominated by brownfield sites. Only the

¹ JS4, paragraph 3.29

² Mrs Hubbard’s evidence, JRHT/JH

³ JS4

application sites and one other modest site are indicated as greenfield locations¹. Clearly, the complexity of developing the application sites has necessitated much preparation and preliminary consideration. In the meantime the allocated brownfield sites, together with brownfield ‘windfalls’, have come forward for development and accommodated the flats and apartments anticipated. Not surprisingly, the overall balance envisaged in the Local Plan has yet to materialise. One part of the package has been implemented, but the provision of family housing on the application sites has not yet yielded the expected contribution to the provision for housing. Development of the application sites is thus required to achieve the ‘package’ of housing provision envisaged in the Local Plan.

- 6.34 There is, thus, a stark choice. Either the application sites must be developed or the existing imbalance between the type of dwelling ‘required’ and provided will continue with very little prospect of being rectified in a reasonable period of time. A continued imbalance in the housing market would have consequences for sustainability, in relation to the employment and housing markets in York, and for the population balance of the City². There is a relatively large net inflow of retired households. Such a flow could be encouraged by the recent preponderance of relatively small dwellings, though it is particularly pronounced in the ‘affordable’ sector. There is a substantial net outflow of newly forming households. Of course, those households would tend to command fewer assets and be less well off than others. Hence, the imbalance in the housing market would force some of them to occupy unsuitable housing or force them to move out of the City to housing in less sustainable locations. Indeed, the imbalance also appears to result in a small net outflow of ‘working’ households, thereby exacerbating commuting problems and adding to the pressure for longer journeys to work. That process might also explain the comparative wealth of the in-migrants within the ‘market’ sector compared to those already living within the City. It is the better off who can afford the higher prices that the imbalance in the housing market is likely to produce.

Meeting the need for affordable housing

The need for affordable housing

- 6.35 The Housing Needs Assessment³ undertaken in 2002 suggested that there was then an annual requirement for some 790 affordable dwellings to meet the newly arising housing needs of households falling into ‘need’ within the City. That excludes an allowance of 165 dwellings to eradicate the estimated ‘backlog’ of unmet housing needs over a 5 year period; during that 5 year period the annual requirement would be for some 955 affordable dwellings⁴. The updated ‘needs assessment’⁵ undertaken in 2006 shows that there is now an annual requirement for some 720 affordable dwellings to meet newly arising housing needs. It would appear reasonable to add to that figure an allowance of 145 dwellings to eradicate the estimated ‘backlog’ of unmet housing needs on the same basis as the initial Housing Needs Assessment; that would result in an annual requirement of some 865 affordable dwellings⁶. Some improvement might be implied over the period. But, it is clear that the need for affordable housing in York remains very great. It substantially exceeds the full annual housing requirement set out in the emerging RSS.
- 6.36 The results from the ‘balanced housing market’ assessment in table 3 suggest that future demands for affordable housing may be even greater. That is partly due to the method depending on the ‘future expectations’ of households rather than on past trends. It is also due to the estimated

¹ CD1, table 7.2

² This is set out in CD152, particularly the commentary on figure 8.3 and table 8.5, and Y5

³ CD163

⁴ See table 3 and the relevant notes.

⁵ CD152, Y5 and Y6

⁶ See table 3 and the relevant notes.

supply of affordable dwellings being only about 60% of that identified in the ‘basic needs assessment’, which may indicate that survey respondents are unaware of significant elements that contribute to the future supply of affordable homes. Nevertheless, it does not matter much which method might be the more robust. Both show a substantial and ongoing need for more affordable housing in the City¹.

Table 3: Estimates of future affordable housing requirements: the Basic Needs Assessment and the Balanced Housing Market 2002 and 2006

Newly arising need from:	Basic needs assessment 2002	Basic needs assessment 2006	Balanced housing market 2006
Household formation	678	462	695
Existing households	790	670	470
In-migrant households	387	438	450
Gross annual need	1855	1570	1615
Supply	1066	846	495
NEW NET ANNUAL NEED	789	724	1119

Notes: Sources are CD163 table 10.1, CD152 tables 10.1-10.8, Y5 and Y6 table A2.1.

Figures for the ‘balanced housing market’ exclude households already in affordable housing to provide an appropriate comparison, see appendix 2 in Y6

Figures for ‘existing needs’ and an allowance for reducing the resulting ‘backlog’ are not included in the table. For the 2002 assessment that allowance amounted to an annual requirement for an additional 165 affordable dwellings over 5 years (see table 10.1 in CD163). The Inspector suggests that an equivalent allowance for the 2006 assessment would be about 145. That is derived from the total net need in table 9.5 of CD152 apportioned over a 5 year period.

6.37 Within that substantial requirement for more affordable housing there is a special need to provide additional affordable family houses. That is not because the greatest expressed demands are from those needing family houses. They are not. Even though the estimated annual need² is for some 59% of the affordable homes to be houses (or bungalows), it is clear that many of them must be only 1 or 2 bedroom properties. Moreover a preponderance of requests from those on both the Council’s and on Joseph Rowntree’s waiting lists is for flats (57% and 60% respectively³) rather than houses. Instead, it is due to the requirements for affordable family houses being much less easy to meet. First, nearly 4 times as many Council flats become available each year than do houses. Hence, there is a larger supply of properties to meet the expressed requests, a proportion of which might well reflect just that fact. Second, the highest need for homeless households is for 3 and 4 bedroom accommodation (61%). Third, almost all (88%) of the Council dwellings ‘lost’ under the ‘right to buy’ legislation between 1998 and 2004 were houses. Hence, both the Council and Joseph Rowntree find it hardest to meet the need for affordable family housing⁴.

The provision of affordable housing

6.38 Just as with the overall housing provision, there would appear to be no obvious way to meet the need for affordable housing, particularly in the absence of the 2 application sites. Of course, the main source of supply is from re-lets of the existing stock. That is explicitly allowed for in the estimates of need outlined above and the appropriate figures are included in table 3. The only additional sources of supply must involve housing development. The current version of policy H2a is that on sites of 0.3ha or more, and in relation to schemes involving 15 or more dwellings,

¹ Y6

² See table [2] and CD152

³ See table [2] for the Council waiting list and JS4, table 11

⁴ These figures and conclusion are at JS4, paragraph 8.8

50% must be affordable housing units (45% for rent and 5% for discounted sale). Hence, contributions to the supply of affordable housing might materialise from:

- suitably large ‘windfall’ sites;
- unimplemented or uncompleted planning permissions;
- remaining sites allocated in the Local Plan; and,
- schemes supported by the Housing Corporation without planning permission.

- 6.39 In general, even if ‘brownfield windfall’ sites were not too small to accommodate affordable housing, high development costs might be expected to rule out any substantial supply from that source; the requirement for affordable housing could well render the site unviable and thus stymie development¹. However, some of the brownfield sites listed as potential alternatives² would be large enough to make a contribution to affordable housing needs. Reflecting the assumptions set out at paragraph 6.28 above (namely that the playing fields at the Manor and Lowfield Schools are unlikely to be developed for housing and that no housing would materialise at the British Sugar factory site before 2016), then adherence to the Local Plan policy might produce about 90 affordable homes from this source³. Even assuming that half the dwellings deemed to be provided (unrealistically) at York Central by 2016 were affordable, there would be no more than 340 affordable dwellings that could currently be envisaged on sites that could be treated as ‘windfalls’.
- 6.40 Of the sites with unimplemented or uncompleted planning permissions, 4 of them are estimated as likely to be completed in 2006/7 producing about 68 affordable dwellings most of which (54%) would be flats⁴. There can be less certainty about the remaining sites with planning permission. However, the estimate is that some 383 affordable dwellings might materialise there of which practically all, where descriptions are reasonable, would be flats (about 92%)⁵. Of course, there must be even less certainty about the remaining sites allocated in the Local Plan. Most of those are small and subject to several constraints. But, assuming that they all come forward for development before 2016 and that the schemes comply with the requirements of the Local Plan, it is estimated that they might contribute about 97 affordable dwellings⁶. Finally, there are the schemes supported by the Housing Corporation but which do not yet have planning permission; 81 affordable dwellings can be identified⁷.
- 6.41 The grand total from all those sources would amount to about 900 affordable dwellings. But that would represent the provision over the next 10 years up to 2016; that is an average of 90 affordable dwellings a year. Clearly, the identified potential supply would fail to address the estimated need. It would either be little more than enough to meet the identified need for one year or it would amount to just 12% of the estimated annual requirement. Moreover, where the type of affordable housing to be provided is indicated, it would not appear to reflect current requirements. In those schemes shortly to be completed and those benefiting from planning permission about 54% and 92% (respectively) of the affordable dwellings would be flats. The results of the Housing Market Assessment indicate that only 41% should be so. Both the type and quantity of affordable housing in the pipeline must thus fail by some considerable margin to meet the needs identified.

¹ JS4

² See the section on *York Central and other sites* in the section dealing with *numerical housing requirements*.

³ That is roughly 50% of the dwellings that might materialise on the Terry’s site and the developed part of Manor and Lowfield Schools. The Inspector has inserted this potential contribution for consistency.

⁴ JS4, table 12 part A

⁵ JS4, table 12 parts B and C. These numbers include the totals for the York College site although, in the absence of any details, the percentages for flats do not.

⁶ JS4, page 32

⁷ JS4, page 33

- 6.42 Both schemes would represent a very significant contribution to meeting the need for affordable housing in York, particularly in relation to providing affordable family housing. The scheme at Germany Beck would result in 245 additional affordable units (35% of the proposed dwellings), of which 55% would be 3 or 4 bedroom houses with the remainder being 2 bedroom houses or flats¹. At Derwenthorpe some 216 affordable units would be provided (40% of the proposed dwellings), of which, roughly, 41% would be 3 or 4 bedroom houses with only about 21% being flats rather than a house or bungalow². The combined provision of over 460 affordable homes would represent almost 64% of the annual requirement³ and amount to about ½ of the total supply that can currently be foreseen even on the basis of the most optimistic assumptions. Moreover, the mix of affordable dwellings proposed would reflect the identified need for houses rather than flats as well as helping to ease the expressed difficulty of providing affordable houses for families.
- 6.43 However, the Council do not require these applications to be judged against the current version of policy H2a⁴. So, although the schemes do not meet the requirement to provide 50% of the dwellings as affordable housing, the Council do not insist that a lack of viability must be demonstrated to warrant a relaxation of the policy. That is, essentially, a requirement imposed from the Pre-Inquiry Meeting⁵; the Council do not comment on or, necessarily, endorse that approach.
- 6.44 Rather, the Council have considered both applications against the criteria that applied previously, namely that such schemes should provide 25% of the dwellings proposed as affordable homes⁶. The circumstances relating to each scheme are slightly different⁷. In the case of Derwenthorpe the application was considered by the planning committee in January 2005 against the criteria set out in the 2nd set of Changes (2002). The scheme offered 35% of the homes as affordable housing in excess of the then pertaining requirements partly as a result of a joint effort aimed at delivering a scheme for a balanced and sustainable community with a significant level of affordable housing. It is in that context that members requested further consideration for the possibility of increasing the level of provision to 40%. The current scheme not only achieves that level of affordable housing, but also incorporates provision for reinvesting any surplus actually achieved in building additional affordable units.
- 6.45 In the case of the proposal at Germany Beck the application was considered by the planning committee in May 2005. That was one month after it had been resolved to use the 4th set of Changes (2005) for development control purposes, so the requirement for 50% of the dwellings to be affordable would normally have applied. However, the application had first been submitted in 2001 and considerable effort had been expended in negotiations and discussions over that period. The approach adopted by the Council to applications which had been pending for such a long time was to apply the affordable housing requirements set out in the 2nd set of Changes (2002) seeking only 25% of the dwellings to be affordable. A similar approach was followed in relation to other large or complicated sites (such as those at Hungate, Frog Hall, Connaught Court and the like). The initial proposal at Germany Beck met that requirement: the current scheme exceeds it.
- 6.46 Nevertheless, both schemes exceed the indicative targets for the provision of affordable housing

¹ This is the same distribution as for the scheme as a whole.

² JRHT/JH/1 appendix 4a gives figures for both rented and low cost homes for sale. The figures above are combined.

³ That is 460 as a percentage of 724, see table ...

⁴ CD1

⁵ See the section on *procedure* and the notes to the Pre-Inquiry Meeting.

⁶ CD132

⁷ Details are set out in Mr Forsdick's submissions.

set out in the latest version of the Local Plan¹. In that sense, therefore, they would comply with current planning policies even though neither would strictly adhere to the requirements set out in policy H2a. The Council welcome the additional provision of affordable housing. However, the financial appraisals have not been assessed and the Council does not endorse the methodology adopted.

Site selection

Is there a sequentially preferable site?

- 6.47 It has been demonstrated in previous sections that the ‘windfall’ assumptions are reasonable, that no additional ‘brownfield’ site can be identified as suitable for development and that the development of those brownfield sites that are identified cannot easily be brought forward or speeded up. It follows that the shortfall identified in table 1 must remain unless further greenfield land can be found. As PPG3 indicates, the most suitable locations are likely to be those that would form ‘urban extensions’ to the built up area rather than more isolated sites. Even so, such sites are to be subjected to several tests relating to their sustainability and potential environmental impact. The task now is, given the absence of any suitable brownfield site, to consider whether any ‘sequentially preferable urban extension’ can be identified in place of either application site.
- 6.48 The protracted evolution of the Local Plan has meant that the sites included in the 4th set of Changes have been subjected to considerable scrutiny. Assessments, and an appropriate methodology, were evolved in 2001 in considering the Green Belt². They were further developed in the context of the Urban Capacity Study 2003³ and in assessing sites to inform the 3rd set of Changes⁴ (also in 2003). All the sites identified in the context of the Local Plan process through objections and consultations were considered, alongside those initially proposed as allocations. The process has resulted in the allocations identified in the 4th set of Changes 2005⁵.
- 6.49 It is only necessary here to outline the site selection process relating to the identification of non-urban or greenfield sites (in the absence of sufficient brownfield land) and to explain why a few brownfield sites that passed the various tests were excluded. In relation to the latter, a small site (0.4ha) at Lea Way, Huntingdon, was deemed to be unsuitable because, being part of a residential curtilage, development would have jeopardised residential amenity and damaged the character of the area. A larger site (2.5 ha) at the Retreat, Heslington (part of a mental hospital) was within the Green Belt and, as an eighteenth century structure, formed a focal point of a Conservation Area; such circumstances rendered the site inappropriate for development. Finally, the land at Bootham Crescent remains home to York City Football Club; as indicated above, the site is unlikely to be available before 2016⁶.
- 6.50 The site selection process relating to the identification of suitable non-urban or greenfield sites included assessments based on the following criteria:
- the historic character and setting of York,
 - environmental matters, mainly nature conservation and flood risks,
 - access to public transport, facilities and services, and
 - the impact on the road network.
- 6.51 The first two sets of criteria were essentially applied as ‘sieve maps’ to preclude sites were

¹ CD1, table 7.2

² CD161

³ ID53

⁴ ID19, ID52

⁵ JS5

⁶ See paragraph 6.27, above

development would be damaging or unsuitable. As the primary purpose for including land within the York Green Belt is to preserve the historic character and setting of the City¹, areas contributing to that setting are excluded from selection as development sites. Such areas include places that retain, reinforce or extend the pattern of historic green wedges; the historic strays and 'ings', adjacent open areas or other pieces of undeveloped land that help to reinforce and perpetuate the existing urban form of the City. Similarly, those tracts of land contributing to the rural setting of the City are to be protected, particularly those providing good views of the Minster or of an historic urban edge. And, land that contributes to the setting of villages still retaining much of their historic character is to be kept undeveloped. In relation to the environmental criteria, sites identified as having nature conservation value (whether statutorily or locally recognised) are excluded as future potential development locations², along with appropriate buffer areas. And, greenfield land liable to flood was ruled out of any locational search for future development sites³.

- 6.52 Sites not ruled out against any of the above criteria were then assessed in relation to the 'sustainability' criteria. All 'suitable' sites had to be within 800m of an existing or potential park and ride facility, rail halt or frequent bus service (every 15 minutes). They also had to be within a 10-15 minutes walk of at least 3 facilities or services such as a primary school, health facilities, a food store, a post office or a pharmacy. Finally, the highway capacity was assessed to ensure that potential development locations would not have an unacceptable impact on the City's road network; the assessment involved detailed computer modelling⁴.
- 6.53 The sites which passed those tests were then subjected to 2 further tests. First, consideration was given to whether the 4th set of Changes indicated the land to be within the Green Belt. Essentially the Green Belt boundaries identified follow those that had been scrutinised in the context of the York Green Belt Local Plan. Since that Plan had reached its Post-Modification stage in September 1995 they could be regarded as being almost endorsed in the context of the Local Plan process and as having accrued a degree of permanence. Second, the sequential test advocated in PPG3 indicates that land within urban areas and urban extensions are to be preferred as locations for development to sites elsewhere; those 'preferences' are applied to the site selection process.
- 6.54 The results of that process are set out in JS5. Two 'suitable' sites are identified as being within the urban area and beyond the Green Belt at York RI Rugby Ground and as MOD land at Fulford. The latter is allocated for housing in the Local Plan. But the former serves as open space and is shown as such in the initial versions of the Plan; its reallocation for housing was deemed to be inappropriate. As insufficient 'greenfield' land is identified 'within the urban area', it is necessary to look for 'urban extensions' to meet the housing requirements of the City. The only sites that pass all the relevant tests are the 2 application sites. It follows that there is no obvious sequentially preferable site that can be substituted for either location as a means of meeting the housing requirements in terms of numbers, mix of dwellings and affordable units.
- 6.55 The potential alternative site of particular concern to objectors is the land at New Lane, Huntingdon. This is a greenfield site of some 15ha that had been allocated for housing in the 3rd set of Changes, though policy H3b indicated that it would only be developed before 2006 if monitoring demonstrated that it would be needed; no such restriction was imposed on the application sites⁵. Clearly then, even when allocated, development of the application sites was to be preferred to development at New Lane, Huntingdon. Not surprisingly, once it was apparent

¹ Confirmed by CD130

² ID93

³ Flood Risk Zones 2 and 3 are shown in appendix A to JS5.

⁴ JS5

⁵ ID52

that sufficient housing land could be identified without it, the site was removed from the housing allocations¹.

- 6.56 Moreover, its removal reflected the Green Belt status of the site, for although the Inspector for the York Green Belt Local Plan had recommended that the site should be excluded from the Green Belt, the County Council had disagreed, seeing it as contributing to the open land beside the Malton Road²; at the Post-Modification stage of that Plan, the site was shown as within the Green Belt³. There is nothing of importance for nature conservation⁴ accommodated on the site at New Lane, Huntingdon. But recently, in August 2003, part of the site was designated as a Scheduled Ancient Monument, surviving ‘banks’ being assessed as part of an early Roman camp⁵. It is also apparent that development of the site could well exacerbate congestion. Improvement in the capacity of the A1237 Outer Ring Road is a key objective of the latest Local Transport Plan⁶ with the aim of diverting traffic away from the City centre and releasing space in the centre for alternative users. But New Lane (the main access to the site) effectively serves as part of a connection between 2 junctions on the Outer Ring Road; one of them (via Malton Road) is the Hopgrove Roundabout, which is already particularly congested. Moreover, studies⁷ had revealed that the A1237 would become heavily overloaded if all the mooted developments in the north west and north east sectors of the City were to be implemented. Alternative locations were thus sought for some of that development, including the housing then proposed at New Lane. There are, therefore, very good reasons for not currently allocating the site at New Lane, Huntingdon for housing. It would, in any case, not be sequentially preferable to either of the application sites.

Is the location sustainable?

- 6.57 Given the ‘sustainability’ criteria for selecting sites to accommodate residential development, it would be surprising if any unsustainable location were to percolate through the process for allocation. All ‘suitable’ sites are to be within 800m of a frequent bus service (every 15 minutes). Both application sites meet that criterion. There are frequent bus services on Main Street, Fulford and Heslington Lane in relation to Germany Beck and through Osbaldwick Village in relation to Derwenthorpe; the latter also benefits from a ½ hourly bus service along Bad Bargain Lane.
- 6.58 Suitable sites are also chosen to be within a 10-15 minutes walk of at least 3 facilities or services such as a primary school, health facilities, a food store, a post office or a pharmacy. At Germany Beck there is a post office, one or two shops and a small general store in Fulford and both a primary and secondary school in Heslington Lane. At Derwenthorpe there are numerous facilities within a 10 minute walk, including primary schools, shops, a library and a health centre. Both sites are also close to several community buildings. And, they both offer the opportunity for prospective residents to make use of footpaths and cycleways to reach the nearby facilities and services. The final criterion, the impact on the City’s road network, is to be considered later. But, the proximity of frequent public transport provision, good footpaths and cycleways and the proximity of shops and community facilities demonstrate the wide range of measures available to reduce reliance on the private car. The application sites thus both represent sustainable locations.

¹ CD157 p13

² ID37, page 66

³ CD11

⁴ ID93

⁵ ID73a

⁶ CD5 and Y7

⁷ Y7A

The suitability of the schemes; Germany Beck and Derwenthorpe

Are the schemes 'designed for quality'?

- 6.59 The aim at Germany Beck is to create a vibrant mixed community contributing to, and integrated into, its surroundings¹. There is to be a wide variety of housing in terms of size, type and tenure designed to reflect local style and character with 35% of the dwellings to be provided as affordable homes. Every property is to achieve an 'EcoHomes' rating of 'excellent' and be designed to a 'lifetime' standard. The use of 'home zones' integrated with footpaths, cycleways, open space and the nature park would offer safe and easy movement between neighbourhoods as well as into the surrounding area and the nearby community facilities, so fostering natural surveillance². About 16ha of open space is to be provided³ and off-site facilities, such as a 'multi use games area' and indoor sports hall, created at the School. The SINC would be restored and enhanced, flood risks alleviated with the use of 'sustainable drainage systems' and landscaping designed to create an attractive sylvan edge to the urban area.
- 6.60 At Derwenthorpe the main aim is to create a strong mixed tenure community offering real choice and a high quality of life for residents from a wide range of social and economic backgrounds. That is to be achieved by 'seamlessly integrating' affordable and private housing⁴. A wide range of type and size of housing is envisaged with 40% of the dwellings to be offered as affordable homes. Every dwelling is to achieve an 'EcoHomes' rating of 'very good' and be designed to 'Lifetime Homes' standards⁵. Design codes⁶ would ensure a high quality of design reflecting local characteristics in a contemporary manner. The use of 'perimeter blocks'⁷ and 'home zones', arranged in 4 distinct neighbourhoods⁸ and integrated with footpaths, cycleways, open space and the 'natural' zones, would provide opportunities for safe and easy movement within the scheme, into neighbourhoods nearby and to the local schools or shops, so fostering natural surveillance. About 7.2ha of open space would be provided with additional off-site provision at local schools and at New Earswick. Natural areas are to be retained and enhanced, flood risks alleviated with the use of 'sustainable drainage systems' and additional planting undertaken to create an attractive sylvan edge to the urban area. The quality of the scheme is recognised by several respected organisations.

Are the schemes sustainable?

- 6.61 Both sites are well located in relation to public transport, shops, services and community facilities because such criteria were important in the site selection process. Both schemes incorporate further measures to support public transport, encourage travel by means other than the private car, provide sustainable and adaptable housing, enhance biodiversity and prevent flood risks⁹. The proposals represent pioneering sustainable development in relation to large scale housing schemes.

Do the schemes make 'the best use of land'?

- 6.62 PPG3 indicates that the efficient use of land for housing should entail development at a net density (excluding open space, distributor roads and the like) of 30-50dph. The average net

¹ PH/PJR/1 and PH/PJR/1.1

² PH/GBH/1 and PH/BGH/16

³ PH/PJR/1 and PH/PJR/1.1

⁴ JRHT/CR

⁵ ID127

⁶ CD149 and CD150

⁷ The form provides a clear distinction between the public and the private realm, as suggested in CD104; 'home zones' are described in CD106.

⁸ JRHT/CR/1

⁹ The details are set out in the relevant sections in the applicants' cases.

density at Germany Beck would be roughly 40dph¹: the average net density at Derwenthorpe would be about 39dph².

Do the schemes 'green' the residential environment?

- 6.63 Both schemes include substantial amounts of open space. At Germany Beck open areas constitute about 16ha or 47% of the whole site. At Derwenthorpe about 7.2ha or almost 33% of the site would accommodate some form of open space. In addition, the open areas, incidental landscaping and planting would be integrated with the residential neighbourhoods, footpaths and cycleways, so creating a verdant residential development.
- 6.64 The provision of recreational and amenity open space sought within developments is set out in a draft guidance document³; this has been subjected to extensive public consultation during November 2005 to January 2006 and is consistent with policy L1c of the Local Plan. The 'requirement' relates to 'children's equipped play space' 'informal amenity open space', and 'outdoor sports facilities' and the 'rate of provision' depends, amongst other things, on the size of dwelling proposed.
- 6.65 Assuming (for simplicity) that the scheme at Germany Beck would result in an average 3 bedroom dwelling size across the site, about 6.4ha of recreational and amenity open space would be required. The 'master plan' has not yet reached a stage where different categories of open space can be identified. However, given that 16ha of parks, play areas, greenways, nature conservation areas and landscaping is currently envisaged, the potential provision would substantially exceed the requirement. Moreover, substantial sums are to be provided to improve and extend the Parish recreation area, provide a 'multi use games area' and an indoor sports hall at the local school⁴. On the same basis the Derwenthorpe scheme would result in a requirement for just under 5ha of recreational and amenity open space. The proposal would provide substantially more on site (about 7.2ha) but, as currently envisaged, the 'master plan' would not accommodate the quantities of the different types of open space sought by the guidance. For example, some 2400m² of 'children's play space' is shown on the 'master plan' against a potential requirement for almost 7600m² and the only 'outdoor sports facility' to be provided on the site would be the 'trim trail'. However, substantial contributions are to be made to support a multi-use games area and enhanced sports facilities at local schools in accordance with current policies⁵ and projected needs⁶. Moreover, additional off-site provision is to be made by creating an area of nature conservation interest at New Earswick.

The Green Belt

The 'general extent' of the Green Belt and the status of the sites

- 6.66 The 'general extent' of the Green Belt around York was identified in policy E8 of the North Yorkshire Structure Plan (approved in 1980) as 'a belt whose outer edge is about 6 miles from York City centre'. The policy provides no precision in relation to either the outer or the inner boundary. Nor should precision be expected. The document deals with strategic matters. And, to reinforce the point, the policies and proposals are 'illustrated' not on an Ordnance Survey base, but diagrammatically on a Key Diagram.
- 6.67 Since then, considerable effort has been expended on trying to progress towards a statutory Green

¹ PH/PJR/1 and PH/PJR/1.1

² JRHT/CR

³ Open Space in New Developments - A Guide for Developers, CD7

⁴ Projected needs for some sports facilities are estimated in CD57.

⁵ See, Making a Difference: A Blueprint for Action for Sport and Active Leisure in York, CD52.

⁶ CD56

Belt. The most comprehensive attempt began with the preparation of the Greater York Study and its evolution into a Strategy¹ (looking forward to 2006) in 1991. That provided the background for the preparation of the York Green Belt Local Plan (1990-1991)², the Southern Ryedale Local Plan³ (which emerged at the same time) and the Selby District-wide Local Plan⁴ (1995). A key element to that background was for a new settlement of some 1000 dwellings located somewhere beyond the Green Belt to cater for the development pressure around York. It follows that consideration of detailed Green Belt boundaries, and particularly the inner ones, was being undertaken without the need to accommodate all the development envisaged in the vicinity of the City. Clearly, such an option then allowed for the possibility of tighter inner boundaries being defined than would otherwise have been the case.

- 6.68 A thorough evaluation of all the objections relating to the York Green Belt Local Plan and the Southern Ryedale Local Plan was held at a Local Plan Inquiry, with reports published in 1994. The Inspector recommended that both application sites should be excluded from the Green Belt, in essence because neither served a Green Belt purpose. The recommendations were not predicated on a particular ‘need’ nor were they subject to a particular form of development being implemented⁵. Rather, they simply reflect the purposes of the Green Belt. The recommendations relating to the application sites were accepted by the relevant planning authorities. Both Plans were published with Modifications in 1994 with the sites at Germany Beck and Derwenthorpe shown to be outside the Green Belt. In the case of Derwenthorpe, the Southern Ryedale Local Plan allocated the site for housing. In the case of Germany Beck, much of the site was later allocated for housing in the Selby District-wide Local Plan. But, the adoption of the York Green Belt Local Plan was prevented by the decision, taken in the context of up-dating the Structure Plan, to abandon the strategy of a new settlement beyond the Green Belt. Clearly, abandoning that strategy implied a need to find land for an additional 1000 dwellings or so within the vicinity of York and, consequently, the need to release more, not less, Green Belt land.
- 6.69 The likely need to release land shown as within the Green Belt in the York Green Belt Local Plan has been pursued subsequently. It formed one reason for seeking to define only temporary Green Belt boundaries in the first version of the City of York Local Plan 1998. And the decision to allocate the New Lane site, and to safeguard land to the west of the City for future development, can be seen in the same light. The point is that, in order to accommodate development once envisaged as being part of a new settlement beyond the Green Belt, it is likely that more land originally envisaged as Green Belt must be released. This is even more urgent now given the identified needs for more housing, for family housing and for affordable dwellings. The application sites thus cannot be regarded as being within the Green Belt. They may be within the ‘general extent’ of a Green Belt, but they have been shown as beyond it on Plans that have been prepared and scrutinised within a local plan process on several occasions throughout the previous decade. And, even if that were not reason enough for excluding the sites from the Green Belt, the urgent need to provide housing would constitute ‘very special circumstances’ for doing so.
- 6.70 The idea that a plan on an Ordnance Survey base and related to preparations for updating the North Yorkshire Structure Plan can ‘precisely’ define the ‘general extent’ of the Green Belt around York is clearly a contradiction in terms. Moreover, whatever purpose such a plan might have served, it could not be used to reinterpret the Key Diagram. Such a function would clearly usurp the statutory role of the Key Diagram, conflict with the strategic nature of the Structure Plan

¹ CD47

² CD130-CD130b

³ CD85 and CD86

⁴ CD66

⁵ As, for example, a scheme providing a large amount of open space.

and pre-empt the decisions procedurally required to be taken in the context of preparing Local Plans. Nor is the RSS process going to provide any more than some indication of the ‘general extent’ of the Green Belt. It might not even do that. But, whatever such an indication might entail, it cannot take the designation of Green Belt land any further, in terms of precision, than the Structure Plan. It is, after all, a strategic document.

The potential contribution of the sites to the Green Belt

- 6.71 The principal purpose of the York Green Belt is to preserve the setting and special character of the City. Both sites were carefully assessed during the Inquiry into objections to the York Green Belt Local Plan¹. In neither case was their ‘openness’ found to contribute to that special purpose. In relation to Germany Beck, the built up edge was seen as illogical and unattractive. In relation to Derwenthorpe there were no important views across the site, which was also adjacent to, and largely surrounded by, suburban development. A clear distinction was drawn between both sites and the historic strays and green wedges crucial to the character of York. Nothing has subsequently changed materially that would warrant a different decision except the need to find more land for housing in the vicinity of York.
- 6.72 In addition, neither site would fulfil any other Green Belt purpose. Keeping them open would not check the unrestricted sprawl and assist in safeguarding the countryside from encroachment because the sites are adjacent to development on either 2 or 3 sides and the schemes would extend to form natural boundaries at the new nature park beside Germany Beck or the thick hedgerow beside Metcalf Lane. There is no need to prevent neighbouring towns from merging into one another, since there are no neighbouring towns here. Nor is there a need to prevent either development to assist in urban regeneration. Quite the reverse. The evidence demonstrates that both sites are required to meet the housing needs of the City².
- 6.73 Of course, both sites might have a positive role to play in fulfilling similar objectives to Green Belt land. No one is denying that they provide access to the open countryside for residents of York and opportunities to pursue some forms of recreation, such as cycling, horse riding and the like. And, although neither landscape is particularly attractive, both sites offer some nature conservation interest and one consists of the ‘best and most versatile’ agricultural land. But it is important not to confuse the purposes of including land within the Green Belt and the objectives for land actually within a Green Belt. The extent to which a piece of land might serve such objectives is irrelevant to deciding whether or not it should be Green Belt³.

Appropriate Green Belt boundaries

- 6.74 Both schemes include substantial landscaping to create or reinforce a strong sylvan edge to the urban area. In the case of Germany Beck, the recommendation made in relation to the York Green Belt Local Plan was that the existing built up edge was an illogical and unattractive one to serve as a Green Belt boundary. A more ‘realistic’ boundary was implied in the suggestion that it was the land to the south of Germany Beck and Germany Lane that was essential to keep open for Green Belt purposes⁴. The scheme would do just that. And, a particularly strong boundary would be created by the natural barrier of the Beck reinforced with additional swales and retention ponds, the nature park and generous landscaping. Nothing has subsequently changed to undermine the recommendation made in 1994. Fencing has been erected around the school grounds and some larger new buildings have been built within them. But those are minor changes. The boundaries that would result from the scheme would reflect the advice in PPG2 to

¹ ID37

² See the housing sections above

³ the distinction is set out in PPG2

⁴ ID37, paragraph C69.14

create secure boundaries following clearly defined features, such as streams, tree belts or woodland edges.

- 6.75 In the case of Derwenthorpe the recommendation made in relation to the York Green Belt Local Plan involved the absence of important views across the site and its character as an ‘indentation in the boundary’ adjacent to normal suburban development. Nothing has changed. True, glimpses of the Minster are possible from Metcalf Lane and elsewhere. But bits of the structure are simply seen between gaps of suburban development. The might and grandeur of the building are entirely obscured and its dominating presence within the City, and of the surrounding countryside, is entirely absent. If anything, the burgeoning hedges have accentuated the enclosure of the site. Again, the boundaries that would result from the scheme would properly reflect the advice in PPG2. The thick hedge along Metcalf Lane, reinforced with additional landscaping and open space, would represent exactly the sort of secure boundary advocated in following a clearly defined feature.

The impact on the Conservation Areas

- 6.76 The starting point for considering the impact of both schemes on their respective Conservation Areas nearby is the advice in PPG15 and the ‘statutory duty’ under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring special attention to be given to the desirability of preserving or enhancing the character or appearance of such places. Policy N2 of the RSS insists that new development should respect or enhances local character and distinctiveness and that it should not detract from the historic environment of the region. Policies E4 and E5 of the Structure Plan similarly seek to protect areas of special townscape, architectural or historic interest and sites of archaeological importance. And, policy HE2 of the City of York Local Plan requires that development nearby or adjoining Conservation Areas should respect the settings of such designated areas¹.
- 6.77 The site at Germany Beck largely lies outside but abutting the Fulford Conservation Area. So, it is important that the scheme should not impair the setting of the place or views into or out of the village. It is quite clear from the designation document that the Conservation Area has been drawn to include ‘areas extending behind Main Street, which are part of the historic field pattern and landscape setting of Fulford’². No part of the application site to the east of School Lane is included within the Conservation Area boundary because it does not form part of the historic field pattern or the landscape setting of Fulford. Moreover, intervening 20th century housing would serve to separate and obscure the site from important vantage points within the core of the Conservation Area, and open space would provide a visual distinction between the proposed development and the dwellings on School Lane. The Design Character Appraisal submitted with the planning application indicates the intention that the new houses would be sympathetic to the Conservation Area in terms of design, scale, height, massing and materials. Of course, the application is only made in outline, but a condition could control roof design and materials in the vicinity of the Conservation Area to ensure that such features reflected the key characteristics of the place. Screening of the new southern boundary to the urban area would also be important to soften the impact of the scheme from the A64 bypass. In those circumstances, the Council agrees with the assessment of English Heritage that the proposal would not adversely affect the character or appearance of the Conservation Area³.
- 6.78 The Osbaldwick Conservation Area was extended northwards and westwards in 2004 after the planning application for Derwenthorpe had been submitted. The decision to extend the

¹ Y2 and Y3

² CD63

³ Y3

Conservation Area thus took account of the application¹. Since it is clear from the designation document² that the purpose of the extension was to include land that formed an ‘open rural setting’ to the village or that retained a ‘legacy’ of the village’s medieval past, it must follow that the application site would not obviously serve either purpose. Moreover, the scheme incorporates 25m wide landscaped buffer zone to reinforce the thick hedgerows that already screen the site from the Conservation Area, especially the core of the village. Again, those circumstances convince the Council and English Heritage that the proposal would not adversely affect the character or appearance of the Conservation Area³.

The impact on neighbouring residents

Visual impacts

- 6.79 The scheme at Germany Beck would impinge on residents near or adjacent to the site⁴. In particular, those in the properties on School Lane and Tillmire Close that back on to the site and those in the residential home at Fulford Mews, who would be affected by the proposed access road passing close by. However, the application is made only in outline with details of the siting, design and layout of the houses, reserved for subsequent approval. Given the indications set out in the ‘master plan’, there would be more than sufficient scope to control such matters to prevent any undue affect on the outlook or living conditions that nearby residents might reasonably expect to enjoy. In the case of the residential home, that would involve careful and significant levels of landscape treatment. However, specific controls on the new dwellings in terms of height and proximity in relation to the existing properties in School Lane and Tillmire Close could be imposed by condition.
- 6.80 The scheme at Derwenthorpe would be adjacent to existing dwellings on 3 sides and, as with all major schemes, there would be some impact on the amenities of those in adjacent properties due to the construction and the subsequent occupation of the dwellings⁵. Some mitigation would stem from the use of 4 separate accesses, so that traffic would be dispersed to an acceptable level amongst the neighbourhoods adjacent to the site. Other concerns relating to the detailed siting, design and layout of the dwellings could await the approval of ‘reserved matters’. The illustrative ‘master plan’ provides an indication of the likely layout and provides adequate scope to control the ‘fine detail’ of the scheme in relation to particular neighbourhoods as, for example, at Meadlands. Apart from the public rights of way, there is no formal access to the site. On the contrary, the scheme would create additional areas of public open space. There is no evidence that the development would increase the opportunity for crime and a condition is recommended to ensure that crime prevention measures are incorporated into the detailed design.

Noise and air quality

- 6.81 The Council’s Environmental Protection Unit has carefully assessed the impact of the Germany Beck scheme on the potential air quality, noise and dust nuisance that might be caused to those nearby and in relation to the City as a whole. No objection is raised subject to the imposition of conditions restricting working hours and the movement of construction traffic⁶. There would also be no breaches of the current air quality objectives within the vicinity of the site even when the effects of the development at Derwenthorpe and the University expansion have been taken into account.

¹ Y2

² CD82

³ Y2

⁴ Y3 and Y4.2

⁵ Y2 and Y4.1

⁶ Y3 and Y4.2

6.82 Similar assessments have been undertaken in relation to Derwenthorpe¹. No objections are raised². Conditions are suggested to limit the hours of construction and require the use of techniques that would minimise noise and the effects of dust. There is also to be ‘a construction traffic management plan’ required under the terms of the section 106 Agreement.

The impact of traffic

Access arrangements

Germany Beck

- 6.83 The Development Brief for Germany Beck requires the site be developed with a single access from the A19. This happens to follow the initial suggestion in the draft Selby District Local Plan, but it also reflects the results of extensive study by the Council using its SATURN³ traffic model to test the impact of 10 different access arrangements, many including through routes between Fulford Road and Heslington Lane. Although the tests are based on earlier formulations of the proposal, they demonstrate that the access arrangements currently intended would result in the least impact on the highway network, particularly in relation to Heslington Lane, University Road and Field Lane. The disadvantage of the through routes tested is the creation of an alternative route for traffic bound for the City centre from the ring road (A64). The effect is to significantly increase traffic passing through Heslington Village and Field Lane⁴.
- 6.84 Surveys undertaken by the applicants at the Fordlands Road estate and in Fulford indicate a trip generation rate of 0.45 during peak periods with 75% turning towards the City centre⁵. Those figures are substantially lower than the trip generation rates of 0.54 and 0.61 normally used in the City during peak morning and evening periods respectively. In addition, the directional split derived from a very well established suburban estate is considered unlikely to reflect the travel patterns of prospective residents at Germany Beck. Hence, a typical 60:40 split towards the City centre is used, though to test the robustness of the scheme on the A64, a 50:50 split is adopted in tests applied to the junction of the A19 with the A64. The result is that the tests assume that the new development would generate 378 and 427 vehicles in the morning and evening peaks and that some 227 or 189 would travel towards the City centre during the morning period. The applicants had assumed that only 314 trips would be made in both peak periods and that some 236 would travel towards the City centre. Both sets of assumptions would thus have similar implications for Main Street, Fulford⁶.
- 6.85 The A19 through Fulford Village is already operating above its practical capacity during peak periods with saturation levels at almost 93%⁷. Modelling of traffic flows on the A19, assuming both application proposals and the University expansion are implemented, indicates that saturation levels would increase to about 112%⁸. In those conditions it is important that the proposed junction would inflict minimal additional delay on the A19 traffic. In effect, the parameters for the design are required to be ‘neutral’ during peak hours. The final design proposed has evolved through several stages and achieves the stipulated requirements. It is a ‘T’ junction with all traffic movements under signal control and with signal controlled pedestrian facilities across the A19 and the new link road. From the A64 a separate signal controlled facility would provide priority for buses; similar ‘bus gates’ operate successfully at three other locations

¹ Y2 and Y4.1

² Y4.6 and Y4.7

³ Simulation and Assignment of Traffic to Urban Road Networks, see Y9

⁴ Y9

⁵ PH/BGH

⁶ Y9

⁷ Y9, table 1

⁸ Y9, table 8

within York. Tests reveal that the junction would operate well and not exacerbate existing congestion. The maximum saturation level on the A19 arms would be about 92% (that is no more than the link itself) and the maximum queue length would amount to only 4 or 5 cars.

- 6.86 The junction would be designed so that the main access to the Fordlands Road estate would be via the new traffic light controlled junction on the A19. The northern section of Fordlands Road would become a one-way street and provide an alternative entrance to the new development from the City centre. It would also serve existing properties and the Fordlands Road Care Home. The new junction is designed to withstand flooding, so providing a dry vehicle route into and out of the application site and the Fordlands Road estate under the worst foreseeable flood conditions. A new access would also be provided to Fulford School via the spine road to a new coach and car park to the rear of the school. This would remove vehicles from Heslington Lane and from Fulford Gate (the main access to the school and a residential cul-de-sac. Traffic would also be removed from Main Street as the bulk of the school buses traverse Main Street travelling from the A64. Those movements are incorporated in the estimated traffic flows, though car-borne trips are assumed to use Heslington Lane¹.
- 6.87 The spine road would be designed as a cul-de-sac for private cars but serve as a through route for buses and emergency vehicles from Fordlands Road via Low Moor Avenue to Heslington Lane. Contributions would support a ¼ hourly bus service across the site. The site would be well served by footpaths and cycle routes to the north and to the west connecting to Fulford, Heslington and to the City centre. The scheme provides for substantial financial contributions to improve those connections, including the installation of a Toucan crossing on Main Street and the provision of traffic signals, pedestrian refuges and signage at the site access. Pedestrian and cycle links are also to be promoted.

Derwenthorpe

- 6.88 The site has a boundary with 3 public highways at Meadlands, Osbaldwick Village and Temple Avenue and with 2 privately maintained highways at Fifth Avenue and Metcalfe Lane. The private section of Fifth Avenue serves a Primary school and about 14 dwellings; it is a cul-de-sac and connects to the public section of Fifth Avenue. Metcalfe Lane supports a footpath and part of the national cycle network (route No.66 connecting York to Selby). Crossing the site from east to west is a cycle track owned and maintained by the cycle charity Sustrans. This also supports part of the national cycle route No.66 and provides access close to the City centre; links are available to Bad Bargain Lane via the Burnholme Community College and to Meadlands².
- 6.89 The development would be served by those existing residential roads. They have different characteristics³. Fifth Avenue is about 6.1m wide and has a maximum peak hour flow of 149 vehicles; it could accommodate up to 1500⁴ vehicles during the peak hour. Meadlands is about 5.5m wide and has a maximum peak hour flow of 75; it would be wide enough to accommodate 1100 vehicles during the peak hour. Temple Avenue is about 4.6m wide and also has a maximum peak hour flow of about 75; it could accommodate up to 900 vehicles during the peak hour. Lang Avenue is about 4.6m wide and has a maximum peak hour flow of 96; it would be wide enough to accommodate 900 vehicles during the peak hour. And, Osbaldwick Village is typically about 6.1m wide and has a maximum peak hour flow of about 74; it would be wide enough to accommodate 1100 vehicles during the peak hour.

¹ Y9

² Y8

³ Y8 and JRHT/AWM

⁴ These 'capacity' figures are taken from DMRB at CD153; they are set out in Y8. Flows are derived from the neighbourhood sizes and the trip generation rates, see Y8 and JRHT/AWM, which also give the carriageway dimensions.

- 6.90 All those roads serve existing dwellings and the existing flows reflect that fact. No evidence is adduced to demonstrate that they do not do so safely. The access arrangements proposed divide the traffic likely to be generated by the scheme between those existing access roads. Each access would serve one of four different neighbourhoods separated by areas of green space and with its own separate and independent vehicular access¹. The widest (Fifth Avenue) would accommodate the largest neighbourhood (185 units); using trip generation rates experienced in the area, the scheme would generate a further 102 vehicle trips. Both Meadlands and Temple Avenue would serve neighbourhoods of a similar size (125 units); they are expected to cater for 69 additional trips in peak hours. Osbaldwick Village would provide access to the least number of dwellings (105 units); that would generate about 58 additional trips².
- 6.91 Traffic flows on the roads directly connected to the site would clearly be well within the practical capacities. However, traffic on links to the wider network, and at some key junctions, are currently operating above the desirable levels³. For example, in the evening peak hour the junction between Hull Road (a main radial route) and Tang Hall Lane is operating in overloaded conditions with the highest degree of saturation on the most congested arm of the junction reaching about 105% in the evening peak hour; a typical queue length would be around 16 vehicles on Tang Hall Lane and about 30 on Hull Road. Similarly, the junction between Tang Hall Lane and Osbaldwick Lane is close to capacity (reaching a 'saturation' of 80%) during peak hours. In addition, peak hour conditions require the links of Tang Hall Lane and Hull Road to operate close to their practical capacities, 'saturation' levels reaching 83% and 77% respectively.
- 6.92 Although Tang Hall Lane is close to its practical capacity it has the potential to be used to bypass Melrosegate, a set of traffic signals and some signal controlled pedestrian crossings. Because it is relatively narrow and serves extensive residential areas the network has been managed to restrain traffic and to prevent measures that might encourage the greater use of that road. Cushion and speed tables are employed, a 20mph speed limit is in force and the capacity of the traffic light controlled junction with Hull Road is artificially restricted⁴. A similar package of restraint measures has been used to manage the potential for traffic to use the Osbaldwick Link Road, Osbaldwick Village and Osbaldwick Lane as a means taking a short cut through Osbaldwick to and from Hull Road. Hence, measures to improve the capacity of the Osbaldwick Lane and Tang Hall Lane junction have been consistently resisted in order to retain the 'throttle' on vehicle movement currently in place⁵.
- 6.93 The development assumes construction would be complete in 2009⁶. Traffic generation from the site has been based upon assumed trip generation rates of 0.55 during both morning and evening peaks. Those rates reflect the average rates generated by existing dwellings in the vicinity of the application site as determined by survey. The morning rate was found to be slightly lower (0.54) and the evening peak about the same (0.55). Hence, these rates are considered to be robust and more realistically reflect the conditions of the area than reliance upon an average of City wide sites⁷.
- 6.94 Average car ownership in the surrounding wards is between 0.8 and 1.1 cars per household. The intention to provide 1.1 car parking spaces per unit would thus be appropriate⁸. A relatively

¹ JRHT/AWM

² Y8

³ Y8, tables 1 and 2

⁴ Y8

⁵ Y8

⁶ JRHT/AWM and Y8

⁷ Y8

⁸ Y8 and JRHT/AWM

modest level of car parking provision would be complemented by measures to discourage car use and to encourage use of alternative transport modes. And, by proper design it would be possible to build out opportunities for people to park on the carriageway.

Measures to reduce car travel

6.95 A long term aim pursued by the City is to encourage the use of non-car modes. This has led to walking, cycling and public transport forming an important component in the travel patterns of the City. The important contribution of those measures in reducing car borne travel is demonstrated in the Local Transport Plan¹. In York non car modes account for almost 40% of the journeys to work with journeys on foot or by cycle accounting for roughly 14% and 12% respectively². Recent surveys suggest that those proportions may now be about 13% and 16%³. This is substantially higher than is generally achieved in England and Wales. Moreover, in peak hours not only do non car modes account for about half of all journeys to the City centre, but also the proportion using private cars to undertake such a journey has declined from about 43% to roughly 30% between 2000 and 2005⁴. This demonstrates that the policies pursued in the Local Transport Plans produce positive results. There is no reason to doubt that the ‘micro-application’ of those policies to the 2 application sites would not also achieve some success. And, of course, such results further justify the trip generation rates applied to the scheme.

Germany Beck

6.96 Given that sections of the existing highway network are ‘full’, a key aim of the Local Transport Plan is to restore highway capacity by removing private car journeys, particularly where congestion is most evident⁵. Hence, an overriding concern here is to ensure that the impact of the development on the road network is minimised. A crucial contribution to that aim is to ensure that the scheme would be safely and conveniently accessible by non car modes in order to minimise reliance on the private car as a means of transport especially during peak hours and to the City centre. Several measures are proposed to achieve that end⁶.

- A signalised junction on the A19 providing safe pedestrian and cycle crossing points and bus priority measures to improve reliability on a key bus corridor. The new traffic signals to be introduced at the junction of Naburn Lane and Selby Road would contribute to the ‘bus gate’ proposed;
- New cycle facilities on Fordlands Road to link the site to Main Street;
- Improvements and upgrading of the riverside footpath south of St Oswalds Road to provide a combined pedestrian and cycle route into the City centre;
- Creation of a shared footway and cycleway on Main Street between Landing Lane and Fordlands Road;
- Promotion of a pedestrian and cycle route through Fulfordgate, Heslington Lane, Grants Avenue, Danum Road, Broadway and Broadway West;
- The provision of pedestrian refuges at the junction of Heslington Lane and Broadway;
- Pump priming of a bus service to serve the whole of the development at a 15 minute frequency throughout the day;
- Formation of a an emergency link via Low Moor Avenue;
- Relocation of bus stops on the A19 to be closer to the new road junction;
- Provision of a controlled crossing on Main Street;

¹ CD5

² CD5, figure 3.8

³ Y7, Y8 and Y9

⁴ CD5, figure 3.5

⁵ CD5

⁶ Y9

- Contributions towards a City-wide car club for the benefit of prospective occupiers;
- Contributions to improvements to the junction between the A19 and A64 to increase capacity on the ‘ring road’.

6.97 The ‘bus gate’ on the A19 would make a very important contribution to encouraging the use of public transport in this particular corridor. Current delays to buses along the A19 are unacceptable and buses on other arterial routes, including most ‘park and ride’ services, have already benefited from such measures; this has contributed to the success of the City in keeping traffic growth down. The overall improvement to the corridor is included in the Local Transport Plan¹ and funds are available save for the signals to provide the ‘bus gate’ proffered by the application scheme². It is only by such means that priority for buses can be provided along Main Street, Fulford without the need for a physical bus lane. The signals would create a ‘virtual bus lane’ (with the help of the City’s MUSIC³ software) and so allow parking spaces and roadside verges to remain on Main Street. The character of the street and the trading conditions enjoyed by the local shops would be unimpaired.

6.98 The efforts to explore alternative bus access arrangements to Low Moor Avenue have proved to be unsuccessful at present. The configuration of Fulford Gate would be inadequate and interfere with school traffic. The use of Mitchel’s Lane cannot be guaranteed as it is not in the control of the applicant or the Council, though a condition might be imposed to ensure a potential link to Mitchel’s Lane remained. But the high number of objections recently received to the most recent arrangements and the revised Environmental Statement exhibit unjustified and exaggerated fears. Carriageways of 5.5m in width, some behind wide grass verges, are more than capable of accommodating 8 buses an hour without danger or detriment. And, although an attractive tree would be lost to provide access into the site, it is not a protected specimen.

Derwenthorpe

6.99 The site is close to footpaths and cycleways, bus routes, schools, local shops and community facilities. The layout of the scheme would provide a hierarchy of access arrangements incorporating a safe and convenient network of paths and cycle tracks that would be improved by carrying out physical works and integrating the on-site provision with the surrounding networks⁴. In that way the housing on the site would benefit from City wide connections to the centre, to schools and to industrial estates by means other than the private car⁵. Specific measures are designed to encourage alternative means to car-borne travel⁶. Additional cycle, pedestrian and bus facilities, together with physical improvements to existing highways, include⁷:

- A new bus-only link between Osbaldwick Village and Fifth Avenue, to be provided prior to the occupation of any dwelling in the Fifth Avenue or Meadlands neighbourhoods.
- Contributions towards a city wide car share club.
- Provision for each household of a bus travel pass for 6 months or a £150 voucher towards the purchase of a cycle.
- Provision of off road parking (on the basis of one space per dwelling) either within the dwelling curtilage or in a lay-by for each property in Temple Avenue, Ingleborough Avenue and Lang Avenue.

¹ CD5 p6

² These are the result of a section 106 Agreement in connection with the Designer Outlet, see Y7.

³ Y7

⁴ JRHT/CR and JRHT/AWM

⁵ Y8 and JRHT/AWM

⁶ See the section 106 Agreement

⁷ Y8

- Changes to that section of Temple Avenue between Ingleborough Avenue and Tang Hall Lane so as to create traffic calming chicanes.
- Creation of a one way system involving Temple Avenue, Ingleborough Avenue and Lang Avenue with consequential minor alterations in junction layouts.
- Promotion of a Traffic Regulation Order to prohibit on road parking on Temple Avenue between Ingleborough Avenue and the Temple Avenue Neighbourhood.
- Creation of a 'gateway' feature and at the entrance from Meadlands in the form of a raised table to the carriageway and minor alterations to the junctions between Meadlands and Bad Bargain Lane to increase footway widths.
- Provision of a raised table to the carriageway at the junction of Tang Hall Lane with Fifth Avenue.
- Improvements to Tang Hall Lane in the vicinity of the junction with Lang Avenue.
- Provision of a car park to serve the Osbaldwick Village Hall.
- Promotion, by way of signing, of the walking and cycling links to the site.
- Integrated links from the walking and cycling routes within the site to the Sustrans route.
- Provision of a new signal controlled crossing on Tang Hall Lane near the junction with Osbaldwick Lane.
- Provision of a new and improved footway from the site access to Metcalfe Lane.
- A new footpath to the Osbaldwick Village Hall and thereafter a footpath improvement to Osbaldwick Lane.
- A pedestrian crossing point on Osbaldwick Lane close to the junction with Osbaldwick Village.
- Improvements to the Sustrans route between Metcalfe Lane and Tang Hall Lane.
- Improvements to the link between the Sustrans route and Bad Bargain Lane.

Congestion and other problems

6.100 Traffic counts show that the month on month peak hour flow variations on the key routes in the City are slight and that there has been little change in the recent past during busy periods¹. But, because parts of the network is overloaded quite small daily variations in vehicle flows can significantly affect congestion encouraging drivers to use alternative travel modes, different routes or travel at different times to avoid delays and minimise uncertainty. The fluctuation can typically be in the range of +/-5%. On wet days, when a very small percentage of the 16% who normally cycle to work elect instead to travel by car, the variation can be more noticeable; traffic slows, queues lengthen and congestion increases².

6.101 When the practical capacity is exceeded the highway is 'full'³. Thus, it cannot accommodate additional traffic; any oversaturated link (or node) cannot accommodate more traffic and queues will build up as traffic waits to negotiate the oversaturated section. As a result delays may accumulate. The amount of additional time that any particular individual might be willing to wait will depend on the journey purpose and the individual concerned. But a time will be reached when a queue will cease to build and the rate at which traffic arrives will fall below the rate at which it leaves. Often the queue length may be determined by proximity to junctions providing alternative routes. For an individual, however, such congestion will result in the experience of a particular journey time. If that is not acceptable then, either another route must be found, or the journey foregone or a different way (by mode or time or route) of making the same journey negotiated. The process operates to largely stabilise the practical conditions experienced by individuals on that congested section. It follows that journey times for individuals are unlikely to

¹ Y8

² Y7 and Y9

³ Y7

change materially. Instead, congested conditions continue for longer as more vehicles negotiate the network. Peak hour conditions are simply extended until such time as the rate of arrivals falls below the rate of departures. Alternative routes to oversaturated sections might also be used more, unless measures are taken to restrict the use of any potential ‘short cut’.

- 6.102 The same processes would operate to accommodate additional traffic, such as that generated by the application proposals. The consequence of the schemes would thus not be grid-lock but an addition to the period over which peak hour conditions would be experienced. The provision of safe and convenient alternative means of transport is thus crucial in facilitating modal switch and minimising the duration of peak hour conditions¹.
- 6.103 As indicated above, the Germany Beck scheme would increase the degree of saturation on the A19 through Fulford Village from about 93%² to 112%³, an increase approaching 21%. It is expected (using the council’s traffic computer model SATURN⁴) that some traffic might seek alternative routes under those conditions with the main diversions modelled being to the A64 and to Malton Road. But, both of those roads accommodate some spare capacity and could accept some additional flows. As the diversions would add less than 5% to traffic flows, no obvious problem would ensue.
- 6.104 A further consequence of the scheme would be that additional traffic would be drawn through the junction between the A19 and the ring road (A64). The trunk road (the A64(T)) is under the control of the Highways Agency but the A19 beneath is controlled by the Highway Authority. The Secretary of State for Transport has issued a direction (under Article 14 of the Town and Country Planning (General Development Procedure) Order 1995) to ensure that conditions requiring improvements to the west slip road and southern roundabout are undertaken. On that basis the Highways Agency is fully satisfied that the development would have no adverse impact upon the A64(T).
- 6.105 At Derwenthorpe the scheme would increase the degree of saturation at the Tang Hall Lane and Hull Road junction by a maximum of about 6.8%; the saturation of the most congested link would increase from about 105% to 111%⁵. However, at Osbaldwick Lane and Tang Hall Lane, the increase would be less than 5%; hence no further action would normally be required⁶. The task is to manage the network to give priority to Hull Road as a key public transport corridor providing links to the Grimston Bar Park and Ride⁷. That can be done by restricting the signal entry time to Tang Hall Lane, so reducing its attractiveness but allowing conditions on Hull Road to continue much as now. Indeed, improvements either to the Tang Hall Lane and Hull Road junction or to the Tang Hall Lane and Osbaldwick Lane junction have been resisted for some time⁸. Such improvements would have the potential to increase traffic on both Tang Hall Lane and Osbaldwick Lane. That additional traffic would cause conditions elsewhere on those roads to deteriorate; and the conditions at the junctions would be worse than they are now. That would be undesirable and the improvement of those junctions would not accord with the policy of not facilitating car movements.

¹ Y7

² Y9, table 1

³ Y9, table 8

⁴ Simulation and Assignment of Traffic to Urban Road Networks, see Y7

⁵ Y8, table 8

⁶ In accordance with the standard approach recommended by the Institution of Highway Engineers when undertaking Transport Impact Assessments, see Y8.

⁷ Y8

⁸ Y8

Cumulative impacts

- 6.106 Cumulative traffic impacts can be considered in the context of the traffic generated by both application schemes and the expansion of the University (as discussed at the PIM) and in relation to longer term strategic objectives, as set out in Local Transport Plans¹.
- 6.107 Using the Council's SATURN² traffic model, the anticipated traffic generation of all 3 proposals has been assigned to key routes and combined with existing flows to analyse the combined impact of the schemes on the capacity of the network in of 2017. It is expected that the University proposal would then be complete³. The results demonstrate that the 'shared' network would benefit from the University proposals⁴. That scheme would serve to remove trips from key parts of the network, reducing traffic sufficiently to ameliorate the potential impact from the 2 housing developments. At each stage the University expansion a package of measures is intended to be implemented before embarking on the next stage of the development. With the single exception of Main Street, Fulford⁵, the combined impact would have very limited adverse effects on existing highway conditions; only on Main Street would an increase in the 'degree of saturation' not be associated with ample capacity. Even there, the increase in congestion could be accommodated and the public transport benefits entailed in the proposals would provide a crucial element in the strategy to tackle congestion in the long term⁶.
- 6.108 That strategy is embodied in the Local Transport Plan⁷ and previous documents. An important focus of all those documents is that the main highway network is generally overloaded during peak hours. The Council has taken a policy decision not to construct additional highway capacity to relieve such congestion. It has adopted that stance since 1987⁸. Instead, the capacity of the network is to be effectively increased by facilitating the use of non-car modes. A composite package of policies has been included in former TPPs, the City of York Local Plan and more recent Local Transport Plans. The first version of the latter⁹ achieved a very high level of support. In recognition the Council was selected as a Centre of Excellence for Integrated Transport Planning and was awarded the title of Transport Local Authority of the Year at the National Transport Awards in 2003. More recently, First York (the main bus operator) achieved the title of Public Transport Operator of the Year at the 2005 Awards. The English Regions Cycling Development Team voted York the Top Cycling City in their latest (2004) survey. And, in 2005 the Council was again selected as a Centre of Excellence for Integrated Transport Planning. Initial feedback suggests that the Strategy in the latest Local Transport Plan¹⁰ is rated the best in the Country¹¹.
- 6.109 It is clear that the encouragement of non-car modes has led to walking, cycling and public transport forming an important component in the travel patterns of the City. Such modes account for almost 40% of the journeys to work, substantially higher than comparable figures for England and Wales¹². Moreover, there is evidence that persistent application of the strategy has resulted in a positive shift towards non-car modes and away from reliance on private transport. In peak hours

¹ CD4 and CD5

² Simulation and Assignment of Traffic to Urban Road Networks, see Y7

³ Y7

⁴ Y7, table 6

⁵ Shown as Selby Road, Fulford in Y7 table 6

⁶ Y7 and Y7A; the latter indicates that considerations have included all known developments up to 2021

⁷ CD5

⁸ Y7

⁹ CD4

¹⁰ CD5

¹¹ Y7

¹² CD5

not only do non car modes account for about half of all journeys to the City centre, but also the proportion using private cars to undertake such a journey has declined from about 43% to roughly 30% between 2000 and 2005¹.

- 6.110 A core theme in the Plan is a fundamental improvement in accessibility across the City by the introduction of a revolutionary 'Overground' bus based transport system. The intention is that no part of the City (inside the 'ring road') would be more than a 10 minute walk from the 'Overground'². A substantial part of this network is expected to be in place by 2011. That includes a range of bus priority measures on the Fulford Road corridor to achieve a reduction in peak hour flows, as has been experienced elsewhere on main radials throughout the City³.
- 6.111 The worst congestion currently experienced is not in the south east quadrant of the City, but in the north east, north west and south west sectors⁴. In fact, the south east quadrant currently appears to accommodate the fewest sections of congested roadway and there is spare peak hour capacity on Hull Road and Malton Road⁵. In 2011, with all the proposed, allocated and anticipated development in place⁶, the Plan measures implemented and the limited road improvements (including the outer ring road capacity improvements) undertaken, the south east quadrant remains the least bad sector⁷. It is the obvious quadrant to accommodate development now and in the future (subject to the priority measures planned for Fulford Road) in traffic and transport terms. The problems in the north east and north west sectors are centred on the northern outer ring road. That provides part of the explanation for the removal of New Lane, Huntingdon from the housing allocations⁸. There are huge obstacles to resolving the transport problems in the north in the medium term. Those impediments are likely to have serious implications for the possible development of the British Sugar site and for York Central. Even by 2021, the City would not have the resources to carry out the necessary improvements to the roundabouts on the A1237⁹.

The impact on flooding

- 6.112 Neither site has been subjected to the sort of formal sequential test now indicated in draft PPS25. However, if a sequential test were to be done now it would show that there was no risk of flooding to either scheme. The absence of such a test should therefore cause no concern and the Environment Agency does not require one¹⁰. In any event, the consideration of alternative greenfield sites in the 3rd set of Changes included just such matters; greenfield sites liable to flood were excluded as potential sites to be allocated for residential development. Moreover, the absence of a formal sequential test arises from the timing of the allocations before the publication of PPG25. If any concern might remain, it should be allayed by the comprehensive Flood Risk Assessments submitted¹¹.

Germany Beck

- 6.113 The Development Brief¹² published in September 2001 made reference to flood alleviation and drainage that would be needed to accommodate the development. It indicated that the site was

¹ CD5

² Y7 and CD5

³ Y7

⁴ CD5, page 62

⁵ Mr Evley's answers to questions

⁶ Y7A and

⁷ CD5, page 63

⁸ see Y7A paragraph 22

⁹ CD5 and Y7

¹⁰ ID59

¹¹ CD59, CD60 and CD120

¹² CD62

susceptible to overland flooding from the River Ouse and Germany Beck as a result of heavy rainfall in the wider Ouse catchment and locally. Both of these occurred in November 2000. In addition to flooding, part of the development site and nearby housing suffered further problems from the foul sewerage system¹. The Brief indicates that a Flood Risk Assessment in accordance with PPG 25 would be required, which should be agreed between all interested parties and the Environment Agency before the start of development². The Environment Agency, Ouse and Derwent Internal Drainage Board and the Council were all consulted and meetings were held to discuss the requirements of the Brief and how they could be met³. This resulted in an agreed drainage and flooding strategy for the site⁴.

- 6.114 Although guidance regarding the flood envelope was available from the Environment Agency indicative flood plain map, the flood event in 2000 provided definitive information about the extent of flooding from an event which was subsequently confirmed by an Environment Agency model as having a 1 in 90 (1.11%) annual probability⁵. Flooding resulted from an extended period of rainfall in the wider Ouse catchment combined with extended local rainfall affecting the Germany Beck catchment itself. Information from the 2000 event has enabled the Environment Agency to update their flood risk map and this shows most of the development site to be in zone 1 (annual probability of flooding <0.1%). A strip along Germany Beck and its tributary, Tunnel Drain, are in zone 3 (annual probability of flooding > 1.0%) and a small area in zone 2 (annual probability of flooding 0.1% - 1.0%). All of the proposed development is outside the zone 3 area. Hence, in accordance with PPG25, there would not be an unacceptable flood risk to the proposed development itself and the site would be suitable for the type of development proposed. This conclusion was agreed with the Environment Agency.
- 6.115 Consideration has been given to the use of sustainable drainage systems (SUDS) for the site to dispose of surface water⁶. This can include a range of techniques, but on this site those which rely on infiltration into the sub-strata are precluded by the nature of the ground. However other SUDS methods using attenuation and storage to control surface water discharges have been proposed and the Council is supportive of these techniques subject to suitable management arrangements being agreed. This would be secured by condition⁷.
- 6.116 The design would isolate the development site and adjacent areas from the overland flow of flood waters from the river Ouse by means of either a raised flood defence or a flood wall, the construction of which would be secured by condition⁸. Hydraulic modelling has established the volume of storage required for flows from the new development and this includes an allowance for climate change in accordance with guidance from the Environment Agency⁹. Balancing storage for flows from the Beck would be provided within the development site adjacent to Germany Beck. In this way the new development, and the existing housing that flooded in 2000, would be protected from flooding to an acceptable level in accordance with PPG25. The land over which the access to the site would be constructed is affected by flooding. The construction of the raised flood defence or wall would provide protection to the road and ensure that access would be maintained in times of flood¹⁰.

¹ Y10

² CD62

³ Y10

⁴ See also EA submissions

⁵ Y10

⁶ PH/DKM

⁷ See suggested conditions

⁸ Y10

⁹ PH/DKM

¹⁰ Y10

6.117 It is recorded that flooding to existing properties in 2000 also occurred due to river flows backing up in the foul sewerage system, affecting its capacity. The proposals for the development include the construction of a foul sewage pumping station that would pump both new and existing flows downstream of the site. That would protect both the development site and existing housing areas from the effects of flooding due to the foul sewerage system. The design principle would be similar to that already used in other parts of the City where the sewerage system is affected by the river Ouse in flood. The system would be designed in accordance with the current edition of 'Sewers for Adoption'¹ and adopted by Yorkshire Water Services Ltd.

Derwenthorpe

6.118 The relevant Development Brief² made reference to the flood alleviation and drainage necessary to accommodate development on the site. It indicated that site is flat, poorly drained and prone to water logging³. In addition, Osbaldwick Beck was identified by the Environment Agency's indicative flood plain maps as being a flood risk to the southern part of the site.

6.119 A Flood Risk Assessment was undertaken and the Environment Agency, the Foss Internal Drainage Board and the Council were all consulted. As a result an agreed drainage and flooding strategy emerged for the site⁴.

6.120 The indicative flood plain maps prepared by the Environment Agency provided initial guidance. But, the on-set of more sophisticated modelling resulted in establishing that the development area would not be at risk of inundation by a 1% annual probability flood event. The site was in the low to medium risk category (annual probability of flooding 0.1% - 1.0%). In fact, 85% of the whole site would be within zone 1⁵. There would not be an unacceptable flood risk to the proposed development and the site would be suitable for the type of development proposed. This conclusion was agreed with the Environment Agency⁶.

6.121 Design flows include an allowance for climate change in accordance with guidance from the Environment Agency. The hydraulic modelling established that there was no capacity in Osbaldwick Beck to receive additional surface water flows from the developed site⁷. Hence, flows generated by the development would need to be controlled on site and released to the Beck at a limited rate that would not exceed the current rate of flow from the site; that should ensure no additional risk to other areas⁸. Sustainable drainage systems (SUDS) would help to achieve that end, excluding those reliant on infiltration into the sub-strata; the nature of the ground would jeopardise the use of those techniques. However other SUDS methods, using attenuation and storage to control surface water discharges are available; these would be subject to detailed subsequent design⁹. The Council is supportive of these techniques subject to suitable management arrangements being agreed, which would be secured by condition¹⁰.

6.122 The waterlogged nature of the site has been taken into account in preparing the proposed design; the extensive land drainage system would ensure that gardens and public open spaces would

¹ CD53

² CD81

³ CD81

⁴ Y10

⁵ Y10 and JRHT/JBA

⁶ See EA submissions

⁷ JRHT/JBA

⁸ JRHT/JBA

⁹ JRHT/JBA

¹⁰ Y10

remain useable. Although this is not a specific planning requirement, the problem of waterlogged gardens and recreation areas is widespread throughout York; the issue is addressed here, although it is not subject to a specific condition¹. No problems have been identified in dealing with foul sewage flows from this site. The system would be designed in accordance with the current edition of ‘Sewers for Adoption’² and adopted by Yorkshire Water Services Ltd.

- 6.123 The ‘retention’ ponds would be designed to be safe. Deep rivers, ponds and Becks are generally not fenced and are not a substantial threat to the public³. Why should this pond stand out? It would treat road run-off and limited sediment (about 3 metric tonnes or 1/3 of a truck) would drop in the fore-bays, to be scrapped out from the pond by a long reach excavator. Reeds would be replanted on a cyclical basis⁴.
- 6.124 As for the problems alleged at Murton Way, they do not arise from a run-off storage scheme. The error there arose in relation to the flood plain rather than the internal drainage system; the steps now being taken to address the mistake (the introduction of ‘swales’) would appear to be adequate⁵. Nor should there be any concern that the operation of the pond would even out the flows in Osbaldwick Beck to such an extent as to affect nature conservation. The flow in the Becks arises from the whole catchment area, not just from the application site. The Beck can be at a high level even in summer already. The contribution from the site is (and would remain) minimal; it currently forms about 1.6% of the catchment area⁶. Finally, some residents (especially those in Meadlands) express concerns that drainage of the site could lead to clay shrinkage and subsidence. The applicants clearly explain why that should not be the case⁷.

The impact on ecology and nature conservation

- 6.125 Nature Conservation is supported by the Wildlife and Countryside Act 1981, the Habitat Regulations and the Countryside and Rights of Way Act 2000. Guidance is offered in PPS9 and its accompanying Circular 6/2005⁸. The City of York Local Plan⁹ incorporates the requirements imposed by legislation and Government advice in a suite of policies. Policy NE2 provides protection for river and stream corridors, ponds and wetland habitats; policy NE4a insists on stringent protection for nationally designated nature conservation sites; policy NE5a requires locally designated sites to be weighed in the balance with the need for development; policy NE6 relates to species protected by law; policy NE7 relates to habitat protection and creation; and, policy NE8 encourages the maintenance and enhancement of wildlife corridors.
- 6.126 There are no nationally or locally designated sites directly affected by these proposals. At Germany Beck, the Fulford Ings SSSI lies on the other side of the A19 and a SINC, to the south of the Beck, would be within the application site. A further SINC, about one field away to the east, is connected to the Heslington Tillmire SSSI. At Derwenthorpe the closest confirmed SINC is approximately 2.5km away and the closest SSSI is some 3.5km distant. The development would be unlikely to have any effect on those sites¹⁰.
- 6.127 However, there is some disagreement as to whether the Derwenthorpe site contains any land of

¹ Y10

² CD30

³ ID231

⁴ JRHT/JBA

⁵ See also ID202 and ID266

⁶ JRHT/JBA

⁷ JRHT/JBA

⁸ Y13

⁹ CD1

¹⁰ Y13

SINC quality¹. This disparity is due in part to the interpretation of guidelines established to assess the quality of land for SINC designation². At present, SINC designation is applied using the guidelines established by the North Yorkshire SINC Group. These are the accepted criteria for establishing the value of a site within Yorkshire. However, the Council was not included in their development and appropriate thresholds for York have not been established. The thresholds presently used relate primarily to lowland Yorkshire and in particular the Vale of York, in which the City sits. For the most part these are considered appropriate in setting the wildlife value of sites, although consideration is being given to whether thresholds should be altered in urban situations. The Derwenthorpe site meets some the criteria for SINC status relating to some of the grassland and the hedgerows, though it fails others³. It is considered as a borderline case for designation, though even then its value for nature conservation would have to be weighed against the arguments in favour of the proposed development⁴.

6.128 There are some grounds for changing the ‘guidelines’ and those changes might boost the nature conservation value of the Derwenthorpe site. Recently released Defra Site System guidelines suggest that both social and educational values might be assigned to site selection. Although such criteria were considered when developing the North Yorkshire guidelines, they were never incorporated due to the subjectivity often involved. It is possible that York, with a much larger population than many other places in North Yorkshire, should lay a greater emphasis on social values⁵. In addition, some claim that the site forms a ‘green wedge’ function, that it provides a corridor linking to other wildlife sites in the City and that it has a social value, being close to housing⁶. A further consideration is whether the site could be improved through proper management to fulfil the relevant criteria.

*Germany Beck*⁷

6.129 Of the major habitats present on the site, only the wet grassland, hedgerows and the Beck hold any significant interest. Wet grassland and species rich hedgerows are all UK Biodiversity Action Plan habitats and are included in the draft York BAP. The wet grassland, largely the reason for designation of the SINC, is much degraded due to the lack of management; the scheme would enhance and maintain this area. The only species-rich hedgerow is beside Germany Lane; it is to be retained. The Beck is of limited value due to its water quality; the new sewerage pumping facility should improve that somewhat. Moreover, the creation of ponds and other wetland habitat would be provided for by an agreed ecological development and management plan.

6.130 The major habitat loss would be the arable fields. Although some species are associated with this habitat, there is nothing of any particular note identified here; the ground nesting birds, such as grey partridge, lapwing and skylark are not present in significant numbers.

6.131 One of the main protected species that occur on the site are bats. All species of bat are protected. It is unknown which of the 7 species thought to occur in York use the area. Bats are known to follow linear and boundary features, such as the hedgerows and watercourse for foraging and as flight corridors. These are the most important areas for prey species. But, the hedges of significant value are the tall and free growing sections beside the Beck; they, together with the stream and wet grassland are to be retained. And, measures could be included within the building design to encourage bats. In addition, some of the field hedges may be incorporated into more

¹ See the cases by Yorkshire Wildlife Trust and York Natural Environment Trust

² ID61

³ JRHT/RNH/1

⁴ Y13

⁵ Y13

⁶ Mainly the Yorkshire Wildlife Trust and York Natural Environment Trust, but also Mr Wilson and Mr Warters

⁷ These details are taken from Y13 unless indicated otherwise.

extensive planting or allowed to grow taller as part of the landscape and nature conservation management proposals.

- 6.132 Kingfishers are known to frequent the watercourse, but no evidence of water voles was found. Construction works would only affect a very small proportion of the total territory and the new wetlands, ponds and Nature Park would enhance the habitat. Monitoring is provided for by condition. The ground nesting birds, such as skylark, grey partridge, tree sparrow and corn-bunting are all declining in numbers; they are listed by the RSPB on their amber list, on the list of principal importance in the CRoW Act 2000, they are target species for the Defra Environmental Stewardship scheme and, as a group within, York's draft BAP. Only the skylark and the grey partridge have been recorded on the site, but their numbers are likely to be very low and the existing suitable habitat marginal. Similarly, very few hare are likely to be affected at this location. And, the long term landscape and habitat proposals are likely to enhance the number of hedgerow birds on the site, such as dunnock and song thrush, both of which are species of principal interest identified in the CRoW Act.
- 6.133 The scheme seeks to retain the main features of interest, the wet grassland and important hedges, and provides mechanisms to enhance them. Although details are not yet finalised, mitigation, compensation and habitat enhancement would be required and it is envisaged that the proposals would provide the basis for increasing the biodiversity through establishing new wetlands, such as lakes and ponds, or wildflower meadows, wet grassland, hedge and shrub planting, all as part of a coherent management plan¹. Overall, the mitigation proposed should provide a net gain to biodiversity here².

*Derwenthorpe*³

- 6.134 The site exhibits several habitats holding some nature conservation interest. The hedgerows are derived from 'enclosures' and would all be 'important' archaeologically under the Hedgerow Regulations⁴. But they are not noticeably species-rich and only one hedge would be 'important' under the wildlife criteria. Their composition is typical of many hedges in the York area, although being neglected they have a strongly developed structure. Such hedges are of considerable value for hedgerow birds, especially those species associated with taller and thicker hedges; there is a representative range of commoner bird species here.
- 6.135 The majority of the grasslands are undoubtedly of limited value. Records⁵ indicate that such has been the case for a long time; it is not the result of purposeful neglect. Nevertheless, surveys demonstrate that parts of the site offer examples of species-rich grassland. On a straight species count basis, the site could qualify as a SINC. However, the guidelines indicate that such areas should be reasonably extensive and well distributed across the site. Hence, it is accepted that, at best, some of the fields contain grasslands that are of borderline SINC status. The wet grasslands are botanically poor and this is a relatively common habitat elsewhere; its interest thus relates to the species it might contain, such as the invertebrates and great crested newts. The other main habitats include the cycle-track corridor, the derelict land around the electricity substation, the stream and the pond. None are considered particularly significant in the context of the City as a whole and of limited interest locally.
- 6.136 The Beck is of low water quality and contains nothing of note, but it does provide a running

¹ JRHT/RNH and the section 106 Agreement

² Y13

³ The details here are taken from Y13, unless indicated otherwise

⁴ JRHT/NM

⁵ Register of Green Sites 1991 and Site Summary 26

freshwater habitat within the area and helps to maintain habitat diversity¹. It also enhances the area for many other species, such as bats, and possibly for water voles and kingfishers. It also provides a link from the surrounding countryside into the City and through to the St Nicholas Fields Local Nature Reserve to the west². The only pond on the site is within the wet grassland (Field 9³). It is of limited value, being heavily shaded with no aquatic vegetation and drying out on a seasonal basis. Such ponds can have a value for some invertebrates and for amphibians when associated with a pond complex. However, in isolation the value can be limited.

- 6.137 Bats and water voles make use of the site as do great crested newts; badgers and barn owls have not been recorded. Both bats and great crested newts are European protected species; water voles are protected under the Wildlife and Countryside Act 1991. Bats appear to frequent the area in small numbers, especially the stream and associated hedges, and use the site primarily for feeding and commuting. The Pipistrelle and 2 other species are documented on the site. The former is referred to in the UK Biodiversity Action Plan and the predominant species recorded here. However, no roost sites were recorded. A water vole has been recorded on the site, but there is no evidence of any substantial population and little sign of any activity in the form of active burrows or latrines. From existing records, great crested newts were identified as being present in ponds some 700m south of the site. Their presence on the application site was confirmed in 2004; subsequently the population was assessed as being small and with little likelihood of long-term viability, due to the absence of suitable breeding habitat and the seasonality of the pond. Other species on the site and considered to warrant conservation include the song thrush, linnet, dunnock, blackbird, bullfinch and possibly kingfisher. All inhabit thick hedgerows or wetlands, are in decline and most are on the RSPB amber list of declining species; some, notably song thrush, linnet and bullfinch, are within the UK BAP and are species listed in the CRoW Act as Species of Principal Importance and also proposed for inclusion in the local Biodiversity Action Plan. These species are listed as ‘targets’ for action within the Defra led Environment Stewardship Scheme.
- 6.138 The major habitat loss (amounting to about 8ha) would entail grassland containing some botanical interest, although about 1.5ha would be retained. The old species rich grassland is one of the rarest habitats in the City; only about 18ha are documented. Although degraded, the 0.4ha identified on the application site would thus be of some importance even though it is fragmentary and each fragment is of limited size. Similarly, although the moderately rich semi-improved grasslands are more extensive, the loss of about 8ha from a source of approximately 120ha would be of some importance, in spite of its degraded nature and the limited range and distribution of species identified within it. In those circumstances, 2 of the fields might be of borderline SINC status: they would certainly be of local value. The loss of locally valuable grassland would thus require substantial mitigation and compensation, as provided for by the section 106 Agreement relating to offsite provision and translocation at New Earswick. The wet grassland would be retained and would be enhanced with appropriate management. Again, provision is made by the section 106 Agreement.
- 6.139 The impact on the hedgerows would also be substantial; over half would be affected, either directly through loss, or indirectly due to a more formal setting or incorporation into residential boundaries. Compensation would be provided by habitat creation either on-site or offsite through the terms of the Agreement.
- 6.140 The Beck is unlikely to be impaired by the scheme. Improved management and associated

¹ JRHT/JBA

² CD1

³ JRHT/1

wetland habitats, together with the use of SUDS would be likely to enhance it. The single pond and the cycle-track corridor are to be retained and enhanced. The area of derelict land would be lost but, in nature conservation terms, that would be replicable.

- 6.141 The function of the site for bats is as a foraging area and flight corridor. If a bat roost is subsequently detected, then measures for protection would be employed, some of which are already proposed as part of the scheme. The most important areas are the hedgerows and the Beck and that is supported by the bat survey which recorded the majority of sightings in the vicinity of Osbaldwick Beck. Although the scheme would entail extensive hedgerow removal, the Beck and the associated vegetation are to be retained. Roost sites could be incorporated in the new development and other mitigation measures included in the landscape and environment management plans, secured by condition or Agreement. Water voles may be present in very small numbers or as transients using the Beck corridor. But, the stream habitat would not be affected and other works would largely be away from to the bank-side. If a small population is present, monitoring would be necessary. The proposal to create a more extensive wetland habitat should sustain a greater population. The very small presence of great crested newts could be enhanced, now that the proposals seek to retain the wet grassland, the pond and the associated hedgerows. Moreover, those features are to be managed in a way that could encourage breeding and enhance the habitat for the animals. Although kingfishers are not recorded on the site they have been identified elsewhere beside Osbaldwick Beck; enhancement of the wetlands might encourage their presence here too. The scheme would be likely to reduce the number of hedgerow birds, due to the loss of the hedges. And, it is not certain that the scheme would replicate the typical suburban environment with modest gardens planted with well established shrubs, hedges and the like. Nevertheless, some mitigation is provided by the offsite extension to a local nature reserve. The main area of interest for uncommon invertebrates appears to be the wet grassland; this is to be retained and enhanced.
- 6.142 In spite of the on-site mitigation proposed, the extensive loss and relative quality of the hedgerows and grassland destroyed by the scheme would be such as to require further compensation to prevent a significant net loss in biodiversity. The intention is to implement a significant off-site compensatory scheme, taking roughly a 6ha block of arable land and returning it to species rich grassland containing hedgerows and trees. The quality of that habitat would be greater than that of the application site and it would be managed specifically for nature conservation. Moreover, the location of the site at New Earswick would be adjacent to an existing SINC grassland site, a small area of woodland, a clay pit nature reserve and an extensive block of Stray grassland. The proposal would thus provide sufficient compensatory habitat for the losses incurred at Osbaldwick. It would, in addition, help safeguard the future of New Earswick SINC grassland, which is currently suffering because it is such a small isolated block. The proposal would, on balance, be acceptable.

The impact on archaeology

- 6.143 The Ancient Monuments and Archaeological Areas Act 1979¹ was designed ‘to consolidate and amend the law relating to ancient monuments and to make provision for the investigation, preservation, and recording of matters of archaeological and historical interest and ... for the regulation of operations or activities affecting such matters’. The Act allows for the designation of Areas of Archaeological Importance and 7 such areas have been designated in York², though the neither application site is included within them. Guidance is provided by PPG16³. It

¹ CD126

² Y12.1

³ CD26

indicates that archaeological deposits of national importance, whether scheduled or not, should be preserved *in-situ* and that the preservation of archaeological remains of lesser importance might need to be weighed in the balance against other factors. Early consideration should be given to such matters and the results of evaluations submitted with planning applications. If physical preservation *in situ* is not justified, appropriate provision for the excavation and recording of the archaeological remains might be necessary.

- 6.144 The City of York Local Plan¹ incorporates those provisions. Policy HE10 indicates that applicants should carry out an archaeological evaluation and, outside the York City Centre AAI, valuable deposits should be preserved *in-situ* or recorded through an archaeological excavation prior to development taking place. The wealth of remains in York prompted the preparation of a report on ‘Conservation Policies for York: Archaeology’² through a joint initiative between York City Council and English Heritage in 1989. The initiative resulted in the publication of the York Development and Archaeology Study in 1991 setting out detailed arguments and approaches which underpin the York City Council Archaeology Policy. This was adopted in 1992 and does not directly address the issues of archaeology outside the historic core of the City; a revised version is in preparation as a draft SPG.
- 6.145 English Heritage maintain a Register of Historic Battlefields identifying 43 important English battlefield sites; the intention is to protect and to promote a better understanding of their significance. Each Register entry is based on an assessment of the available evidence and the degree of proof required for inclusion is high; tradition or the likelihood that a battle might have been fought in a particular location is not sufficient to warrant inclusion. The Register of Historic Battlefields is a non-statutory document. However, where a battlefield is listed in the Register, this can be treated as a material consideration in the determination of a planning application. The Battle of Fulford is not listed on the Register of Battlefield sites. Furthermore English Heritage have stated that ‘... the available evidence is insufficient to allow the inclusion of the site on the Register of Battlefields’³.

*Germany Beck*⁴

- 6.146 The archaeological evaluation process started in 1995. A desktop assessment was undertaken⁵ and discussions held with the North Yorkshire County Council Archaeologist (then the responsible authority); it was decided that an archaeological assessment and evaluation of the site would be necessary⁶. In January 1996, informal discussions were held between the City of York Council (now with jurisdiction over the site) and MAP Archaeological Consultants, concerning the content of the field-walking, geophysical and excavation phases of the evaluation. As a consequence, an extensive archaeological evaluation of 16ha of land immediately to the south of Fulford School was undertaken between April and August 1996. The evaluation consisted of field-walking, a geophysical survey and the opening of 64 separate trenches. All work was funded by the applicants and interim reports prepared⁷. Subsequently, and in response to the hypothesis developed by the Fulford Battlefield Society in 2001 that the site might contain the location of the Battle of Fulford, 4 trenches were excavated in the area between Germany Lane, Fordlands Road and the A19; a report on this phase of evaluation has been prepared⁸. As the

¹ CD1

² CD127

³ Y12.1

⁴ These details are taken from Y13 unless indicated otherwise.

⁵ CD92

⁶ Y12.2

⁷ CD71 and CD73

⁸ CD72

current planning application includes land to the south of Germany Beck containing an archaeological site¹ identified through aerial photography, further evaluation was undertaken to assess the impact of the ‘ponds’ on archaeological deposits; the work was carried out in October and November 2003 and a report on this phase of evaluation has been prepared². Finally, in order to further evaluate the possibility that the application site might have been the location of the Battle of Fulford, an Historic Landscape Appraisal was carried; the revised report was published in 2005³. All those documents have been deposited with, and are available for public inspection in, the City of York Sites and Monuments Record.

- 6.147 The desk top evaluation identified that the application site had significant archaeological potential and that the site of the Battle of Fulford might be ‘on the site or very close to the eastern boundary of the site’. It recommended that a programme of further evaluation work be carried out consisting of a geophysical survey, field-walking and excavation. The field-walking survey indicated that there were flint artefacts and prehistoric and later pottery present on the site. The geophysical survey⁴ indicated a series of north-south linear features and possible enclosures.
- 6.148 The trial-trenches were located over areas of archaeological potential indicated through field-walking and the geophysical survey. In the area adjacent to the A19, the excavation of 5 trenches produced no archaeological features⁵: in the allotment area 4 trenches uncovered a single ditch of possible medieval date: in ‘area G’⁶ 7 (of the 12) trenches beside Germany Beck produced a deposit of peat varying from 600mm to 1.65m in depth containing Roman pottery and a single flint of possible Mesolithic date; such peat deposits are important because they provide a significant opportunity to explore and characterise the palaeo-environmental development of this part of the Vale of York. In the 26 trenches excavated in the Western Block⁷ ploughed out medieval ridge and furrow was observed. Two main phases of activity were identified ranging from an early ring-ditch of uncertain function to a series of linear features of Romano-British date. Finds included a flint knife of a straight-sided, double-edged, bi-laterally flaked form, probably of the Early Bronze Age, and an almost complete Huntcliff jar indicating a date later than the mid-4th century. And there was evidence of a land use covering a considerable period of time. The earliest activity, as evidenced by pottery and a flint assemblage, might indicate a Neolithic settlement in the immediate vicinity. Iron Age pottery and a substantial assemblage of mid-to-late 2nd century AD pottery indicate further phases of activity in this area. In the Eastern Block⁸ 15 trenches produced a small assemblage of Iron Age pottery and flint flakes, but this part of the site is far less productive than the Western Block. The second phase of evaluation involved the excavation of 4 trenches on the line of the proposed access road; it failed to locate any features other than modern ones⁹. The third phase of evaluation involved the excavation of 7 trenches in the area of the proposed ‘ponds’¹⁰; evidence for a build of silt deposits below the 9m contour was found, suggesting this material might have been derived from the scouring of dykes or from flood deposits.
- 6.149 No objects or deposits dating from the 11th century were identified or recovered in any phase of the archaeological evaluations. There are extensive but poorly preserved remains of a prehistoric

¹ SMR No. 5718, see Y11

² CD75

³ CD70

⁴ CD71, figures 2 and 3

⁵ CD71, figure 4

⁶ CD71, figure 1

⁷ CD71, figure 5

⁸ CD71, figure 6

⁹ CD72, figure 2

¹⁰ CD75

and Romano-British landscape.

- 6.150 What evidence is there that the Battle of Fulford was fought on the application site? The Battle was fought on Wednesday 20th September 1066 and preceded the Battles of Stamford Bridge and Hastings. It forms, therefore, one of the critical events in the run up to William the Conqueror becoming King of England in 1066. It is acknowledged ‘Battlefield sites are difficult to locate accurately and there is rarely anything to see on the ground’¹. The Battle of Fulford is no exception: all the archaeological evaluations undertaken to date have failed to produce any archaeological evidence for the Battle here.
- 6.151 The Battlefields Trust claim that the evaluation strategies have been inadequate². However, there is no accepted methodology for evaluating an 11th century battlefield site. In those circumstances, it is reasonable to suppose that standard archaeological approaches would have produced some evidence to locate the site of the battle. No deposits or objects have been identified of an 11th century date. Nearly all the archaeological trenches were excavated to an appropriate depth. However, the Fulford Battlefield Society have proposed an interpretation of historic sources and an analysis of topography which they claim locates the battle on both sides of Germany Beck in an area from the River Ouse (in the west) to Fulford cemetery and beyond (in the east)³. The issue may thus relate to the possible impact of the scheme on the interpretation of that historic landscape.
- 6.152 The almost contemporary accounts of the battle recorded in the Anglo-Saxon Chronicles give little detail. They simply record that the battle was fought near York and that a great number of English were slain, drowned or driven in flight⁴. Florence of Worcester, an English chronicler writing in the early 12th century, also records that a battle was fought ‘on the northern bank of the river Ouse, near York’⁵. It is Symeon of Durham in the *Historia Regum*, written after 1129 but surviving in a manuscript dated to around 1164, who first records that the battle was fought at Fulford⁶. The most detailed account of the battle appears in *King Harald’s Saga*, part of the *Heimskringla*, a cycle of 16 sagas about the Norwegian kings which provide a history of Norway from earliest times to 1177. The sagas are attributed to Snorri Sturlason and seem to have been written between 1230 and 1241. It is generally accepted that Snorri cannot be regarded as a reliable historian, that his work is as much literature as history, and ‘...we know, from a comparison with other sources (especially English sources where events in England in 1066 are concerned), that Snorri Sturlason’s facts are considerably inaccurate...’; Snorri’s account has been used as the main evidence for describing and interpreting the course of the battle by the Fulford Battlefield Society⁷.
- 6.153 The Battlefields Trust claim that the application of Burne’s principle of ‘Inherent Military Probability’ indicates that the Germany Beck site is the one strong candidate for the location of the Battle⁸. They comment that the ‘character of the archaeology of battlefields of this [early medieval] period is at present wholly undetermined’ and they criticise the evaluation techniques employed, notably the lack of any metal detecting and the inadequate mapping of the historic landscape. There have now been metal detecting surveys of the application site, which have

¹ Y12.3

² CD138, page 7

³ Y12.4

⁴ Y12.5

⁵ Y12.6

⁶ CD70

⁷ Y12

⁸ CD138, page 1

produced only fairly recent artefacts¹.

- 6.154 There has also been an Historic Landscape Assessment finally revised in March 2005². It concludes that the ‘modern day landscape is greatly changed from the landscape of 1066’. There has been the reclamation of low lying swampy areas into large arable fields; the construction of housing in Fulford Village and at Fordlands Road; the creation of Fulford cemetery; and, the laying out and building up of the recreation ground. The cumulative effect of those developments has transformed the landscape. A conclusion is that ‘there is no evidence to suggest that the battlefield lies in the immediate vicinity of the development site’³. This latter conclusion is markedly different from that suggested in the 1995 desktop evaluation. There is no archaeological evidence that the application site coincides with the site of the Battle of Fulford.
- 6.155 What value do the archaeological remains identified possess? The National Monument Record contains entries for late Iron Age or Romano-British field systems and enclosures in the parishes of Askham Bryan, Bishopthorpe, Clifton Without, Deighton, Dunnington, Haxby, Naburn, New Earswick, Skelton, Stockton on Forest, Upper Poppleton, and Wheldrake⁴. There is clearly an extensive and well document pattern of agriculture and associated settlement in York during that period⁵. The majority of the prehistoric and Romano-British features identified on the site are poorly preserved, having been damaged by medieval ridge and furrow and modern ploughing: the medieval ridge and furrow no longer exists as an earthwork feature. However, at present the prehistoric and Romano-British features have the potential to throw light on research questions relating to the development of the late prehistoric landscape in the Vale of York and in particular on the transitions and reconfigurations which might have occurred after the area was annexed by the Romans and the Roman legionary fortress constructed in the 1st century AD in what is now the historic core of the City of York. In addition, there are extensive but poorly preserved features of a late prehistoric and Romano-British landscape on this site consisting of regular fields and other agricultural features enclosed by ditches. The sequence peat deposits adjacent to Germany Beck could be important for the palaeo-environmental evidence it is likely to contain.
- 6.156 This suggests that the archaeological features and deposits at Germany Beck are not of national importance and therefore do not merit preservation *in-situ*⁶. However, the features and deposits do provide a significant context for the development of York in the late prehistoric and Roman period. These deposits must therefore be recorded through an archaeological excavation prior to development taking place. The conditions and the Agreement provide adequate scope to achieve those requirements and to secure the creation of the proposed ‘archaeological zone’.

Derwenthorpe

- 6.157 The details relating to the archaeology at Derwenthorpe are set out elsewhere⁷. The approach was devised by the Head of Excavations at York Archaeological Trust in consultation with the City Archaeologist. The work involved a walkover survey, a geophysical survey, an earthworks survey and an archaeological trial trench evaluation. Nobody has suggested that the assessment was not adequate.
- 6.158 The main feature found is the mediaeval ridge and furrow across the site. Part of this would be retained, together with lengths of historically important hedgerow; the scheme also allows for the

¹ CD72, page 10; CD75, pages 8 and 29

² CD70

³ CD70 paragraph 9.6

⁴ Y12.8

⁵ Y12.9

⁶ Y11

⁷ See the case for the Joseph Rowntree Housing Trust.

preservation *in situ* of a medieval croft. However ploughing in the 19th and 20th centuries has degraded much of the ridge and furrow, which is a far from unique feature within the City. The feature would thus not meet the criteria for national importance. The mitigation strategy agreed would be a satisfactory way to record the archaeological interest exhibited by the site¹.

Conclusion

6.159 Neither site can be regarded as within the Green Belt. There is a housing need both quantitatively and qualitatively, and there are pressing needs for family houses and affordable homes. No sequentially preferable sites can be identified. There are no site specific considerations of such weight to warrant refusal. Moreover, each proposal brings with it significant benefits and would make a valuable contribution to the future of York. In those circumstances, the Council considers that the balance weighs heavily in favour of granting planning permission.

¹ JRHT/NM

CASES FOR THOSE OPPOSED TO THE APPLICATIONS

7. The Case for the Green Party

Plans and prematurity

7.1 The contention has been that the schemes are warranted due to their contribution to meeting the urgent need for housing, of various kinds, in York, whatever problems might accrue from the proposed developments, the loss of these 'greenfield' sites and the pre-emption of decisions that ought to take place in the context of the emerging LDF. Indeed, the claim is that there is no other way of meeting those housing needs. In opposing that stance, it is suggested that these schemes would contribute little to the provision of affordable housing and certainly not nearly enough to justify the damage likely to be wrought, particularly in relation to traffic and flooding. Worse still, they would represent an unsound approach to achieving a sustainable form of development.

Housing; numbers, markets and needs

Numerical housing requirements

7.2 There has been a large amount of building in York in recent years¹. There is now an over-supply of dwellings in the City. The analysis of the housing trajectory² shows that the surplus would continue into 2011. With the development of the application sites, a surplus would be perpetuated throughout the whole of the period up to 2016. That must imply an absence of any compelling need to develop the sites for housing now. The impending oversupply would be worse if the forecasts on which the requirements are based were to encompass a proper assessment of local needs. In July 2004, the Council's Executive considered a report which offered a choice of 'growth scenarios' linked to a range of annual housing targets from 480 to 620. The higher figure was chosen, but only on the basis that the lower figure would not allow for sufficient economic growth. The claim is that the economic models exaggerate growth and depend on in-migration rather than on identifying the local needs of the City³.

7.3 In respect of the sequential approach required by PPG3, it is claimed that there are at least 2 major brownfield sites coming forward for development that would contribute significantly to the overall housing provision and reduce the need for development at Germany Beck and Derwenthorpe. There is the potential provision of over 500 dwellings at York Central and the large site at Hungate would now, under the recently granted planning permission, produce about 720 dwellings.

Meeting the need for affordable housing

The need for affordable housing

7.4 Whilst the need for affordable housing is important, the evidence indicates that the large amount of building in York in recent years has led to an oversupply in the system. Yet, affordable housing has not been delivered in sufficient numbers under the policies pursued in the 3rd set of Changes to the Local Plan⁴. Essentially, schemes have materialised that have been designed to avoid the scope of the 'affordable housing' policy; developments entailing just 24 homes, for example, to avoid the need to provide affordable units on schemes of 25 and over. Relatively few homes have been added to the City's housing stock for rent and the Hungate development has, in

¹ GP/1

² Table 1

³ GP/1

⁴ CD133

the last year, been allowed to go forward with a pitiable percentage of affordable housing. The Green Party has argued that if either of these sites were to go forward, then they should meet the recently agreed policy in the 4th set of Changes of providing 50% of the units as affordable homes¹. This policy took a long time to achieve and attracted a great deal of support. We argue that the developments should meet this policy on the basis that a policy should be implemented. To fail to do so at almost the first opportunity would jeopardise the credibility of the policy and create a very dangerous precedent. Moreover, if the policy is not applied in relation to developments of this size and scale, then it would be all too easy for developers to argue that it should not be applied in smaller and apparently less profitable ventures. Particularly in the case of Germany Beck, it is hard to avoid the conclusion that the ‘affordable housing’ provision is merely a cover for attempting ‘business as usual’. This seriously undermines the need for both developments.

- 7.5 It is not denied that there is a need for affordable housing in York or that there is no evidence of unmet demand in the ‘intermediate housing market’². But, it is by no means clear that:
- the expected annual contribution to the affordable housing pool from these developments is so significant as to justify the environmental impacts and the consequential losses in terms of biodiversity, open space and local amenity;
 - the developments can be justified in terms of the overall housing needs figures;
 - there are no alternative sites available which would be more suitable;
 - the need to provide affordable housing is any more urgent now than it has been in recent years, when it has patently been given low priority by the Council in the operation of applicable planning policies; or
 - the benefits of providing affordable housing in edge of city locations is outweighed by the increased pressure on the local housing market, on services and on infrastructure by those attracted from beyond York by the development. Particularly in the case of Germany Beck, the location near the A64 must inevitably attract households with at least one member planning to drive out of the City for employment.

The provision of affordable housing

- 7.6 The Green Party refute the claim that there is a financial choice to be made between levels of affordable housing and levels of sustainable building and design³. We believe that this is entirely spurious. This is particularly so in the case of Germany Beck, where there is some evidence⁴ that the likely income from the site may leave more leeway for further spending because sale prices and densities may inflate the returns achieved. Even half the additional income estimated from higher sale prices would be very significant. In the case of Derwenthorpe there may be comparatively less room for manoeuvre, but money can usually be found when it is deemed essential. It could also be found if the Council were prepared to hand back some or all of what it is expected to receive for the sale of the site⁵. The proceeds would pay for more affordable and more sustainable housing, both of which are purported to be central aims of the policies pursued.
- 7.7 Perhaps the more relevant question relates to the more general choice between affordable housing and environmental sustainability. Is there really an urgent need to build on these greenfield (and probably green belt) sites that outweighs the loss of existing open space and the negative impacts on local communities. The Green Party would argue that the answer is ‘no’. The commitment of these sites for development is a decision for the long-term, which once allowed cannot be

¹ Policy H2a of CD1

² As in JS4 and Y5, for example

³ ID34

⁴ See the relevant section of the case presented by Fulford Parish Council.

⁵ JRHT/MWS

reversed. Once building begins the sites cannot be reclaimed as green open spaces on the edge of York. Equally if unsustainable developments are allowed they must simply exacerbate existing problems rather than be part of the solution to deal with climate change and reduce our reliance on car-borne transport.

- 7.8 It is important to put the choices presented into perspective¹. Research shows that achieving an EcoHomes rating of ‘very good’ is only likely to reduce carbon emissions by about 35% over a dwelling merely complying with Building Regulations². Such a saving would be insufficient to prevent a steady rise in carbon emissions. Yet the cost of achieving an EcoHomes rating of ‘excellent’ at Derwenthorpe is put at about £2.5m³. That is less than the cost of putting the pylons underground and enormously less than the cost of professional fees. Moreover, a large part of the costs of the scheme is due to ‘exceptional items’ required in overcoming the difficulties of building on the site. The use of a more sustainable site might enable building to achieve a higher rating. Similarly, at Germany Beck, the need to build the flood defences and the spine road dictate that achieving a 50% level of affordable housing and an EcoHomes rating of ‘excellent’ makes the scheme unviable⁴. Had a site with more sustainable development costs been chosen and the ‘exceptional’ items removed, then the figures would indicate that both targets could have been met while the project remains ‘profitable’.

The suitability of the schemes; Germany Beck and Derwenthorpe

Are the schemes sustainable?

- 7.9 It is also important to realise just how insignificant the mooted achievements might actually be. As indicated above, the ‘very good’ and even ‘excellent’ rating offered is only likely to reduce carbon emissions by about 35% over what could be achieved under the Building Regulations. There are other rating systems that imply a higher standard⁵. For example, an ‘EcoHomes’ rating of ‘very good’ would roughly equate with a ‘3 star’ rating under the Code for Sustainable Homes and a ‘bronze’ rating in relation to the Energy Efficient Standards, though the latter relate only to energy and do not include criteria on water, materials or transport. It would be necessary to achieve the ‘innovative’ rating to match a ‘5 star’ or ‘gold’ rating under the other codes. The EcoHomes assessment is very weak and deeply flawed, particularly in offering a flexible menu whereby developers can pick and chose how to achieve an apparently respectable score⁶. There are better alternative assessment systems, one of which is offered by the ‘zedstandards’⁷. A key element is that all aspects of sustainability have to be met and that the wider sustainability of the site as a whole is given a high level of importance, particularly with reference to transport, reduction of car use and overall CO₂ emissions reduction. When assessed in this context there are clearly numerous aspects which call into question the sustainability and suitability of the sites, particularly in relation to the Germany Beck site. It is suggested that a scheme designed to meet the latter could reduce carbon emissions by up to 90% in comparison to the Building Regulations⁸. A real attempt to achieve homes with a ‘zero’ rating for carbon emissions should require building to such standards.

- 7.10 A further flaw in the application of the EcoHomes standard to both schemes is that, as yet, the proposals are submitted only in outline. A great deal that is involved in ‘sustainable’ building

¹ ID34

² ID34

³ See the relevant section of the case for the Joseph Rowntree Housing Trust

⁴ See the relevant section of the case for Persimmon Homes

⁵ ID73 and JRHT/NI

⁶ ID73 and ID183

⁷ ID74

⁸ ID73, ID74 and ID183

requires detail. In relation to the proposed developments, not only is very little actually fixed, but also little that is proposed encompasses the level of detail necessary to assess important sustainability issues. For example, the design guidance and ‘design codes’ employed by the applicants do not provide scope to consider the use of sedum roofs or roof gardens, home working arrangements, charging facilities for ‘ultra efficient cars’, the use of renewable energy sources, the sourcing and properties of building materials and the like because the design of the dwellings has not yet reached a sufficiently detailed stage. Such matters are crucial to the proper application of the ‘zedstandards’. Applying those standards to a scheme of over 400 dwellings could reduce the ‘carbon footprint’ per person from about 5.45ha (under the Building Regulations 2000) to about 1.96ha¹. The average ‘footprint’ in York is indicated to be 6.91ha (as at 2002) and the target is to reduce that to 3.5ha by 2033².

Enforcement

- 7.11 It is our experience that the City of York Council is extremely under-resourced in terms of staff to negotiate, monitor and enforce planning conditions. Given the scale and complexity of these two developments and the range of critical issues that have to be addressed it is our contention that if approved a full time post in the City of York Council should be funded by each developer until at least half the development is complete and, in the case of Germany Beck, until the completion of phase 4 to ensure that very scant resources are not diverted from elsewhere and that the conditions are adhered to³.

Germany Beck

The suitability of the scheme

Is the scheme sustainable?

- 7.12 In the case of Germany Beck we believe the situation is even clearer. This development does not particularly aspire to be environmentally sustainable in any way. Under pressure, the developers have offered to meet the EcoHomes ‘excellent’ standard, although the standard aspired to turns out to have been based on the EcoHomes 2005 criteria. It is not entirely clear whether or not they would be able to meet the slightly more stringent requirements set out in the EcoHomes 2006 standards⁴. At present the estimated score derived from the preliminary assessment is below 70%⁵. As the UK’s largest house builder, building around 16000 dwellings a year on 400 different sites, Persimmon is able to source materials to score highly on certain criteria; for example, ‘A’ rated appliances, dedicated low energy fittings and construction materials. The Green Party are pleased to support this. However, the evidence is that the EcoHomes standard is very flexible and that it is possible to achieve fairly high scores while failing on numerous important sustainability measures, such as the inclusion of renewable energy schemes, ‘future-proofing’ for home-owners to add renewable energy devices, designing for a maximum passive solar gain, sourcing environmentally friendly building materials and water conservation⁶. It was even suggested that something approaching an ‘excellent’ score could be achieved without any public transport provision to the site⁷.
- 7.13 Worse still, the EcoHomes assessment submitted is a paper-based exercise undertaken at the design stage of the scheme. It does not guarantee that what is offered on paper is what will be

¹ ID183

² Set out in the Community Strategy, see ID183

³ ID257

⁴ ID209

⁵ ID209

⁶ See above

⁷ ID209 and Ms Thomson’s answers to questions

delivered on the ground. A further assessment would be necessary¹. Given the late inclusion of their commitment to EcoHomes, and the even later provision of any detailed evidence on how they plan to achieve it (and then only on request), it is hard to avoid the conclusion that the commitment to environmental sustainability in this instance goes further than gaining enough ticks in enough boxes.

- 7.14 Naturally we would like to see the positive measures offered² included, if the development does go ahead. As far as we can see these would specifically be ‘A’ rated appliances, energy efficient lighting, cycle storage and recycling storage, and ‘grey-water’ recycling in all dwellings. These are the main positive measures on environmental sustainability actually offered. We would like to see a further range of sustainability measures included that are currently absent from, or inadequately covered by, the scheme or on which the EcoHomes assessment is extremely weak. That would begin to make this development sustainable. The measures would, essentially, entail criteria from the ‘zedstandards³’ and the achievement of the highest rating from the current ‘codes’⁴. The aim should be to achieve a zero carbon development⁵.
- 7.15 We also have serious questions about the information provided on walking to local shops and services. The quoted distances and walking times appear very generous⁶. Current guidance states that distances must be measured along routes actually walked and not ‘as the crow flies’⁷. Yet, a brisk walk from the centre of the site to Main Street was timed at 13 minutes, clearly implying that most of the dwellings could not be within a 10 minute walk of the shops in Main Street⁸. In addition, there can be no guarantee that an on-site shop would be provided at the centre of the proposed development. The sustainability of the location, and of the scheme, may thus be exaggerated.

The Green Belt

- 7.16 The scheme at Germany Beck would remove an area from the Green Belt around York that very much enhances the setting of the City. The site lies beside a designated ‘green wedge’ and provides an expanse of open countryside beside Fulford Village. It also enhances the quality of life for neighbouring communities by offering an accessible area of countryside on their doorstep. Other objectors have submitted further details on these issues.

The impact on the Conservation Area ~ Fulford

- 7.17 We also support the arguments put forward about the unacceptable impact this development would have on the setting of Fulford Village. The scheme would completely change the current village setting. The place is surrounded on 3 sides by open fields or the natural expanse of Fulford Ings. We support other objectors who claim that this farmland forms a natural setting to the Conservation Area and provides enough of the hedgerow pattern to make it possible to still appreciate the historic medieval pattern of the village⁹. The ‘debate’ about the identity of Fulford Village seems nonsensical. People do refer very loosely to a wider Fulford area (for reasons of house selling, school catchment and sheer vagueness). But Fulford Village itself has a very clearly defined area with a clear identity; it is centred on Main Street and probably extends

¹ ID209 and Ms Thomson’s answers to questions

² ID209

³ ID74 and ID183

⁴ The outline of some conditions is indicated in ID73

⁵ ID183

⁶ PH/PJR/1.1, page 7

⁷ PPS6, paragraph 3.25 is one place where such guidance is made explicit.

⁸ ID183 and PH/PJR/1.1

⁹ John Norris in agreeing with Dr Wools’ evidence in FPC/GEW/4

northwards only as far as the church.

- 7.18 We also believe the proposed spine road would completely change the character of the village at the entrance to the Conservation Area¹. The creation of a new junction and the urbanising effect of the signs, lights and traffic control measures, would impair the rural character of the road at a ‘gateway’ into Main Street². And the lifting of the carriageway, together with the building of a roadside wall as part of the flood defence measures, would irreparably alter the rural character and countryside ambience around Landings Lane. A 3 or 4-lane road, however well landscaped, would not create the same character as the existing, rather modest, 2-lane road that curves through a sylvan scene at an important entrance to the City³.

The impact of traffic

Access arrangements

- 7.19 The access arrangements proposed and the size of the scheme fail to take enough account of the impact the development would have on surrounding communities in terms of additional traffic generation and pressure on local infrastructure. The traffic issue is particularly acute in respect of the Germany Beck site. The use of a single access would focus all the traffic generated by the scheme on to a single point of a particularly busy road. Moreover, the distance between that junction and the far end of the site must serve to encourage residents there to make use of their cars rather than walk⁴. The A19 is already likely to have to accommodate traffic from several developments (some in the process of being completed) that together provide some 280 dwellings. The need to accommodate a further 700 homes must exacerbate existing conditions⁵.
- 7.20 That would be all the more likely because the trip rates used by the applicants are based on surveys at the Fordlands Road estate⁶ where a significant proportion of the residents occupy bungalows. The new development is likely to contain residents with a much younger age profile and with a higher proportion of households consisting of two professional working adults and one or more children. In this location it is likely that at least one of them would be expecting to drive to work in the family car. Indeed, that is tested in the modelling, for it is suggested that more traffic might negotiate the junction with the A64, perhaps generated by the newer sectors of the economy at the Science Park, the University, or at Monks Cross⁷.
- 7.21 The response to this is to assume that the strategy to achieve the ‘City Vision’, adopted as a key objective for the Local Strategic Partnership to 2021 as a City ‘where traffic will be less congested and there will be cleaner air’ will work⁸. A key aspect of this strategy is the need to use the opportunity presented by new developments to ‘design out’ the need for a car and to make sustainable means of transport more attractive and convenient. There are 2 problems. First, the modelling undertaken appears to be based on the assumption that measure to encourage non-car borne modes would be successful. For example, the prediction is that the University development would result in traffic on Field Lane being reduced by 40% compared to present flows, even after an increase housing development⁹. That would appear to be at odds with the view that once the proposed 700 dwellings are completed, the A19 through Fulford would be overloaded for a longer

¹ CD63

² ID140

³ CD140

⁴ GP2

⁵ GP2

⁶ Y9, paragraph 53

⁷ Y9, paragraph 54

⁸ Y7

⁹ Y7, table 6 on page 39

period than is currently the case, thereby increasing delays and pollution in the village¹.

- 7.22 Second, the assumption is that the measures to be adopted at Germany Beck would be successful. Indeed, the question for this Inquiry is, how might prospective residents be convinced that walking, cycling or using a bus would be a more attractive and convenient option than going by car; and, how can the design ensure that such a belief would be well founded and maintained over time?²
- 7.23 The first problem is that the size of the junction with the A19 appears to favour motorists over other road users. The proper adoption of measures to favour other road users, including speed restrictions, would allow the size of the junction to be reduced. And such measures should be reflected in its design. There should be advanced stop cycle lines to ensure safety of the more confident cyclists, who may want to join the cycle route towards Naburn or the Designer Outlet, or ride on the road towards the City centre. Such features would send a clear message about the importance of walking and cycling in relation to the development itself. The proposed shared cycle and pedestrian path on the west side should be wider (at least to allow for segregation) and contain safe points for those crossing from the development and for cyclists to rejoin the carriageway after the junction; some cyclists would be using the northern section of Fordlands Road in either direction and that should be catered for.
- 7.24 Similarly, the inbound 'bus gate' would appear to be in the wrong place³. Given that the bus would be in the same queue from Naburn Lane to Landing Lane and merely get the opportunity to pass about 6-8 vehicles at Fulford, the priority afforded would appear minimal. In contrast, there would be advantages for the Park and Ride bus under the BLISS system (giving it priority through the junction with Naburn Lane) or the Selby bus having such a 'bus gate' at the head of the proposed new bus lane on the dual carriageway section from the A64 to Naburn Lane. Relocating this 'bus gate' would allow the proposed junction to be scaled down, thus reducing the loss of landscape features on this important approach to the village of Fulford and to the City of York. Alternatively there might be scope for more off-road space for cycles and pedestrians.
- 7.25 Local people are all very aware that the A19 is full to capacity at present and the Council acknowledges that the development would mean that congested conditions would be experienced for longer. The effect would create inefficiency and impart a poor impression of the City: it would also create a generally more unpleasant environment due to increased traffic. In particular the scale and location of the major junction with the spine road would dramatically urbanise the approach to the Conservation Area and Main Street Fulford. That would spoil an historic approach to a historic City⁴.

Measures to reduce car travel

- 7.26 We believe that the measures to reduce car use, as currently proposed, would be totally inadequate. This would mainly be due to a combination of a lack of commitment to build anything other than a fairly standard 'edge of centre' housing development and to the inappropriateness of this site.
- 7.27 The proposed ¼ hour frequency bus service is dependent on securing access from the eastern side of the site⁵. The numerous changes to the proposals in this respect indicate the uncertainty around this service, made worse by the threat to reduce the early morning and evening frequency of the

¹ ID198

² ID198

³ ID198

⁴ ID257

⁵ PH/GBH

existing service (and indeed the service throughout the day¹). If the development is approved, a frequent and convenient bus service through the site would be essential, but its viability may be at risk if the majority of residents travel to work by car².

- 7.28 Past experience justifies such doubts. The statement that ‘the Council is actively seeking to put in place measures to reduce the use of Fulford Road’ is no guarantee that effective priority measures would be implemented. Promises made about improving public transport as part of the planning approval for the Designer Outlet over 5 years ago have not been implemented, even though the funding has been available³. In the current Local Transport Plan⁴, enhanced priority measures are not scheduled until the end of the period 2006-11. We believe that the Council has therefore failed to demonstrate that it can ensure high quality public transport routes through the development that speedily access the City centre⁵. Without a ¼ hour reliable bus service, within walking distance of most dwellings, we submit that the development would fail to meet the criteria sought by the Secretary of State in calling this Inquiry. We would therefore propose that, if approval is given, a condition should be imposed preventing development proceeding beyond phase 3 without the ‘bus gate’ connection via Low Moor Avenue, Mitchel’s Lane or a suitable alternative eastern connection to the highway network⁶.
- 7.29 In the absence of safe and convenient cycle connections to the existing cycle network, an important incentive to switch from the private car to alternative modes would be undermined. This philosophy should permeate the whole design. For example, the scheme should be a ‘low car’ development averaging less than one car per dwelling, including some ‘no car’ cells, perhaps nearest School Lane. Home zones (in which a speed limit of 8mph should pertain) should be close to public transport, the car club facilities and secure cycle parking. That would impact on the membership and use made of the club. The spine road should be subject to a 20mph speed limit. An increasing number of authorities are seeking to adopt this as the default limit in residential areas⁷. Such a limit would make it easier to ensure that the home zones would be areas where children would be safe to play and develop their independence in a safe environment. There are many examples in the UK where this concept is far more widely implemented than is so far the case in York⁸.
- 7.30 It is claimed that considerable attention has been given to creating good cycling routes and connections with the surrounding area in order to facilitate cycling to work and to local services, as opposed to using the private car⁹. Yet the plans indicate otherwise¹⁰. The only cycle connections from the site providing access to routes towards the City centre or to existing cycle paths are via School Lane or via the junction at Fordlands Road. The developers clearly feel that

¹ This has now been implemented

² ID257 and GP2

³ Y9, paragraphs 67-71. (Inspector’s note: It is explained in Y7 that local opposition prevented the implementation of the scheme envisaged at the time, which involved changes to Main Street Fulford. The current proposals offer a different solution.)

⁴ CD5

⁵ ID198

⁶ ID198

⁷ Portsmouth recently announced its intention to be the first UK city to make 20mph a standard limit for most roads. Hull has reduced overall injuries by 60% in its 20mph zones and child pedestrian injuries have been reduced by 75%. The Commission for Integrated Transport found that where cities have 20mph limits covering between 65% and 85% of the urban network, they are transformed ‘from being noisy, polluted places into vibrant, people-centred environments’. 20mph is the speed at which drivers can have eye contact with other users of the street. It is the speed at which pedestrians feel more confident about crossing the road, children play outside their homes and it is quiet enough to hold a conversation.

⁸ ID198

⁹ PH/GBH and PH/PJR

¹⁰ PH/PJR/1

there is some need for improvement regarding joining up with existing cycle paths since they have suggested upgrading a footpath along the edge of Fulford Ings to provide a connection. Yet there are numerous question marks over the viability of that suggestion:

- there is no safe cycle route from the junction of Fordlands Road to join up with the proposed newly improved path;
- the proposed route is currently a narrow and rough country footpath with a steep gradient;
- no Council policy for the proposed change has been agreed and such a proposal could well attract much opposition, as it would completely change the character of the existing countryside walk beside the Fulford Ings SSSI.

- 7.31 There are similar doubts about the convenience of the footpaths to be provided to the site. First, the distance for many prospective residents to walk to the local shops and services would appear to entail journeys substantially more than 10 minutes in duration¹. The Council's own emerging supplementary planning guidance, based on local surveys, is believed to propose that a reasonable journey length over which people might be expected to chose 'walking' rather than driving' would normally entail about a 5 minute walk². Clearly, for many residents the Germany Beck scheme would not present such a choice. Hence, the nature of the site and its location would encourage car use for 'popping to the local shops' and other similar purposes.
- 7.32 Second, many of the existing routes that lead onto Main Street, either up from the Ings or via School Lane, are not wheelchair friendly³. Much careful work would be needed to upgrade these routes without altering the character of the area or opening them up to nuisance use by mopeds and motorbikes. If a toucan crossing is to be provided, the safety of all road users would need to be considered. There is a significant elderly population in Fulford who do not want to negotiate more cyclists on the pavement, encouraged by such a new crossing. The design of pedestrian and cycle access via Low Moor Avenue or Mitchel's Lane needs careful consideration, especially if shared with regular bus traffic.
- 7.33 It is acknowledged that the proposed shop to be included in the site could not possibly be expected to provide for the main food shopping needs of the 700 households⁴. While we would of course want to encourage additional custom for the shops on Main Street, it requires a very fertile imagination to believe that these shops would be able to cater for the major weekly shopping needs of the prospective residents. The possibility that many would visit the little shop on the corner of School Lane would be very remote. It is very small and although it does stock a variety of 'other goods' in small amounts, it is mainly a sweet shop serving children attending the nearby schools⁵.
- 7.34 The developers have offered to pay over a sum of money to the Council for the establishment of a car club. We consider that this is an inadequate approach⁶. The developers should take responsibility for delivering sustainability measures themselves. They should be instrumental in the management and promotion of the car club. Car pick up points should be designed in many locations around the site and information about signing up to the car club should be provided to all potential purchasers and tenants at the point of purchase or entering into a tenancy. There is no commitment given to contractual 'no car areas'. Even if the car club has some success it is hard to avoid the conclusion that this would still primarily be a car based development.

¹ ID183

² ID257

³ ID198

⁴ Mr Courcier's answers to questions

⁵ ID257

⁶ ID257

7.35 For those reasons, we consider that the scheme fails to implement important sustainable forms of development. In essence, the proposal shirks responsibility to incorporate sustainable measures that ought to be expected in the real world of the 21st century. Society is still built around the use of the private car. It is the responsibility of government, through its planning policies (as well as in other ways) to encourage and facilitate greener lifestyles and to avoid developments that fail to adequately tackle the issue of car use. This is a failing of the scheme at Germany Beck.

The impact on flooding

7.36 Despite the assurances from experts, we still have doubts about the soundness of building in an area so prone to flooding, when other areas are available¹. Our impression is that the effectiveness of the flood mitigation measures is still untested and will depend on constant and very efficient monitoring and maintenance to (hopefully) be successful. The expectation that all additional run-off caused by the development would obligingly find its way into the mitigation ponds seems to be optimistic in the extreme. There is also the added uncertainty (if the Heslington East University expansion is also given approval) surrounding any combined impact if the drainage measures upstream at the University were to fail for any reason².

7.37 A certain allowance has been factored in for climate change, but we would remind the inquiry that the Environment Agency has said that global warming could increase the risk of flooding up to 20 fold in future. It is to be noted that the Ouse is tidal to Naburn and rises in sea level could extend this to York; the risk is that spring tides combining with prolonged flooding could create a far more serious scenario. Given the uncertainties with regard to this site, the clay soils and the susceptibility of the Beck to flooding, we would again emphasise that the precautionary principle, emphasised in PPG25, and the sequential tests should rule out this site from development on the scale proposed at this location³.

7.38 Grey-water recycling (which incidentally does score a lot of points on the EcoHomes system) and the installation of water butts are measures to be incorporated in the scheme and are subject to conditions or the Agreement. But such measures are primarily for saving water. These are supported. But, the first does not address the issue of rainfall run-off; and, the second makes only a limited impact. Rainwater recycling is not proposed. It is suggested that over 50% of mains water can be replaced by collected rainwater if the appropriate systems are installed⁴. This can remove a considerable amount of rainwater from the local water system (reducing surface water by up to 60% per house plot), while not increasing the amount discharged through the sewers at all⁵.

The impact on ecology and nature conservation

7.39 The scheme would remove natural habitats, valued by local people and walkers, which have developed over many years. These would be replaced by housing estates, landscaped areas and rapidly 'created' habitats⁶. Other objectors have submitted further details on these aspects.

Derwenthorpe

7.40 In the case of Derwenthorpe the proposed development is a good one in terms of what it is aspiring to achieve, but we still believe it is in the wrong place⁷.

¹ ID133

² ID133

³ ID133

⁴ See, for example, www.freewateruk.co.uk

⁵ ID133

⁶ ID257

⁷ ID257

The Green Belt

7.41 The scheme at Derwenthorpe would remove an area from the potential Green Belt around York that currently serves as a green ‘finger’ into the City and enhances the quality of life for neighbouring communities. Other objectors have submitted further details on these issues.

The impact of traffic

7.42 The proposal fails to take enough account of the impact the additional traffic would have on the surrounding communities or the pressure exerted by so many additional residents on the local infrastructure. A further concern is that the Sustrans cycle route would not provide a truly sustainable transport link¹. It is currently isolated, unsafe and unattractive. In that condition it would not be likely to induce residents to change from using their cars.

The impact on flooding

7.43 Despite the assurances from experts we still have doubts about the soundness of building in an area so prone to flooding, when other areas are available. The effectiveness of the flood mitigation measures are untested and must depend on constant and very efficient monitoring and maintenance. Once the scheme is approved it would be difficult for residents living in adjoining sites to demonstrate that adverse effects of flooding on their property have been caused by the development, and even harder to get any recompense².

The impact on ecology and nature conservation

7.44 The scheme would obliterate wildflower meadows and natural habitats developed over many years. The proposal would replace such natural features with housing estates, landscaped areas and rapidly ‘created’ habitat. Other objectors have submitted further details on these issues

¹ ID257

² ID257

8. The Case for Fulford Parish Council

Plans and prematurity

- 8.1 The starting point is the Development Plan and, as required by section 38(6) of the Planning and Compulsory Purchase Act 2004, regard must be given to the Development Plan for the purpose of the determining a planning application, which must be made in accordance with the Development Plan unless material considerations indicate otherwise. The relevant Development Plan is the RSS 2004 and the North Yorkshire County Structure Plan, last altered in 1995. Those Plans set out general locational criteria for development, but they are not usually site specific. The 2 exceptions are policies E8 and E9, which prescribe the 'general extent' of the York Green Belt and the forms of development permissible within it. The claim is that the site at Germany Beck is within the 'general extent' of the Green Belt under policy E8 and that the proposals would not be of a type permitted under policy E9. It follows that the Germany Beck scheme would not accord with the Development Plan. On that basis permission could only be granted if material considerations were to warrant a contrary decision¹.
- 8.2 The claim is that such a decision would be premature. The reason is that the 'general extent' of the York Green Belt is to be reviewed in the current revision of the RSS. The EiP is scheduled for September 2006 and the process is to specifically consider the inclusion of a policy to replace Structure Plan policy E8. Unless 'extended' by the Secretary of State, that policy would cease to be operative in 2007 (under the provisions of the 2004 Act), implying that the Green Belt around York could 'lapse'. Clearly, issues of prematurity² can relate not just to DPDs but also to the Development Plan itself, of which the RSS is a part. Hence, although the original intention had been to recommend that policy E8 be 'saved', objections, including those from the Government Office³, have led the EiP Panel to consider the 'general extent' of the York Green Belt. The consequence is that the report, forecast for January 2007, is likely to include recommendations on the 'general extent' of the Green Belt and the revised RSS, perhaps adopted within 18 months, is likely to contain a policy setting out the 'general extent' of the Green Belt around York. The application site is a significant size and a decision about its status now would have the potential to compromise decisions about the 'general extent' of the York Green Belt that ought to be taken in the context of the RSS revision⁴.
- 8.3 More fundamentally, the 'general extent' of the Green Belt likely to emerge from the RSS process must accommodate a complete and coherent approach to significant changes in strategic planning since a Green Belt around York was first identified. Structure Plan policy E8 is essentially based on the 'sketch Green Belt' imposed by the Minister back in the late 1950s. Circumstances and policies are now quite different. In particular, there is an urgent requirement to find more land for development. That partly stems from the RSS strategy that York should be a focus for economic development and growth. But arguments are also due to be heard at the EiP involving not only increased housing and employment projections, but also that more land might be required simply to pursue sustainability objectives in properly relating the housing required to the employment available. Clearly, the 'general extent' of the current Green Belt does not accommodate such eventualities; indeed, that is explicitly recognised by the Inspector reporting on the York Green Belt Local Plan⁵. A 'new Green Belt' would be required. Possible options for defining the 'general extent' of such a Green Belt might entail extending the City to the ring road, expanding

¹ FPC-GBDG/GEW/1

² See the General Principles, paragraphs 17-19.

³ See FPC-GBDG/GEW/3, ID/6. page 3.

⁴ FPC-GBDG/GEW/1

⁵ ID37, paragraph A7.29

development along radial routes (so preserving the ‘green wedges’) or maintaining a tightly drawn Green Belt (but necessitating a new settlement somewhere beyond it). The claim is that only the first option would be consistent with a permission to develop the whole of the application site. If either of the other 2 options were followed then much of the site should remain open due to its proximity to the ‘green wedge’ (to the east) and the potential impact of additional development at a key entrance on the historic character of the City. Such options should be chosen in the context of the RSS process and a decision that could pre-empt such a strategic choice now would be premature¹.

- 8.4 Even if the site is deemed suitable for development when the new strategic framework emerges, a decision now that its development would be premature would only result in a short delay to the provision of housing here, perhaps by just two years. Given the estimated rate of delivery from the site (see below), such a delay would not materially affect contributions to meeting housing requirements.

Housing; numbers, markets and needs

Numerical housing requirements

- 8.5 It is likely that the housing requirements emerging from the EiP would be above those currently assumed². But, even if that is not the case, a short delay (as envisaged above) in contributions from the application site would make no material difference to meeting those requirements. The site is projected to produce only 190 dwellings between 2008/9 to 2010/11 of a size and type and tenure as yet unspecified³. That would amount to less than 1/3 of the annual requirement. It is difficult to see why a marginal increase in the rate of development on such a large site could not readily make up any shortfall. Or, indeed, small variations in the yield from current planning permissions or the contributions from the Derwenthorpe scheme (which is not within the current ‘general extent’ of the Green Belt) could minimise any short term failure to achieve the provision of houses needed.

The market and the requirement for family housing

- 8.6 It is emphasised that the scheme would provide a wide mix of houses and apartments including a large proportion of dwellings suitable for families. But, the mix, type, size and tenure of the housing are not secured. The scheme is submitted in ‘outline’ and all such matters are reserved for subsequent approval. All that is secured by condition is that the scheme should ‘generally conform’ to the updated ‘development principles report’ and that details should be submitted in relation to the mix of housing types and sizes. Such a basis for the provision of ‘family housing’ should be discounted⁴.

Meeting the need for affordable housing

The need for affordable housing

- 8.7 There is no dispute that the various ‘assessments’ indicate a significant need for affordable housing in York⁵. But that is a City-wide need. No evidence is adduced to demonstrate that there is a specific requirement for social rented or intermediate housing at Germany Beck. In the absence of such evidence the apparent benefits are undermined. The provision of affordable housing at the periphery of the City, where travel costs are likely to be high and food expensive (in the proposed modest local store), may not represent a ‘sustainable’ way of meeting such

¹ FPC-GBDG/GEW/1 and FPC-GBDG/GEW/3

² FPC-GBDG/GEW/1

³ See table 1

⁴ FPC-GBDG/GEW/1

⁵ CD163, CD152, Y5 and Y6

needs¹.

The provision of affordable housing

8.8 Moreover, the affordable housing element likely to be provided would fall well below the 50% proportion currently required in the latest version of the City of York Local Plan. The attempt to demonstrate that only 35% of the dwellings can be offered as affordable homes if the scheme is to remain viable depends not just on infrastructure and other costs, but also on the assumptions about sale values and the ‘saleable’ floorspace generated by the type and density of development proposed². Based on the designs and the market price of schemes at Pavilion Court, Fulford and at Fulford Chase, an average sale value of some £213ft² to £270ft² might be achievable, substantially higher than the £190ft² assumed in the submitted evidence³. In addition, it is suggested that a developable area of some 18500ft² per acre would be a reasonable assumption here instead of the 15500ft² per acre incorporated in the analysis⁴. Seen in that light, the provision of affordable housing derived from the scheme may not be generous. In any case, the level would compare unfavourably with that likely from any other site released from Green Belt for housing development, which would have to meet the 50% target now required.

Site selection; Germany Beck

8.9 The Council have not explicitly indicated whether the proposal at Derwenthorpe would be preferred over the development at Germany Beck. However the implication from the committee reports and elsewhere is that that is the case. The site at Derwenthorpe is described as the best opportunity for an urban extension: Germany Beck is merely portrayed as the only other emerging site suitable for large scale housing development⁵. If that is so, then there is a further reason to delay development at Germany Beck until it is certain that the housing requirements can be met in no other way.

The suitability of the scheme; Germany Beck

8.10 The public transport proposals are characterised as important benefits of the scheme as well as contributing to the sustainability of the development. In fact they may not benefit the people of Fulford. Services 22 and 23 would be removed from Main Street to traverse the proposed estate and the number of stops made by the frequent ‘park and ride’ service in the village is likely to be reduced. Improvements to the reliability of buses on Main Street should be set against those losses⁶.

8.11 Nor can the intention to achieve an ‘excellent’ rating in relation to the ‘EcoHomes’ standards be relied upon. It is merely the subject of a vague condition. A condition that would, in any case, be deficient. It is not clear how the Council would judge whether the appropriate number of points had been achieved. Nor is it clear that the condition would be necessary. It would relate to no policy requirement and could, consequently, be set aside. Moreover, the ‘EcoHomes’ standards are likely to be scrapped or amalgamated shortly, thereby rendering a challenge to the condition all the easier. In addition, the evidence is that an ‘excellent’ rating under the 2006 standards could not be guaranteed, at least as the scheme is currently envisaged. A permission granted in the face of such a demonstration might be invalid⁷.

8.12 Similarly, the significant areas of open space to be incorporated into the scheme, the quality of the

¹ ID272

² FPC/GEW/6

³ PH/DP/1 and FPC/GEW/6

⁴ FPC/GEW/6

⁵ See Y2, Y4 and SCG/GB/1

⁶ ID272

⁷ ID272

design and the contributions to outdoor and indoor recreation facilities, are no more than what policy requires. Any scheme in any location would have to achieve such provision. Those provisions should not be regarded as benefits of the scheme but as requirements that might be sought from any similar proposal¹.

The Green Belt

The 'general extent' of the Green Belt and the status of the sites

- 8.13 A useful starting point is the decision of the First Secretary of State at North Monks Cross². The claim is that the Secretary of State is bound to take note of that decision in determining this application. The cases bear important similarities³. The Inspector at the York Green Belt Local Plan similarly decided to exclude the site at North Monks Cross from the Green Belt. In that recent appeal decision the 'need' for development was regarded as a possible 'very special circumstance' to except that proposal from Green Belt policy. The same should apply here. The logic is that, as the Green Belt circumstances are the same so Green Belt policy should be applied similarly. Hence, the findings at North Monks Cross that very limited weight should be attached to policies set out in the 4th set of Changes or to the recommendations of the Inspector in relation to the York Green Belt Local Plan, are relevant here too⁴.
- 8.14 The claim is that Green Belt policy applies to the whole of the application site because it lies within the 'general extent' of the York Green Belt⁵. In outline the argument is that the current 'general extent' of the Green Belt stemming from the 1980 Structure Plan is intended to replace the 'sketch Green Belt' previously defined by the Minister, as well as those sections of it identified in County Development Plans. Both forms of definition entail the identification of detailed boundaries. Moreover, the requirement for Plans to provide certainty about the use and development of land means that the 'general extent' of a Green Belt must convey a commensurate degree of precision. The option, provided by the two-tier planning system, to define detailed Green Belt boundaries in Local Plans, is an option to exclude land within the 'general extent' of a Green Belt and to review detailed boundaries. But the application of Green Belt policy applies to the 'general extent' of the Green Belt identified, it does not depend on the designation of detailed boundaries. The justification for those points is set out in more detail below.
- 8.15 Initially Green Belts were often established as 'sketch Green Belts' by the Minister for Housing and Local Government with precise boundaries being determined through approved County Development Plans. That was the case at York, though not all the relevant County Development Plans were actually approved. In 1974 control passed from the 3 'Ridings' to North Yorkshire County Council. By 1980 the County Structure Plan was approved setting out the 'general extent' of the Green Belt around York in policy E8 and, thereby, replacing all previous provisions that had applied. The County Council also subsequently promoted the York Green Belt Local Plan to define appropriate outer, inner and inset boundaries. That reached its post-Modification stage prior to the 1995 review and alteration to the Structure Plan. Had that not been the case, it is claimed that, under the plan-led system inaugurated in the 1990s, the County Council would have been responsible for addressing the inadequacies of the extant version of policy E8, which failed to give a clear definition as to the 'general extent' of the York Green Belt. Unfortunately, the adopted version of policy E8 is couched in terms that pre-date the 1995 revision to PPG2 (as the reference to 'cemeteries or institutions standing in extensive grounds' demonstrates) and the

¹ ID272

² CD31

³ CD37, pages 58 and 84

⁴ FPC-GBDG/GEW/1 and FPC-GBDG/GEW/3

⁵ FPC-GBDG/GEW/1 and FPC-GBDG/GEW/3

creation of the City of York in 1996 led to the abandonment of the York Green Belt Local Plan¹.

- 8.16 The current version of PPG2 indicates how Green Belt should be addressed in the Development Plan process. The advent of the 1990 Act and the plan-led system essentially provided for a 2-stage process; the first requires the ‘general extent’ of a Green Belt to be set out in strategic documents (such as a Structure Plan but now the RSS) and the second, which is discretionary, allows for the boundaries identified in defining the ‘general extent’ of the Green Belt to be adjusted through Local Plans (now through the LDF system). It is suggested that such relatively minor adjustments might be necessary to properly define development sites adjacent to the Green Belt and to identify enduring and permanent boundaries. The claim is that PPG2 indicates that Green Belt policy must apply equally to the ‘general extent’ of a Green Belt and to one where detailed boundaries have been resolved in a Local Plan. The bundle of decisions supports such a stance; they demonstrate an extant Green Belt, the ‘general extent’ of which surrounds the City and in which Green Belt policy should be applied. The suggestion is that the ‘general extent’ of the Green Belt must be precisely defined to provide the certainty and predictability required by PPS1². An ill-defined or imprecise area would fail in that respect³.
- 8.17 The contrary suggestion that the ‘general extent’ of the Green Belt is without specific definition is untenable, due to the ‘certainty’ required by PPS1. Nor, for the same reason, can the concept be merely indicative until ‘certainty’ is provided by the subsequent adoption of a Local Plan. No submitted appeal or call-in decision supports the possibility that the Green Belt around York is only a generalised location; Green Belt policies have been applied to specific sites. The anomaly is due to the fact that most Green Belts were created prior to the two-tier plan-led system so that detailed boundaries were often defined before the role of a Structure Plan in providing for an appropriate site specific interpretation of ‘Green Belt’ land was properly acknowledged. The North Yorkshire Structure Plan thus lacks the detail required. The Key Diagram would not suffice. And although the term ‘general extent’ would seem to denote ‘imprecision’, there is scope to include the necessary precision in a strategic document (be it in a Structure Plan format or the RSS)⁴. For example, the North Yorkshire Structure Plan could have included a description of the ‘general extent’ of the Green Belt or it might have contained a detailed plan. In the absence of such detail, it is necessary to examine extrinsic evidence to establish where Green Belt policy should apply⁵.
- 8.18 It is suggested that appropriate extrinsic evidence is provided by the plan attached to the 1981 discussion paper issued by North Yorkshire County Council⁶. That was produced in the process of defining the outer boundary and so the identified inner edge must represent the County’s view of where Structure Plan policy E8 should apply. The plan is difficult to read, but the best copy available shows the ‘general extent’ of the Green Belt ‘crosshatched’; it would appear to include the site at Germany Beck but not the site at Derwenthorpe. Subsequent plans contained in a ‘progress report’ confirm those designations. And, when the pre-consultation version of the York Green Belt Local Plan emerged in December 1990 the same inner boundary to the Green Belt is identified. That plan also indicates areas to be deleted from, or added to, the ‘sketch plan Green Belt’, thereby providing a definitive portrayal of the ‘general extent’ of the York Green Belt under Structure Plan policy E8. The site at Germany Beck was thus within Green Belt.

¹ FPC-GBDG/GEW/1 and FPC-GBDG/GEW/3

² PPS1, paragraph 8

³ FPC-GBDG/GEW/1 and FPC-GBDG/GEW/3

⁴ It is suggested that subsequent reviews of PPG2 might explain this more clearly.

⁵ FPC-GBDG/GEW/1, FPC-GBDG/GEW/3 and FPC-GBDG/GEW/5

⁶ FPC-GBDG/GEW/5; see also FPC-GBDG/GEW/1.1 and FPC-GBDG/GEW/5.1 for this and the other plans referred to here.

8.19 Have subsequent processes altered that designation? The claim is that they have not¹. First, the recommendation made in the context of the York Green Belt Local Plan is to exclude the site from the Green Belt. It must follow that, in failing to adopt the Plan, those recommendations cannot be implemented and so the site at Germany Beck is not excluded from the ‘general extent’ of the Green Belt but remains within it. Second, the site assessments undertaken at the Local Plan Inquiry confuse the requirement to identify the ‘general extent’ of the Green Belt with the redefinition of boundaries appropriate to a Local Plan. Hence, the ‘general extent’ of the Green Belt was not properly addressed except to make marginal and discretionary alterations to it². Third, the recommended inner boundaries of the Green Belt emerging from that Local Plan process were crucially dependent on the policy objectives pertaining at that time, including the housing land requirements, which only looked forward to 2006. Completely different considerations now pertain that render those recommendations redundant. That is recognised by the Inspector himself. He explains that³:

any major change in strategic approach such as might follow from the placing of greater weight on the desirability of reducing travel distances and on increasing the compactness of urban areas could lead to a fundamental reappraisal of the concept of a green belt and its replacement, for instance, a series of green slices based on an extension of the present green wedges. My concern in the present report however, is not with this but with the most appropriate method of implementing a strategic decision which has already been made by the approval of Policy E8 (iv) of the Structure Plan.

Although policy E8 remains national advice, manifest through PPS1, PPG3, PPG13 and the RSS is very different. Fourth, the post-Modification stage of the York Green Belt Local Plan should now be disregarded as the option to adopt (or save) the relevant policies was ignored in favour of placing the City of York Local Plan on deposit in 1998 and, by virtue of the transitional arrangements then in force, the previous Plan would have ceased to have effect⁴. The site at Germany Beck must remain within the ‘general extent’ of the Green Belt as identified under policy E8 of the Structure Plan.

8.20 The designation of the site in that way also means that the *Myton* judgement is not relevant. That case related to whether or not Green Belt policy should apply within a ‘sketch Green Belt’. It did not relate to a situation where the ‘general extent’ of the Green Belt is identified in an approved Structure Plan. The policy framework that forms the context for *Myton* no longer applies. It relates to the inception of Green Belt policy in the 1950s, not to the policy context that currently pertains⁵.

8.21 Given that the Germany Beck site is within the ‘general extent’ of the Green Belt, are there very special circumstances to warrant the development proposed? The claim is that none exist⁶. As indicated above, the need for housing is a City-wide need; it is not specific to Germany Beck. And, a short delay of barely 3 years, given the likely yield from the site, would be insufficient to justify inappropriate development in the Green Belt. Nor do the public benefits proffered amount to ‘very special circumstances’. The provision of family housing is not secured by this outline application and the affordable housing element falls below the 50% level currently sought. Even the additional flood protection to the A19, not previously deemed to constitute a pressing public need, would be outweighed by the impact on a fragile rural entry point to the City. The intention

¹ ID272

² That is the second stage of the process envisaged under PPG2.

³ CD37

⁴ The reference is made to the 12th schedule of the 1991 Act and Circular 4/96, Annex B. As schedule 12 of the 1991 Act relates to Scotland the Inspector suggests that it is probably schedule 4 that is relevant.

⁵ ID272

⁶ ID272

to achieve an ‘excellent’ rating in relation to the ‘EcoHomes’ standards is a sustainability argument rather than a ‘very special circumstance’. In any case, for the reasons indicated above, the intention may not be secured. The one claim that remains is that the site makes no contribution to the York Green Belt. That claim is disputed and considered below. Subject to those findings, there are no ‘very special circumstances’ for allowing inappropriate development on this site.

The potential contribution of the Germany Beck site to the Green Belt

- 8.22 The claim is that the Germany Beck site performs an important role in preserving the setting and special character of the City. It provides an aspect over open countryside in which the central core of the City is evident and the historic character portrayed by clear views of the Minster. These were important points in the assessment of sites undertaken in the context of the York Green Belt Local Plan, as were the views from the ring road. The City and the Minster are evident from the A64 and from the public footpaths and bridleways (including Minster Way) across the intervening farmland. The views provide more than glimpses of the Minster and the City centre. Classic views of the Minster are available, as might be expected from a long distance footpath named as ‘Minster Way’¹.
- 8.23 The contrary suggestion, which makes no allowance for the differing views available in different seasons, appears to depend on the foreshortening effect from vantage points closer to the site due to the proximity of the built up area. If that is right then it must follow that extending the built up area further into the countryside would have a similar effect over the farmland to the south. Crucial to the perception of York as a small historic city amidst open countryside is the apparent depth of open countryside across which the City is seen. Moreover, it is important that the intervening land is rural rather than merely being some form of recreational land or public open space, which would convey a more urban ambience. Hence, the result of extending the urban area, and thus foreshortening the views across the farmland to the south, would be to undermine the setting and special character of York by impairing the perceived depth of countryside around the historic core. Given the size and extent of the southern boundary of the site, such an impact would be significant. Moreover, the scheme would actually exacerbate those harmful effects by the creation of mounds, perhaps 2m in height, surmounted by trees well to the south of Germany Beck².
- 8.24 The site thus contributes to preserving the setting and special character of the City and it provides for public access to the countryside. Those are important Green Belt functions. The proposal would harm those functions and cause actual damage to the Green Belt here.

Appropriate Green Belt boundaries

- 8.25 Part of the reason for recommending that the Germany Beck site should be excluded from the Green Belt described the built up edge in the vicinity as illogical and unattractive and indicated that a more ‘realistic’ boundary would be provided by Germany Beck and Germany Lane, only the land to the south being essential to keep open for Green Belt purposes³. Circumstances have now changed. The school currently accommodates new buildings that relate to, rather than turn away from, the countryside to the south. And, changes to the hedge and railings along the southern boundary now provide a defensible and logical boundary there. Elsewhere, the boundary is formed by rear gardens, as is common in numerous Green Belt locations throughout the country⁴.

¹ FPC-GBDG/GEW/1 and FPC/GEW/4

² FPC-GBDG/GEW/1 and FPC/GEW/4, see also ID200

³ ID37, paragraph C69.14

⁴ ID272, FPC-GBDG/GEW/1 and FPC/GEW/4

The impact on the Conservation Area; Fulford

- 8.26 The scheme would have an adverse impact on the setting of the Fulford Conservation Area¹. The lifting of the A19, the creation of a new junction and the urbanising effect of the signs, lights and traffic control measures, would impair the rural character of the road at a 'gateway' into Main Street and at an important entrance to the City. The loss of trees and foliage would accentuate those harmful effects. Part of the front garden at No.151 Main Street (the southern property in a small group of Edwardian Cottages) would be lost and the gable end of the property opened up, intruding into the street scene. Moreover, the proposed housing would cover the open fields to the east, so obliterating the farmland that now forms a natural setting to the Conservation Area and from where it is still possible to appreciate the historic medieval pattern of the village. Although not all the application site would serve that function, it is suggested that the open fields to the west of the Tillmire Drain make an important contribution to the setting of the Conservation Area.
- 8.27 The contrary view, and the series of 3D images submitted, is not convincing². The images do not properly reflect the effects of the road junction or the associated highway paraphernalia. In some images fencing is shown: in others it is not. All the images unrealistically assume that all the trees are in full leaf. They focus on the consequences of raising the road height, but ignore the urbanising impact of the new junction and the associated traffic management works on this fragile rural gateway to Fulford and the City. Contrary to policy, the scheme would impair rather than preserve or enhance the character and appearance of the Conservation Area by spoiling the rural setting of the place³.
- 8.28 It is now understood that the proposals would not result in the creation of a bus lane through Fulford and the prohibition of on-street parking in the village, as indicated in the Local Transport Plan⁴. On that basis the concerns relating to the vitality and viability of the village are not pursued.

The impact on neighbouring residents

- 8.29 The occupants of the Fordlands Road Home for the Elderly would be seriously disturbed by the noise of traffic passing so close to their rooms and traversing the new junction. That is demonstrated by the revised calculations⁵ which show that even with a substantial barrier, traffic noise would exceed the WHO internal daytime standard of 35dB(A) unless windows in the Home were kept shut. With windows open, the noise would be sufficient to interfere with conversation. But the impact would be worse here because frail, elderly and terminally ill people may well require sleep during the day; an internal noise level above 30dB(A) would be sufficient, according to the WHO, to disturb sleep. The traffic noise is estimated to significantly exceed that level. Indeed, the mere fact that the installation of acoustic fencing is deemed to be necessary demonstrates the traffic noise would reach unacceptable levels at the Home. Moreover, some traffic, generated by the schools and the proposed new sports hall, may not have been taken into account.
- 8.30 Similarly, the revised calculations (using BS5228:1997⁶) show that residents at the Home would suffer serious noise intrusion while the road construction was taking place in the vicinity. Even after the effects of a high barrier is taken into account, the calculations indicate that the worst

¹ See Dr Woolls' evidence in FPC/GEW/4.

² ID181

³ FPC/GEW/4 and ID272

⁴ CD4 and CD5

⁵ ID258

⁶ CD90

experiences could reach levels of $L_{Aeq,12hr}=70dB(A)$ at relevant façades and, in the absence of piling, an $L_{Aeq,12hr}=67.9dB(A)$. The Standard itself sets no limit for noise emissions, but it does indicate that noise can cause stress and sleep disturbance¹ and it suggests that levels at external façades may need to be as low as $L_{Aeq,1hr}=40dB(A)$ to avoid the latter². The calculated noise levels greatly exceed that ‘limit’, even without any correction (of 5dB(A)) to reflect the impulsive and clattering sounds typical of a construction site. The claim that the impacts would be ‘moderate’ is not supported by the evidence.

- 8.31 It is suggested that the evidence submitted by the applicants is neither reliable nor complete. One flaw is that the Calculation of Road Traffic Noise³ is used initially and then converted to an approach reminiscent of BS4142. It is suggested that the correct approach should follow the procedures set out in the Design Manual Roads and Bridges⁴. However that requires calculations based on 18 hour traffic flows that are not used here. The evidence uses the wrong standards, the wrong units and relies on unsupported propositions. It should be accorded no weight⁵.

The impact of traffic

- 8.32 It is not clear that all the traffic likely to be generated by the scheme or traversing the access arrangements has been taken into account. Traffic generated by the school is included only as an allowance for some 50 cars during peak hours. But the suggestion is that ‘an ‘awful lot of parents would choose to use the new access to the school’. And, there might be additional traffic generated by the proposed new Sports Hall (to be shared by the community and the school) with cars leaving just before school starts and returning just after school finishes. That could add to peak hour traffic and, of course, to the noise experienced at the Home in Fordland Road⁶.

Conclusion

- 8.33 The evidence shows that the scheme would not accord with the Development Plan, but harm the Green Belt, adversely affect the Conservation Area and impair the living conditions for those at the Fordlands Road Home. The mooted benefits would not be certain or provide for less than policy might otherwise require. Permission should thus be refused either on the grounds of prematurity or because the proposals would be contrary to the Development Plan and not outweighed by other material considerations.

¹ CD90, paragraphs 7.3 and 8.1

² CD90, paragraph 8.5

³ CD88

⁴ CD153

⁵ ID272

⁶ ID272

9. The Case for Karin de Vries

Plans and prematurity

- 9.1 Permission for development at the scale proposed at Germany Beck would prejudice decisions about the mix of brownfield and green-field land required and the extent of the Green Belt commensurate with a long term strategy for York. There is no need to use Green Belt land now. And, in the future provision for development is likely on large windfall sites like the factories at Terry's and British Sugar or the large brownfield sites at Hungate and York Central.

The Green Belt

The 'general extent' of the Green Belt and the status of the site

- 9.2 The Joint Statement on the Green Belt¹ omits any mention of the 'appraisal' undertaken by the Council in 2003². The 'appraisal' is an important document prepared in the context of the emerging City of York Local Plan and as a direct response to the Inspector's expressed concerns that an 'interim' definition of the Green Belt was inappropriate³. The document provides a comprehensive appraisal of the key purposes served by the York Green Belt and identifies the most valuable tracts of land to serve those purposes⁴.
- 9.3 Clearly, the recommendations of the Inspector relating to the York Green Belt Local Plan were never adopted. The 'appraisal' represents a thorough review of such matters that takes account of subsequent changes in the vicinity of the site, including the designation of the Fulford Conservation Area, and applies up to date policy in the context of current strategies. It should supersede the recommendations made over a decade ago. Alternatively, the claim is that, had the Inspector been aware of the matters set out in the 'appraisal', his recommendations would have been different. In essence, although the main purpose of the York Green Belt may still be to preserve the setting and special character of the City, the 'appraisal' demonstrates a fundamental change to the interpretation of that aim. It specifically includes areas that contribute to the setting of villages 'whose traditional form, character and relationship with the City and surrounding agricultural landscape is of historic value'⁵. This is also listed as a specific issue in the emerging LDF⁶. Although the site is shown as excluded from the Green Belt in the 'appraisal', the claim is that this should be a matter for consideration in the context of the emerging LDF based on the new criteria set out in the 'appraisal' document. Given those criteria, it is shown below that the site would serve an important Green Belt purpose. In the meantime, as the site is open land within 6 miles from the City centre it should be treated as Green Belt in accordance with policy E8 of the North Yorkshire Structure Plan. The City should not be saddled with a legacy derived from the remnants of policies pursued by previous Councils.

The potential contribution of the site to the Green Belt

- 9.4 The main purpose of the York Green Belt is to preserve the setting and special character of this historic the City⁷. The 'appraisal' identifies 7 components that contribute to that purpose. These are the 'open approaches to the City', the 'green wedges', 'views of the Minster', the 'character of the landscape', the 'urban form' (specifically the remnants of ancient villages separated by

¹ JS2

² CD135

³ CD139

⁴ CD135, paragraph 1.3

⁵ ID163

⁶ ID79, page 22; under the heading of Preserving the Historic Character and Setting of York

⁷ PPG2 and CD135, page 6

‘strays’ and ‘ings’ within the City), the ‘relationship between the urban edge and the countryside’ and the ‘relationship with the surrounding villages’. Those components are combined into ‘categories of land’ identified as the ‘most valuable areas of Green Belt’. The categories are¹:

- areas which retain, reinforce and extend the pattern of historic ‘green wedges’;
- areas which provide an impression of a historic city situated within a rural setting;
- the setting of villages whose traditional form, character and relationship with the surrounding agricultural landscape is substantially unchanged; and,
- areas which prevent the coalescence of settlements to retain their individual identity.

9.5 It is the third category (and the last component) that is particularly relevant to the Green Belt function of the application site. The ‘appraisal’ explains that:

The villages surrounding York contribute to the setting and special character of the city through their intrinsic form and character, distribution, and relationship with the surrounding agricultural landscape.

Formerly of agricultural origin, most of the villages began as linear and green villages. Many dwellings along main streets had long paddocks behind reaching into the agricultural landscape beyond. The settlement form bore a close relationship with the supporting agricultural landscape and their distribution was determined by the agricultural land which was required to support the community.

Some villages have retained their earlier form and character, retaining a close and visually harmonious relationship between the built and cultivated or grazed landscape. Others, particularly those situated close to the outer edge of the city have expanded, significantly detracting from their earlier form, and visual and working relationship with the agricultural landscape. Notwithstanding this many of these villages have retained their earlier architectural character even if the village form beyond and the reference to the surrounding landscape has changed. This has help [sic] engender their separate sense of community distinct from the urban area of York².

9.6 The claim is that Fulford is just such a village and that the openness of the application site is crucial to maintaining its intrinsic form and character and thereby contributing to the setting and special character if the City³. Although it is not listed as a village in the ‘appraisal’, it exhibits similar characteristics to those settlements that are. And, although it is not wholly surrounded by countryside, it shares only with Middlethorpe a traditional form, character and relationship with the surrounding landscape that has remained virtually unchanged. First, the village has a separate sense of community and identity, both visually and socially. There is a village green, a social hall, a Parish Council, a parish church, and, annually, the enormously successful Fulford Show. The surrounding fields reflect the agricultural past and the ‘cattle pole’ (in the alley between Main Street and School Lane) is a reminder that cattle once had to be kept out of Main Street. In addition, the description of the Conservation Area refers to the village as having its own sense of identity and character⁴.

9.7 Second, the village has retained its historical linear shape. It is the only such surviving village within the ring road to still reflect a pattern of development established some 700 to 900 years ago. Moreover, the evidence⁵ is that the shape of the village is comparatively rare, stemming from the need to re-plan settlements following the depredations caused by the campaigns of 1069.

¹ CD135, page 9

² CD135, page 8

³ This is similar to the case put by the City Council in relation to the York Green Belt Local Plan, see ID37, paragraphs C69.8-C69.10, which also refer to some of the arguments set out below.

⁴ CD1

⁵ CD70, page 8

Of course, the maps of 1759 and 1767 were drawn many centuries after the foundation of the village. But they show two rows of regular crofts between the village street and the back lanes. This is the epitome of a linear village demarcated by Heslington Lane to the north, School Lane to the east, Germany Beck Lane to the south and what is now the Minster Way footpath to the west¹. The form is still evident in the late nineteenth century². And, the pattern remains clear in the submitted aerial photographs³ even though development is more evident along Heslington Lane. Yet that development, together with the more recent estates, does not greatly impinge on the medieval form of Fulford; the shape of the village still reflects its origins. True, 'infilling' in the gardens of the old crofts is apparent along School Lane, but that does not change the outer shape of the village. And, that leads to the third important feature, namely, that the outer shape and the medieval core of Fulford are now included within a designated Conservation Area. As the description indicates, the place forms an attractive linear village. But, in contrast to other villages like Upper Poppleton, Nether Poppleton, Skelton, Bishopthorpe and Middlethorpe deemed to contribute to the Green Belt due to their quality and character as Conservation Areas, almost all the outer edge of Fulford is within the Conservation Area.

- 9.8 Fourth, the character of the Conservation Area and the historical interest of the place are enhanced by the relationship of the village with the surrounding open landscape. The village is listed in the Domesday Survey of 1086 and the Historical Landscape Appraisal⁴ indicates that land within the application site might have been part of an open field system (suggested by the parallel, curving form of the northern and southern boundaries) with a western boundary formed by what is now School Lane and an eastern boundary at a lane dividing the field from East Moor. This is a 'distinctive agricultural landscape ... of small open fields, large commons and extensive early inclosures'. The pattern is still evident in the shape of the remaining fields together with the width and alignment of School Lane⁵. Indeed, the shape of the 2 fields to the south of Osborne House remains as shown on the 1759 Inclosure Map as do the 2 fields to the north surrounded by hedgerows. Those hedgerows would be ancient. And, although they have been poorly maintained, they could be improved. The suggestion that they would not qualify ecologically⁶ as 'important hedgerows' under the Regulations does not undermine their historical significance.
- 9.9 Fifth, the agricultural associations of School Lane have been maintained through the centuries. A dairy once stood between Main Street and School Lane and the buildings on the east side of the Lane were agricultural. Sandys Farm became a piggery, which eventually fell into disrepair. However, the tenant farmer built a farmhouse just to the south, probably on the site of a previous dwelling, and then a bungalow for his parents nearby. The garden was later sold, and then split, to provide 2 further dwellings. Hence, the houses at 1-5a School Lane have an agricultural origin. The same is true for Springfield House and Osborne House, which originated amongst various agricultural sheds and outbuildings between 1917 and 1929. Osborne House protrudes into the fields on the east side of School Lane. Thus the development now evident on the eastern side of School Lane is typical rural development. Moreover, it is contained within an enduring agricultural boundary that could serve to demarcate the Green Belt here.
- 9.10 For all those reasons, Fulford, and the application site, should be treated as contributing to the main purpose of the York Green Belt by preserving the special character and setting of this historic City because its traditional form, character and relationship with the surrounding agricultural landscape has remained substantially unchanged.

¹ ID163, appendix 2

² ID163, appendices 3 and 4

³ ID163, appendix 1

⁴ CD70, Historical Landscape Appraisal. page 12, paragraph 4.17

⁵ ID163, appendices

⁶ ID218

9.11 Allowing the proposed development to proceed would damage the perception of Fulford as an historic village with its own identity. That would impair awareness of its position on an ancient access road to York. The scheme would also result in the coalescence of the City with the eastern edge of the village, thereby submerging the ancient shape of the settlement amongst the resulting urban sprawl. And, it would render the ‘green wedge’ to the east (leading into to Walmgate Stray) unsustainably narrow, undermining the connections to hedgerows, the floodplain, the SSSIs and the river Ouse. That would represent an incongruous contrast with the suggestion that land to the south west should extend the open areas at Middlethorpe and Fulford Ings¹.

Appropriate Green Belt boundaries

9.12 As PPG2 suggests, Green Belt boundaries should be secure and, where possible, follow clearly defined features. As the recommendations relating to the York Green Belt Local Plan were not statutorily implemented, the boundaries proposed in that Plan should be examined as a starting point to see whether they would now fulfil the requirements of that guidance.

9.13 A key feature of the School Lane boundary is that it has demarcated the distinction between the fields and the historic village for some 700 to 900 years. It has endured over many centuries. Moreover, it largely coincides with the Conservation Area. The few houses on the eastern side of the lane are the result of natural organic growth from agricultural origins and although a boundary around them might look untidy on a plan, in practice the dwellings are surrounded by hedges and foliage, as is common elsewhere. The visual amenity of the Green Belt would not be injured by such a boundary. Moreover, changes since the recommendations were made in 1994 have served to accentuate the clarity of the boundary. The pig farm buildings have been removed, hedges around the dwellings have grown, the hedgerows beside the primary school and to the east of School Lane have become more established and a clear boundary fence exists between the primary school and the parish field².

9.14 In contrast, the boundary proposed at Mitchel’s Lane would not be well defined. Only Mitchel’s Lane itself would represent a noticeable physical boundary. The extension of that boundary southwards would be formed by no more than a field hedge. Bleak House and a caravan site would lie directly to the east and the proposed development would reinforce such a boundary only with a landscaped cycle path alongside housing. The development would be visible from nearby footpaths and from those traversing the Green Belt. Moreover, such a boundary would leave only a narrow strip of Green Belt between the golf course and the proposed development. Worse still, the woodland at the golf course might be seen as a more satisfactory boundary than Mitchel’s Lane, thereby creating pressure for more development on the small paddocks to the east of the application site and closing off the ‘green wedge’ leading onto Walmgate Stray³.

The impact on the Conservation Area; Fulford

9.15 It should be clear from the above that keeping the application site open would contribute to the setting of Fulford, whose traditional form, character and relationship with the City and surrounding agricultural landscape is of historic value⁴. The fact that the outer form of the village largely coincides with the designated Conservation Area makes the preservation of these open fields especially important; the historic form of the village would be lost⁵. The fields are part of the ‘wider historic landscape’ that should be taken into account⁶.

¹ ID271

² ID163 and ID218

³ ID271

⁴ CD63

⁵ ID163 and ID218

⁶ PPG15

The impact on neighbouring residents

- 9.16 Keeping the application site open would also contribute to the visual amenity of residents. What people like about Fulford is the village feel of the place and the fact that the footpaths across the agricultural fields make it easy to get into the countryside for recreational purposes. Moreover, there are views from the Conservation Area across the fields, which provide an attractive landscape near to where people live. The proposed scheme would conflict with the form, scale and pattern of the landscape, destroying the integrity of valued characteristics and permanently changing the rural quality of the place¹.
- 9.17 The scheme includes a condition that the eaves height of the dwellings proposed beside School Lane, Tillmire Close and Low Moor Avenue should not exceed single storey level or some 3m in order to safeguard the visual amenity of residents. It might be better to exercise such control in relation to the relative height of existing buildings and to incorporate the request to position new dwellings at least 30m distant².
- 9.18 However, Osborne House would be in a unique position in relation to the proposed development³. It would be surrounded on three sides by new dwellings and, because the house is very close to the north and south boundaries, the unlimited privacy and views over farmland could be replaced by a prospect on to walls and windows at close quarters; rights of way over the field to the south and over neighbouring property would also have to be preserved. It is suggested that appropriate levels of amenity could be maintained by imposing additional conditions⁴. Ensuring that any new dwelling would be at least 30m from the house, should safeguard privacy and prevent disturbance, as long as new residents would be prevented from using the right of way over the fields very close to the southern elevation. New fencing or hedges to the south should be at least 10m from the southern boundary and not exceed 2m in height; garden sheds or other permanent structures should not be erected near the boundary. As the Association of British Insurers suggests that, for safety, housing should be no less than 20m from cypress trees, new dwellings should be 20m from the leylandii hedge or the developers should pay for its removal and replacement with something more suitable. Conditions should also prevent overlooking into the windows or garden of Osborne House; neighbouring dwellings could be restricted to one storey in height or just 3m at the eaves relative to the ground floor levels. And, the intention to install a small windmill and solar panels should not cause subsequent objections. Alternatively, an exchange of land might be undertaken; part of the back garden might be relinquished in exchange for more land elsewhere.

The impact on ecology and nature conservation

- 9.19 Keeping the application site open would contribute to maintaining the network of wildlife corridors and the value of the natural habitat. PPS9 indicates that the aim should be to maintain networks by avoiding or repairing the fragmentation and isolation of natural habitats, including access to routes along canals and rivers. Germany Beck forms a wildlife corridor and the adjacent fields provide complimentary habitat in the hedgerows and ditches⁵. The proposed houses would be adjacent to those hedgerows, so compromising their biodiversity value. The fields need to be kept open to keep the network of natural habitats intact. Retaining the land as Green Belt would help to secure the nature conservation interest evident here. A list of the birds over-wintering or nesting in these fields has been compiled⁶. Bats also fly around Osborne House. The proximity to the SSSI, the combination of the meadows and trees at the Beck, the ancient hedgerows, the

¹ ID271

² KV/1

³ KV/1

⁴ KV/1

⁵ ID281

⁶ ID163, appendix 12

agricultural fields and the connection with Walmgate Stray make the site a valuable habitat¹.

The impact on archaeology; the battle of Fulford

9.20 The openness of the site is also important for the appreciation of ‘the most likely site’ of the Battle of Fulford². The construction of a battle field trail would not compensate for the loss of the battle site, particularly as there seems to be an emerging field of ‘battlefield scholarship’ which could, within a few years, establish the credentials of the site through a new methodology and approach³.

Conclusion

9.21 For all those reasons, the site should be retained as Green Belt and the scheme, which would constitute inappropriate development, should be refused permission.

¹ ID271

² PH/PW/1, page 32

³ ID271

10. The Case for Fulford Friends ~ Mary Urmston

The Green Belt

- 10.1 The site chosen for the junction of the new spine road and the A19 is shown as Green Belt in the latest version of the City of York Local Plan. This is the most interesting part of the site, both visually and historically. The Beck meanders towards Stone Bridge shrouded by trees and thick foliage to pass beneath the A19 and enter Fulford Ings SSSI, also shown as within the Green Belt. The main road curves past those features in a sylvan corridor at the entrance to the Conservation Area. The Bridge is adorned with a plaque commemorating the Battle of Fulford, believed to have taken place in the vicinity. All those features contribute to the continuity of the Green Belt, the historic and village-like character of Fulford and the rural setting of York. And, for those reasons, this part of the site contributes to the main purpose of the York Green Belt in preserving the setting and special character of the City¹.
- 10.2 The insertion of a large road junction, together with substantial additional works, would completely alter the character of this approach to the City and disrupt the continuity of the Green Belt here. A 4-lane junction would replace the single carriageway, necessitating removal of roadside trees and opening out the vista to expose the Edwardian cottages and the paraphernalia of signs, lights and traffic signals². The construction of the spine road into the new estate would cut through the foliage and replace the bank beside the Beck with a bleak wall surmounted by the new carriageway. Such damage would be all the more evident because the level of the A19 would be raised by about 0.8m and the possibility of additional works to prevent the flooding of the road would require the construction of a wall along the western side of the carriageway³. The Stone Bridge would also have to be altered. The impact would be most obvious at the pinch point between the Fordlands Road Care Home and the Beck, where the road must be squeezed into a gap barely 14m in width between the bank-side and the south east corner of the garden hedge at the Home⁴. As a result, the road would be constructed with retaining walls on both sides surmounted with crash barriers and an acoustic screen⁵. That intrusive structure would then cross the south west meadow diagonally to reach the development site⁶. It would be rendered all the more intrusive by the erection of a foul-water pumping station also raised above the flood plain and built adjacent to the road near the eastern boundary of the Care Home. My opinion is that this will appear entirely incongruous and will not fit with the scale or character of the surrounding stream corridor or flood plain landscape⁷.
- 10.3 The information supplied is inadequate to properly assess all the effects of the scheme. The trees have not been surveyed⁸, construction details are sketchy and not all cross sections are available⁹. The effects of the scheme may be more damaging than is currently conveyed by the submitted information¹⁰. It is clear, however, that the proposal would result in a new structure across Green Belt land that would impair its openness and jeopardise the principal purpose of the York Green Belt¹¹.

¹ ID157 and ID277

² Y9, PH/BGH/1 and ID181,

³ Y9, ID181 and PH/DKM/1.00

⁴ ID200

⁵ Y9, PH/BGH/1, PH/RC/1 and PH/RC/1.2a (ID258)

⁶ See also ID200

⁷ ID157 and ID277

⁸ ID157 (tree report)

⁹ PH/BGH/1

¹⁰ PH/RC/1.2a (ID258)

¹¹ ID277

The impact on the Conservation Area; Fulford

10.4 The Fulford Conservation Area is designated in recognition of the historic, village-like character of the place¹. The wide grass verges of Main Street and the remnants of the traditional long and narrow-fronted plots make a crucial contribution to that character². The proposed junction between the A19 and the spine road would entail widening the carriageway of the A19 at the entrance to the Conservation Area and destroying part of the front garden at the southern property in the group of Edwardian Cottages actually within it³. First, the raised road junction and the proposed spine road would intrude into the natural flood mire landscape creating an incongruously urban and unattractive form of development amidst the surrounding rural countryside. Second, the widening and raising of the road would result in the loss of trees and greenery at the entrance to Fulford and the City creating an incongruous contrast with the scale of the existing road and the grass verges along Main Street⁴. Third, the scale of the cottages would be swamped by the expanse of the adjacent road junction⁵. Such harmful effects would fail to preserve and enhance both the character and appearance of the Conservation Area. On the contrary, the scheme would adversely affect the character and the setting of the place⁶.

The impact on neighbouring residents

Visual impacts

10.5 The visual amenities of the elderly residents at the Fordlands Road Care Home would be seriously impaired by the proximity and size of the new road⁷. In spite of the intervening hedgerow they would look out on to a road that would be seen to be some 2m above the ground and surmounted by a 1.8m high acoustic barrier. The whole structure would present a dismal prospect of a blank wall reaching to some 3.8m above ground level as it passes the south eastern corner of the Home and the new carriageway would be about 16m from the nearest façade⁸.

10.6 The main public pathway affected by the scheme would be Germany Lane, which forms part of the Millennium Way⁹. This important route would be crossed by the access road and it is suggested that some kind of barrier is to be erected to deter the use of the lane by vehicles¹⁰. That could cause difficulties for tractors accessing the remaining fields, for horses reaching the bridleways and for maintenance vehicles undertaking tasks in the nature park. For a distance of about 1km, the path would be bordered by a housing development. That would represent a significant loss of amenity for walkers and others wishing to reach the surrounding countryside. Other informal paths would be affected, notably within the south west meadow where routes would be blocked by the new access road¹¹.

Noise and air quality

10.7 The residents of the Fordlands Road Care Home would suffer increased noise and disturbance from the new road, as well as from the construction and engineering activity required to build it¹². The residents here are elderly. Some are also in need of care. This is clearly a noise sensitive

¹ CD63

² Illustrated in ID200

³ ID157, see also ID181

⁴ Illustrated in ID200

⁵ Illustrated in ID200

⁶ ID277

⁷ Illustrated in ID200

⁸ ID157

⁹ Illustrated in ID200

¹⁰ Answers by Pauline Randall, see also ID219 photos 43 and 44.

¹¹ ID277

¹² PH/RC/1 and PH/RC/1.2a (ID258)

property, but these residents might be expected to be particularly sensitive to noise needing rest and recuperation during the day. These points have not been fully considered by the applicants. It is the change in noise levels which should be addressed and these are significant. Moreover, the suggestion that construction of this section of the road would be complete within 3 to 4 weeks is unrealistic, given that construction of the whole road is estimated to require some 6 to 9 months¹.

- 10.8 Even in its own terms, the submitted noise analysis demonstrates that the impact of the traffic and the construction upon the Home and garden could be sufficient to disturb sleep and substantially exceed current levels². Moreover, the impact is understated. The carriageway of the new road would be closer to the nearest façades of the Home than has been assumed, so the construction activity and noise would be closer too. Moreover, not all the likely traffic appears to have been taken into account. Although 50 vehicles have now been added to account for school flows, there is still no inclusion of construction traffic or buses, nor of visitors and staff at the sports hall, shop, nature park or health facilities³.

The impact of traffic

- 10.9 The access arrangements would effectively create a cul-de-sac serving over 1000 houses; there would be some 700 in the proposed new development added to the 300 or so on the Fordlands Road estate. That would be contrary to general planning guidance, which would normally require a scheme of more than 400 dwellings to be served by at least 2 access points. The original allocation back in 1996 insisted that there should be 2 access points, one on to the A19 and one on to Heslington Lane⁴. The reason for insisting on a single access now is to prevent rat-running and to control the level of traffic on Heslington Lane⁵. But that does not mean that a single access would be acceptable. Rather, it demonstrates the unsuitability of the site to accommodate development on the scale proposed. Similarly, the argument that the access must be located in the Green Belt to serve a scheme of this size should really be regarded as a reason why the site should not be developed at all instead of a justification to encroach on Green Belt land⁶.
- 10.10 In addition, the residents of the Fordlands Road estate would lose the existing safe pedestrian access to the village centre. Instead, they would have to negotiate a wide road junction and their children would be forced to cross both the new spine road and the northern section of Fordlands Road in order to get to the schools. That would add to the hazards here and represents a loss of amenity⁷.

The impact on flooding

- 10.11 The new road and the new junction would be raised to ensure that they would remain passable in the event of a 1:100 year flood⁸. That would result in sections of the floodplain being filled and, thereby, altering its configuration. The idea of building the access road through a floodplain for a distance of some 450m is flawed and would require mitigation measures elsewhere⁹. The mitigation proposed might alleviate problems in relation to the new development, but Fordlands Road would still flood following development just as it has done previously. There are no commitments to improve flood defences along this road and, the A19, the flooding of Fordlands Road would cause residents to be stranded, without satisfactory access in or out of the estate, just

¹ See PH/PJR/1.1, PH/RC/1 and PH/RC/1.1

² PH/RC/1 and PH/RC/1.2a (ID258)

³ ID157 and ID277

⁴ CD66, the Selby District Local Plan

⁵ Y9

⁶ ID277

⁷ PH/BGH/1 and ID277

⁸ PH/BGH/1 and PH/DKM/1.00

⁹ Illustrated in ID200

as happened in the 2000 flood¹.

- 10.12 The provision of a new foul-water pumping station should help to alleviate some of the problems of sewage seepage that has occurred in the past². But that ought to be the responsibility of the drainage authorities; it should not depend on the proposed development. And, although potential flood protection for the A19 should keep the carriageway open, even in the event of a flood as severe as the occurrence in 2000, there is no certainty that the offer of funds would be taken up or that the works proposed would be entirely effective³.

The impact on ecology and nature conservation

- 10.13 The tree survey undertaken in 2000 differs little from that reported in 1995; neither complies with BS5837 either in its 1991 or 2005 form⁴. Hence, the surveys must fail to provide an adequate basis for an ‘arboricultural implication assessment’, as required by the Development Brief⁵. Because the application seeks approval for the means of access, permission would allow the road and road junction to be constructed in accordance with the submitted plans regardless of any findings from a subsequent adequate tree survey. The significant engineering work, involving excavation, earth moving and major changes in ground levels, would inevitably entail a significant impact upon trees and hedging even if the works would not require actual felling. And, in the absence of a full ‘arboricultural implication assessment’, the precise nature of that impact cannot be identified before planning permission would be granted⁶.

- 10.14 There are some important omissions. The attractive oak tree at the end of Low Moor Avenue would have to be removed to accommodate the bus-only access into the site. The tree is not protected by a TPO but, nevertheless, it is of a very high amenity value. It is not mentioned at all in the tree surveys. Similarly, none of the trees on the Germany Beck site benefit from a TPO and there is no evidence that a landscape architect from the Council has inspected them. The large sycamore tree just within the boundary of the Fordlands Road Care Home is tall and has a large crown spread. The assertion that this tree would be unaffected by the scheme⁷ is doubtful because construction work would take place within a few metres of the tree and because the specimen is not shown on the relevant plans and no-one has considered the effects related to changes in ground level and piling nearby. And, the patchwork of hedges to the south of the Care Home has been shown to be over 100 years old. But, the impact of the scheme on that resource has not been assessed or acknowledged⁸.

- 10.15 The loss of trees and hedgerows, together with the impact of the scheme on those that remain,

¹ ID277

² PH/DKM/1.00

³ See the section 106 Agreement

⁴ ID157 and the attached arboricultural consultant’s report

⁵ CD62

⁶ ID157 and ID277

⁷ Answers by Pauline Randall, see also ID219 photo 10.

⁸ ID157 and ID277

would impair the foraging habitat available to bats. It is not only the loss of these sheltered routes, but the proximity of the raised road to the Beck corridor and the bank-side trees; such changes would threaten the safe flyways essential for bats. There may also be considerable difficulties associated with construction of the raised carriageway and the small roadside wall close to the SSSI¹.

¹ ID277

11. The Case for the Battlefields Trust

Introduction

- 11.1 The Battlefields Trust was formed in 1991. It was incorporated as a company limited by guarantee and as a registered charity in February 1993. The aims of the Trust are to work for the preservation, interpretation and presentation of battlefields as a heritage and educational resource. It has been funded by the Heritage Lottery Fund to provide an on-line Battlefields Resource Centre¹ providing information about key battlefields in England. The battle and battlefield of Fulford have been included in this resource centre; although, the site is not included in the Register of Historic Battlefields, Fulford is an important battle and the site is widely accepted as being clearly located².
- 11.2 The Battlefields Trust has successfully campaigned to save parts of several battlefields, including Blore Heath, Tewkesbury and Adwalton Moor. It works closely with English Heritage and has recently compiled a detailed database of Scottish ‘sites of conflict’ for Historic Scotland. The Battlefields Trust is involved in several projects which will lead to a clearer interpretation and better presentation of battlefields at sites including Naseby, Barnet, Roundway Down, Cheriton, Edgehill, Edgcote and Cropredy Bridge. It has also carried out a report into the condition of Boer War graves in South Africa, leading to the Government and the Commonwealth War Graves Commission raising awareness of this issue. The Battlefields Trust works closely with English Heritage at sites such as the battlefield of Hastings and has hosted a seminar on the subject of metal-detecting and battlefields³.
- 11.3 The Battlefields Trust believes that our surviving battlefields are a precious and underrated resource of great potential value. We think it should be part of the duty of a civilised country to preserve these places, both as haunted acres where men fought and died and as living historic documents containing information about our past. With one or two exceptions, England’s record is poor, compared with that of Scotland and several other countries. There are several reasons why it should be otherwise⁴:
- Even though not registered, the site is an important part of the historic environment and should be preserved as advised in PPG15;
 - Such protection would be endorsed in the forthcoming White Paper which is likely to treat battlefields in the same way as other features of the historic landscape, such as historic parks and gardens;
 - The site offers a tremendous opportunity to present the battle and the battlefield of Fulford as an attraction to tourists, schools and local people. There could be a signed battlefield trail, with interpretation panels and low key non-intrusive facilities. And, the location, close to a major junction with the A64, might take some of the tourist pressure from the City centre;
 - The National Curriculum for Schools includes the Norman Conquest in Key Stage 3. The year of the ‘3 battles’ and the ‘3 kings’ provides an exciting introduction to the topic of ‘medieval realms’. Part of an ‘assessment objective’ includes the use of ‘buildings and sites’ and schools are encouraged at Key Stages 2 and 3 to incorporate a local study into their schemes of work. The site of the Battle of Fulford would serve such purposes.

¹ www.battlefieldstrust.com/resouree-centre

² BT/MR/1

³ This was chaired by Lord Faulkner, Chairman of the All Party Committee for War Graves and Battlefield Heritage, in February 2006.

⁴ BT/MR/1

The impact on archaeology

Emerging policy

- 11.4 The guidance provided by PPG16¹ indicates that archaeological deposits of national importance, whether scheduled or not, should be preserved *in-situ* and that early consideration should be given to such matters, requiring the results of evaluations to be submitted with planning applications. As a heritage resource, battlefields in Britain are gradually being recognised. In England the publication of the Register of Historic Battlefields was an important first step in this process. The Register now identifies 43 English battlefield sites and although this remains a non-statutory document, it can be treated as a material consideration in the determination of a planning application. Clearly, battlefields in England are a precious resource. But, as PPG16 implies, battlefields that are not currently ‘registered’ should not be ignored².
- 11.5 The Government recognises, in the current review of policies relating to the historic environment, that battlefields are an integral part of the historic environment. This is likely to result in the publication of a white paper (probably during the summer of 2006) setting out a new system for the designation of important areas of the historic landscape, including battlefields. It is therefore possible that, on reconsidering the evidence for the site of the Battle of Fulford, the English Heritage Battlefields Panel could designate the Germany Beck site as worthy of ‘inclusion’ within the new ‘listing regime’. The Battlefields Trust will certainly urge English Heritage to include the Germany Beck site and ask the Council to ‘list’ it on the local section of that ‘register’. It would be a tragedy if this battlefield site at Fulford were to be lost just because it is not currently registered as a battlefield. Evidence for the battle exists and is likely to be discovered with an appropriate research methodology. That could even result in the site being ‘registered’ under the current regime³.

The importance and course of the battle

- 11.6 The Battle of Fulford was one of three critical battles in the pivotal year of 1066. Without it the battles of Stamford Bridge and Hastings would not have taken place at the same time or in the same way. The Battle of Fulford is often treated as a minor battle of no great significance. That is wrong. It must have resulted in substantial losses for the northern English army. Moreover, had Edwin and Morcar known that Harold was marching north with a large army then they might have waited behind the defences of York. As a result, the final victory over the Vikings might have been far more cheaply won by a stronger army. Instead the combined losses at Fulford and Stamford Bridge must have severely weakened Harold’s army and contributed significantly to its defeat at Hastings⁴.
- 11.7 The site of the Battle of Fulford is not, we feel, seriously in question. The English army probably deployed on the north side of the ford which lay between, and gave its name to, the adjacent villages of Gate Fulford and Water Fulford. Here the road crossed a small stream, known today as the Germany Beck. At Fulford the Beck cut through the sand and gravel bank of the former glacial moraine, along which the road ran south from the City. This may have long been chosen as the strongest defensive position where an army could stand against an attacking force. At the ford the moraine was no more than 400 meters wide. But most importantly, a marsh lay immediately to the east, stretching off towards Heslington, while on the west were the tidal waters of the river Ouse. It is almost certainly that it was here that Edwin and Morcar formed their defensive shield wall across the narrow frontage of slightly higher ground immediately north of

¹ CD26

² BT/MR/1

³ BT/MR/1

⁴ BT/MR/1 and Y11

the ford, awaiting the Viking army which was approaching along the road from the south¹.

11.8 It is believed that the battle was short and fierce. The English troops initially had the advantage. However it seems that Hardrada may have eventually outflanked the English position, perhaps using the old Roman road which is thought to have crossed the marsh several hundred meters to the east of the ford. His forces then drove back the English troops, some drowning in the River Ouse while others perished in the marsh. Up to a hundred priests who accompanied the English army are said to have died. But despite this rout, many of the English troops must have reached the safety of the City walls².

Deficiencies in the current evaluation of the battlefield

11.9 The Battlefields Trust has been concerned about the potential loss of what has traditionally been regarded as the site of the Battle of Fulford. To attempt to determine whether the application site does form part of the battlefield of Fulford, research was undertaken into available sources, including historical, archaeological, topography, historic maps and geology³. As a result of this research, the Battlefields Trust is convinced that the application site does include much of what is most likely to have been the site of the Battle of Fulford.

11.10 Unfortunately, the archaeological work undertaken so far has not been carried out with sufficient rigor. And, although further work may have been undertaken, it needs to be carried out by experienced battlefield archaeologists or, failing that, by archaeologists working to the latest methodology. An outline of the latter has been provided⁴. But, the conclusion drawn by MAP⁵, namely that the absence of recovered physical evidence demonstrates that the battle did not take place at Germany Beck, simply demonstrates ignorance about physical evidence on a battlefield and the ease of locating it. The point is that the ‘remains’ are quite different from those related to Roman or prehistoric settlements. The same criticisms appear to apply to the subsequent work. These include⁶:

- The reference to a metal detecting survey is not supported by a statement on methodology designed for ‘battlefield archaeology’. No bibliographic reference is made to any paper on the techniques of metal detecting survey on historic battlefields. If the metal detecting is that referred to in the original Historic Landscape Appraisal then it cannot be considered adequate.
- The taphonomy of the battlefield⁷ has not been considered, in spite of explicit concerns. Hence, the lack of ‘battle archaeology’ from previous investigations cannot be accepted; the lack of artefacts might simply be the natural result of unsuitable conditions.
- Nowhere is there consideration of what might be expected from the archaeology of an 11th century battlefield. This must jeopardise the reliability of the trenching, field-walking, metal detecting and geophysical surveys undertaken; there can be no adequate hypothesis against which to properly design such activities. It also undermines the weight to be given to the failure to find any ‘battlefield archaeology’; the failure may be due to ‘poor design’ of the evaluation methods.
- The lack of relevant expertise and experience is evident. That must also jeopardise any further programme of excavation or the value of establishing a watching brief.

¹ CD138 and BT/MR/1

² BT/MR/1

³ Undertaken by the Battlefields Trust's Project Officer, Glenn Foard and referred to in CD138.

⁴ CD138

⁵ PH/PW/1 and PH/PW/1.1

⁶ BT/MR/1

⁷ Inspector's note: I assume that this refers to an understanding of the processes that may alter biological, botanic and even other remains after they are deposited at a site so that the realisation that some remains may survive better than others can influence the design of the excavation.

- 11.11 The practice of battlefield archaeology is developing, pushing the boundaries of what can be discovered about past battles and battlefields. The inadequacies of investigations undertaken to date means that there is, as yet, insufficient evidence to suggest that the remains at Fulford are important enough to warrant preservation *in situ* or the preservation of their setting. But a properly prepared programme of work employing the latest techniques might provide better evidence. It is not yet clear what archaeological evidence might survive on an 11th century battlefield. That is why a largely extant battlefield from the period is an unusually precious resource¹.
- 11.12 There are a wide range of research questions about the survival of battle related artefacts on medieval battlefields, many of which relate to decay processes of metal artefacts in the ground. A detailed research project is needed, to be carried out by experienced battlefield archaeologists along the lines of the methodology currently being used at Edgehill and Bosworth battlefields. That would entail²:
- The integration of the techniques employed in military history, historical geography and landscape archaeology.
 - The re-analysis of primary sources of military history in the light of current knowledge about the military theory and practice of the mid 11th century battles; the scale of the conflict, the deployment of key elements, the topographical detail clues and the military technology particularly ‘missile weapons’ and fighting in a shield wall should be studied.
 - The historic terrain should be comprehensively reconstructed, integrating archaeological and historic map data³, complemented by soils’ mapping, detailed palaeo-environmental work and detailed investigation of written documentary sources.
 - Topographical evidence contained within the written accounts of the military action, together with the principle of ‘Inherent Historic Military Probability’, should be used to reconstruct the initial deployments of the armies and the subsequent action within the landscape of 1066.
- 11.13 All that work would be used to construct a hypothesis to be tested against the evidence of ‘battle archaeology’. The investigation of the physical evidence left in the ground by the battle would include⁴:
- A systematic, accurately recorded metal detecting survey to recover a representative sample of the artefacts deposited on the field during the action. The methodology would be based around that developed and implemented by the Trust for the ongoing Edgehill and Bosworth Battlefield Surveys⁵. This can be enhanced by the use of Global Positioning System units.
 - The taphonomy of the battlefield needs to be thoroughly considered. Without a detailed understanding it cannot be established whether any lack of artefacts is simply a result of unsuitable conditions, particularly for the survival of ferrous items.
 - There would be a progressive focusing down of attention as the survey and analysis proceed, to enable the specific testing of key locations using geophysical survey, possibly phosphate analysis and then trial trenching.

¹ BT/MR/1

² CD138 and BT/MR/1

³ A major new research programme in digital historic landscape mapping has been developed at the University of East Anglia.

⁴ CD138 and BT/MR/1

⁵ BT/MR/1 provides brief details

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- Trenching would be undertaken to investigate the state of preservation of ‘battle archaeology’ where the metal detecting and terrain research might reveal a significant ‘battle archaeology scatter’.
 - Such a ‘scatter’ at the edge of a former alluvial or marsh area might indicate the presence of a buried battlefield surface.
 - Geophysics and trenching would also be used to test possible locations for mass graves suggested by the other research.

Conclusion

11.14 It would be a tragedy if this battlefield site at Fulford were to be lost just because it is not currently registered as a battlefield. Until an appropriate research methodology has provided reasonable evidence for the location of the battle, permission for the development at Germany Beck should be withheld.

12. The Case for the Fulford Battlefield Society

The impact on archaeology

Policy

12.1 The call-in letter asks about PPG16 and the adequacy of any assessment as well as options for minimising and avoiding damage. It indicates that where nationally important archaeological remains, whether scheduled or not, and their settings, are affected by proposed development there should be a presumption in favour of their physical preservation¹. English Heritage² has indicated that the battle site is of national importance and accepts that the proposed access is the probable location. And, the setting is of enormous heritage, education, recreation, economic and ecological value. Yet, the assessment work undertaken by the applicants is irrelevant; the developers have been told this many times over the years. They have failed to remedy the shortcomings and blocked the attempts of the Society to conduct relevant investigations³.

The importance and course of the battle

12.2 Nothing that has been said or presented in evidence to alter the claim by the Society that there is agreement among all the parties that Germany Beck is the most probable location of the Battle of Fulford in 1066⁴.

Deficiencies in the current evaluation of the battlefield

12.3 The quantity and quality of archaeological research provided by the developer is not disputed. However, the consistent attempt to portray this work as indicating the absence of evidence for the site as the location for the battle is both wrong and disingenuous. Conventional digging technology is irrelevant to our investigation. Moreover, the single piece of investigative work that was presented as being at the behest of our group was another piece of conventional archaeology to investigate the line of the access road. It did not reflect the scheme of work agreed⁵.

Evaluation of the battlefield by the Society

12.4 The investigation by the Fulford Battlefield Society demonstrates that evidence exists to locate the site of the battle in the vicinity of Fulford and the Stone Bridge on which the A19 crosses Germany Beck. The course of the investigations began slowly with an examination of the literature in 1998⁶. Fulford Ings was the popular choice but other commentators placed the battle nearer to the southern City limit. Germany Beck is not listed as the location in any early source until Britton's *History of Fulford*. Attempts were made to reconcile various locations along the Ings with the saga descriptions. It gradually became clear that Germany Beck was a sensible fit for the literature and the military minds of visiting Territorial Army officers unanimously favoured the Beck as a defensible 'choke point'. Research into the Ings revealed that they are unlikely to be the location for the battlefield because they would have been too wet. The research also provided a model for the rate at which the ground level had risen since 1066⁷.

12.5 Germany Beck became the focus of attention although local historians raised the possibility of

¹ PPG16, paragraph 8

² Dr Stamper's letter of 6 May 2004, see PH/PW/1.XI

³ ID259

⁴ ID259

⁵ ID259 and ID261

⁶ A retired archivist of the Borthwick Institute, Reginald Dearlove, had a special interest in the battle and was able to provide details of the various suggested locations recorded in antiquarian literature FBC/1.

⁷ ID237, Susannah Gill, thesis for DPhil at Manchester University: A Palaeo-environmental Reconstruction of late Holocene Changes at Fulford Ings, York

Naburn and even Middlethorpe as battle sites. There are reports of military-style artefacts being discovered along both banks of the River Ouse. However, nothing could be found to support those suggestions. It is feasible that military artefacts might have been moved in the mud by the flow from York to emerge at Naburn during one of the regular floods; such finds would not be inconsistent with Germany Beck as the focus of the battle. Nevertheless, the area to be investigated was initially defined as running from the Ings opposite Bishopthorpe Palace to the eastern part of Walmgate Stray. A large area was intentionally defined as artefacts from the battle, whose location was still at that time a matter of active debate, could be scattered beyond the fighting area itself. With the help of members of the York Metal Detectorists Club and donations from several local firms, work began in late 2001. The Battlefield Trust and York Archaeological Trust were jointly considering an investigation into the battles around York at the same time and a plan emerged to seek some funding for a proper investigation using professional archaeologists to be undertaken. A programme of work was prepared and a Lottery grant, under the Local Heritage Initiative, was received in October 2002¹.

12.6 Battlefield archaeology continues to develop fast and is currently the subject of much academic study with the first undergraduate course being launched and English Heritage sponsoring a project based at Leeds University to devise methodologies for sites from different eras. Unlike a road, a burial site or an old building, there are no precise limits to a battle site. A battle might take place over an extensive area. The Society has probed 50% of the area with soil-depth surveys and covered about 15% of the 'core area' with metal detecting, plus 20% of the outer area. The investigation has only completed a ¼ of the ground survey work, but every piece of work has increased confidence that Germany Beck is indeed the location of the important battle that took place on Wednesday 20 September 1066. Approximately 85% of the site could be surveyed if permission were to be given².

12.7 It is particularly difficult to find an ancient battle site. This is because³:

- There are no identifying structures and the landscape has probably changed since the battle.
- This is 'surface' rather than 'built' or 'buried' archaeology so that any artefacts remaining are unlikely to be in a context to help their dating and identification.
- The 'surface' at Fulford is prone to flooding or from damage due to regular agricultural use. The floods and human activity might have removed, flushed or buried evidence.
- The armies arrived, fought, died, fled or marched away after some hours. They did not have any sort of camp nearby. The battle was an ephemeral event that made a greater impact on history than it would have done on the landscape.
- The weapons of war would have been very valuable and would almost certainly be recycled both during and after the battle. Almost a millennium has subsequently elapsed in which items might corrode. This is a very 'cold crime-scene' and clues are likely to be hard to find and interpret.
- No other battle site of this antiquity has so far yielded weapons or artefacts that can be linked to the battle. No weapons have been found at Hastings or Stamford Bridge.
- The location of any mass graves is unlikely as the soil and subsequent activity would have dissolved or distributed any mortal remains.

12.8 Such difficulties require the use of other techniques. These include⁴:

¹ FBS/1; advice was received from Doug Scott who had pioneered the work of investigating battlefields in America for their Parks Department. And Dr Glenn Foard of the Battlefield Trust helped devise a plan of work which has been the basis of the work the Society has undertaken at Fulford, see also CD138.

² FBS/1

³ FBS/1

⁴ FBS/1

- A study of available literature to find landscape matching locations.
- Examination of mapping evidence and air photographic indicators. Topographical mapping was available because the area had been surveyed as part of the Environment Agency's flood assessment and planning.
- A soil survey and the reconstruction of the landscape were considered key elements because they could help to describe the surface on which the drama of 1066 might have been enacted. Preliminary soil surveying was also employed to direct the metal detecting.
- Environmental information from hedges and pollen could also help to reveal the nature of the land in 1066.
- Metal detecting could be employed to look for patterns of finds and clues about the nature of the land use.
- Geophysical investigations could look for sub-surface disturbance and some work on surface soil chemistry was proposed. However, permission was never granted to access the relevant land to allow these to be employed.

12.9 The first priority was to reconstruct the shape of the landscape and to undertake soil surveys. This involved the use of various augers to investigate 'soil cores'. The augers varied from 1.2m in length and capable of taking a 1cm core to 8m in length with a 4cm cross section. The surveys included¹:

- Support for a 'metal survey' to identify areas where the surface of 1066 was likely to be reasonably near the surface extending to Walmgate Stray, believed to have been wetter and part of the marshy flank. However, both of those speculations could be dismissed after the soil survey.
- Exploration of the Beck and its banks to identify possible crossing points. The results were indecisive because it was difficult to drill into the clay. Nevertheless, there were indications of several crossing points where stones had been embedded in the clay. The Beck was found to be remarkably consistent, from which it might be concluded that its path has been stable and 'natural' or 'unimproved'. A number of old channels ran into the Beck, also found by the applicants, but it is not yet clear whether this provided a secure flank. Extensive areas of staining due to charcoal were revealed. They all lie above a layer of peat which predates the battle by two centuries. They deserve further study because the peat is near places where evidence of metal working has been found and because they might indicate cremation.
- A transect across the Ings (the deepest core being over 7m long) to understand the ecology of the Ings and the historic course of the River Ouse. We now know that the 1066 Ings surface was over 2m below the present one and that the course of the River south of York and as far as Bishopthorpe has not altered for several millennia.
- Deep cores were also taken near the A19 crossing to explain the strange course of Germany Beck. This demonstrated that the course of the Beck was changed when the two bridges were constructed. The revised location makes explains three comments in the description of the battle by Snorri, namely that Morcar advanced 'downhill', that he would not have seen the counter attack along the river bank and that the attackers could walk dry-shod to the city over the very hard boulder clay at the fording place.
- Drilling about 50 cores to locate the old road running south of York. The crossing appears to have migrated east, perhaps as the level of the Ings rose with annual flooding, explaining the 'dog-leg' in the A19. A further, tentative conclusion is that the Beck formed a delta as it flowed towards the Ouse.

12.10 Such evidence provides the basis for an interpretation of the landscape in 1066. There is a marshy

¹ FBS/1

delta as the Beck flows across the Ings to the River Ouse. Along the edge of the River, there is a firm walkway or levee created by the Ings. The latter were wetter in 1066 and were probably drained by the digging of channels to create pasture when the settlement of Fulford was built after 1066. Water Fulford, south of the fording place, was not occupied until a century after the battle¹. The defender's shield-wall along the moraine above the Germany Beck could have occupied a topographic feature about 350m long. Offset right-of-centre relative to the defender's shield-wall was the area of the ford. This is the only area where the landscape of Germany Beck has been substantially altered. The Beck used to loop through what is now the Fulford Parish Council play area, which has been illegally filled, burying the natural amphitheatre where earl Morcar's men were trapped. The 1066 surface is about 2m below the modern surface. This interpretation is consistent with the literature and makes military sense for a battle fought at that time².

- 12.11 The wider landscape to the south of York was also investigated. Germany Beck emerged as a suitable place to block any attack from the south. A study of the maps also provides no other location for the battle closer to the City³. There are many tempting pointers, and some fragments of archaeology, indicating the possible route of a road going towards the Beck from the City. The location for the nearest community to the Beck was probably based along St Oswald's Road, 1km north of the Beck; battles of the time avoided built-up areas. The construction of the present village of Fulford in the century after the Conquest is consistent with the name of Fulford first being associated with the battle 100 years after the event. The extensive work carried out on the landscape north and east of the Germany Beck by the developers has failed to find any artefacts from the 11th century. This is further confirmation that this was not a built-up area at the time of the Battle. The fact that records of almost continuous use since Neolithic times have been found but so little identified from this one era might indicate that something traumatic took place on this landscape during the 11th century. And, early maps also show that key features around Fulford have not changed. Two moraines meet at Fulford and the landscape south of York is sandwiched between them creating a marshy area, now centred on the main campus of the University⁴.
- 12.12 Metal detecting was undertaken on the hypothesis that no complete weapons would be found, since no other medieval battlefield had revealed such finds. However, the exercise was deemed worth undertaking because the battle was fought by men clad in iron using iron weapons. So it was not unreasonable to expect there to be some increased trace of ferrous material on the battlefield. Iron material is not normally collected by 'detectorists' who can set their detectors to discriminate against ferrous material. However, the York Metal Detectorists Club agreed to undertake the search. Work to analyse the material is still in hand. But proper analysis must wait until the data set is complete and the rest of the area surveyed⁵. This is because the analysis depends on identifying 'hot-spots' amongst a background ferrous material to provide a faint echo of the events of 1066. Access has been denied by the developers⁶.
- 12.13 Two areas outside the battle area yielded very little, by way of comparison. And, two areas previously surveyed provided so little that the operators became bored and abandoned the search. But, the metal survey revealed much about the later land use and some non-ferrous items have been passed on to national experts with the land owners consent. The key ferrous finds are small Anglo-Saxon knives and evidence of metal working on the site. The former were carried in war and in peace; and, knife fragments of about 4cm are small enough to be missed after the battle. But their significance is difficult to assess. Similarly the evidence of metal working is difficult to

¹ Confirmed by pottery finds, FBS/1

² FBS/1

³ Much guidance was received from Keith Challis, then working with York Archaeological Trust.

⁴ FBS/1

⁵ Preliminary findings were presented to a gathering of archaeologists at the British Museum in April 2006.

⁶ FBS/1

assess and the adjacent charcoal stains cannot be dated. However, it appears that there was metal working located where the heart of the action might have been. There are two other sites with metal working finds on battlefields¹. At Fulford, the recovery of many billets from an area that was formerly swampy, among which were two metal working tools, invites us to speculate that the owner intended to return to recover this heavy haul. The finds are of iron that has been hammered into a billet, suitably shaped to be forged into weapons. Iron billets would have been tradable items. Several are clearly axe-shaped. If these are contemporary with the battle, the destruction of the victors at Stamford Bridge 5 days later is one explanation of why the hoard remains. Even if these finds are not contemporary with the battle, some explanation of why a short-term forge was established in the countryside without a natural supply of iron and no obvious call for the services of a blacksmith would be necessary².

Future work to properly evaluate the battlefield

12.14 There is much unfinished work to pursue. Within the area of the application site the following tasks should be addressed³:

- Less than half (about 30%) of the application site has been surveyed for metal. The analysis of all the finds might yield more information, but it depends upon identifying a 'background' for ferrous remains across the whole site to pick out 'hot spots'. There is a large 'hole' in the centre of the site that currently renders analysis impractical.
- Soil surveys are crucial to reconstruct the ancient landscape. Surveys beyond the eastern boundary of the Fulford Cemetery⁴ might indicate whether this provided a secure flank or a suitable retreat route. Sub-surface disturbance could be used to sample surface soil chemistry and explore the possibility that phosphates from body decomposition might have been fixed in the soil.
- Geophysics investigation involving metal surveys, magnetometry and resistivity could be employed to look for patterns of finds, including fragmentary evidence, and clues about land use. The metal survey would serve the dual function of collecting the iron and subsequently improving the image from the other geophysical techniques.
- The area of the furnace finds and billet hoard should be properly investigated and excavated; a buried hoard may be identified using geophysical techniques. The furnace area should be surveyed before the woodland is planted, if the scheme goes ahead. A survey using a powerful magnet might help to localise any metal working in the area.
- The two extensive charcoal stains located near the 'smithy' should be investigated and carbon samples analysed.
- Pollen and heavy-metal analysis of the core samples already taken could help to clarify some outstanding questions about the landscape.
- Pollen and carbon analysis of the collected soil cores, including scanning for ferrous salt concentrations, might reveal corrosion products by their magnetic signature. The pollen and carbon that is spaced throughout the cores would allow the metal to be calibrated and dated.
- Environmental information from hedges and pollen would help to reveal the nature of the land in 1066.
- We support English Heritage's suggestion that the peat layer along the line of the access route must be removed and analysed.

12.15 Those tasks should be complemented by work undertaken beyond the application site. That work

¹ FBS/1

² FBS/1: Inspector's note: Unfortunately nothing is mapped or catalogued. The only indication of where these finds might be consisted of a 'vague' mark on Figure 7 of PH/PW/2 at my request.

³ ID232 and ID260

⁴ Inspector's note: Much of this land would be beyond the application site.

could involve¹:

- A slit trench could be dug parallel to the River Ouse where Germany Beck used to enter the River; it would need to be 3m deep. This might confirm the interpretation of the battle site.
- Dendro-chronology, together with carbon dating, applied to the trees fringing the Beck might contribute to the interpretation of the ancient landscape and identify those trees that stood in 1066.
- A search for the 2 roads believed to have run southwards from York.

The value of the site for its ecology and as Green Belt²

- 12.16 It is claimed that no work was conducted or presented to the Inquiry to assess the value of the site in relation to its recreational or tourist potential. Much planning guidance, as well as common sense, suggests that such roles should be taken into account in any plan for development.
- 12.17 It is also unsafe to rely on the ecological evidence offered by the applicants. The surveys provided did not involve trapping or other techniques to assess the importance of the Beck as a corridor linking the ecological systems of the river and Ings with the extensive hinterlands of Walmgate and Heslington Strays. During our work in the Beck we have had many opportunities to witness the mammalian traffic along this watercourse. The two walks along the Beck by the developer's expert cannot be compared with the extensive local knowledge of the importance of the Beck to the ecology of an extensive area, which feeds water through Germany Beck.
- 12.18 No evidence has been offered to justify construction of the access road on the land beside the Beck that is currently indicated as within the Green Belt. The small section of the Beck near the A19 that links the Ings to the hinterland is of very special importance not only for recreation and ecology, but also as the battle site. Its existing, protected status should be maintained.

Conclusion

- 12.19 There are good reasons to prevent the development of the Germany Beck site now. At the very least, permission should be delayed until the tasks, outlined above, have been completed and the application of an appropriate research methodology has provided reasonable evidence for the location of the Battle of Fulford.

¹ ID232 and ID260

² FBS/2

13. Other Cases Relating to Germany Beck

The suitability of the scheme

Is the scheme 'designed for quality?' ~ Fulford Village Design Statement; Cllr Kenwrightt

- 13.1 Fulford Village Design Statement group has conducted an initial round of consultation in the preparation of our proposed local planning guidance; this could usefully inform the Inquiry. It provides a guide to the character of Fulford and to the views of villagers that could be used to mould the development at Germany Beck. Whatever the outcome of that particular application, the Village Design Statement group hopes to play an active role in shaping all appropriate development in and around Fulford in the future. Although an explicit view on the scheme proposed at Germany Beck is avoided, and the contribution offered is intended to be independent, the design guidance derived from the consultations undertaken both conflict with, and support, aspects of the proposal. In any case, the design guidelines recommended are still at the 'discussion stage'. However, it is fair to say that the proposed housing development at Germany Beck constitutes the largest single development issue that residents have sought to bring to our attention, indicating widespread concern in the village¹.
- 13.2 So far the consultation has consisted of public meetings, a 'comments wall' at the village show and a questionnaire hand delivered to the whole village, including areas beyond the current electoral boundaries. The questionnaires were designed for adults and for young people, the latter being made available through St. Oswald's Primary School. The response has been limited²; just 48 adult questionnaires have been returned together with 31 from 'young people', 5 of which appeared to have been completed by adults (and are analysed accordingly). Both questionnaires have been subject to formal qualitative analysis by a professional researcher.
- 13.3 In summary³, most respondents described Fulford as a village enjoying a self-contained, close-knit community in terms of shops, population and transport. It is a place characterised by friendly neighbours, shared spaces and facilities, with a distinct identity separate from 'York'. It is a thriving community with a peaceful, safe and friendly atmosphere, having all the advantages of city living with a village feel. It has an excellent transport infrastructure, particularly in relation to the provision for pedestrians, cyclist and by bus, so reducing reliance on cars. It was felt that local facilities catered well for local people, contributed to the village identity and reduced the need to travel to the City centre. However, respondents were concerned about the volume of traffic travelling through the village and sought a reduction in traffic along the A19. They were also concerned about insufficient parking for residents and shoppers, and about the large number of cars causing parking, pollution and road safety problems both on Main Street and on Heslington Lane, particularly near the schools. Respondents valued the nearby countryside and the green spaces for their natural beauty and for their recreational potential. They were keen that areas such as the SSSI, playing fields, verges, trees and particularly Fulford Ings, the Beck and the riverside should be preserved, protected and if possible, enhanced. The rich diversity of birds, mammals and insect life was particularly valued.
- 13.4 The variety and attractiveness of the buildings were thought to make a significant contribution to the identity of the village. Residents were concerned that future development should enhance and contribute to this identity rather than making it a suburb of York. A good mix of housing was important, in terms of architecture and composition; also new building should not be too

¹ ID158

² FVDS/1, questionnaire findings

³ ID158

expensive so as to deter young families or less well off people. It was felt that future developments should be designed with crime prevention and community-bonding in mind, and defences against natural disasters should be minimised and flood defences maintained.

13.5 Respondents were extremely concerned about the proposed Germany Beck development. The scale and nature of the development were considered inappropriate and respondents expressed extreme concern at the implications for traffic congestion, noise and pollution as well as its apparent location on an historic battle site. Other developments, including the University expansion were also specified as sources of concern, with respondents also worried in more general terms that the village would lose its identity through over development, loss of green space and the inappropriate design of new buildings.

13.6 Draft 'design guidelines' have emerged. These include the following aims¹:

- The village identity of Fulford should be maintained through preserving community involvement and key activities such as the Fulford Show and through development control to protect its distinct character with respect to York.
- The quality and character of the Conservation Area should be maintained. Any new development should be in keeping with both the existing core of the village and with the adjacent countryside in terms of size, scale, materials, layout and landscape.
- Listed buildings and historic features, such as Fulford Cross, and their settings, should be protected and maintained and any adjacent development or signage should be sympathetic in character.
- The historic site of the Battle of Fulford should be commemorated with appropriate memorials signage, interpretive guides and educational events. The finds should be displayed and public access to the site promoted as a recreational and educational resource.
- The current semi-rural nature of Main Street should be preserved, particularly the wide green verges, high banks, street furniture, the prominent tree cover and easy access to village shops.
- Facilities at the heart of the community should be preserved and supported including Fulford Social Hall, St. Oswald's Church Hall, the Methodist Chapel Hall, the sports pavilion and the local branch of York library, as well as the village shops and small businesses.
- New development should be mixed, exhibiting a varied design, type, size, scale and materials to echo the different periods of extant building in the village.
- Adequate parking space should be provided within the curtilage of new properties to reduce additional demand for on-street parking.
- All design should reflect principles of sustainable development in terms of convenient access to local facilities by foot or cycle, energy efficiency, waste reduction and water economy.
- When renewing utilities, underground routing should be used where possible and re-instatement should be in keeping with existing finishes, for example matching paving and kerbs.
- Additional recreational green space should be sought to address the shortfall in current provision. Existing sites such as the Village Green, School Lane, Fordlands Road Playing Fields and Fenby Field should be protected and maintained.
- The attractive green corridor on the approach into the village from the A19 should be preserved and measures taken to slow traffic entering the village to the speed limit.
- Green wedges penetrating into the village should be preserved and maintained to protect the spread of wildlife both through the village and into York.

¹ ID158

- Fulford Ings SSSI should be protected from development.
- Local footpaths including Chapel Alley, Fenwick's Lane, Germany Lane, Cross Lane, Landing Lane, Love Lane, the Minster Way and the Millennium Way should be properly maintained and protected to preserve the rural and historic village setting and promoted for recreational use.
- Boundary treatments should be sympathetic to their location and the ancient hedgerows characteristic of the Ings and peripheral farmland should be protected and properly maintained.

The impact on neighbouring residents

The impact on Low Moor Avenue ~ Judi Legg and Cllr Aspden

- 13.7 The last minute change to the bus route proposed across the site is due to the incongruous scale of the proposal and the land-locked nature of the site. Neither our Ward Councillor nor the residents have been notified of these changes until the eleventh hour, giving no time for full consultation¹. Yet the current proposals rescind previous promises. When this application was heard in May 2005, Persimmon indicated that they had no intention to provide an access to Low Moor Avenue from the proposed development².
- 13.8 There are several reasons (illustrated by individual examples) that help to explain why residents (and I) are so against the proposal to provide access for buses on to the estate from Low Moor Avenue. The estate is approximately 50 years old and is built around a series of closes and culs-de-sac; there are some 160 properties occupied almost equally by families and retired folk. Crime is almost unheard of, for sale boards are seldom seen without a legitimate reason and the appearance of the place is of a small, quiet and well kept neighbourhood. Of course none of this is brought about by chance. Our community is supported by our Ward Councillor, Keith Aspden, and our MP John Grogan. Together we have successfully negotiated better locations for 3 telecommunications masts at a safer distance from our homes and children. And, with a donation from O2, have planted 2750 bulbs and, with the help of the City, 7 trees as well. This is our community in action, long before the City adopted the 'York Pride' slogan³.
- 13.9 I think it is worth pointing out to Persimmon that all they do is build houses. It is the people in them that create homes and communities. Of course, when this happens these homes then take on a far greater value than the sum of their bricks and mortar.
- 13.10 The noise and presence of buses on the proposed new route would seriously impair the living conditions of local people. Particular examples illustrate the point⁴. An almost blind gentleman has recently moved with his wife to a bungalow on the estate, having previously lived on Heslington Lane, to enjoy the peace and quiet and to walk (with his cane) on our quiet footpaths. The busy traffic on Heslington Lane had made such pleasures impossible. A lady recently widowed, walking with an aid and feeling sad but safe in an area she knows, is now fearful of the noise and disruption this proposal would bring. A gentleman with Parkinsons Disease, has moved from a house on the estate to one of the bungalows to avoid stairs, is now afraid that he will not be able to use his buggy on his own because he is rather slow, something that does not matter with only legitimate estate traffic to worry about.
- 13.11 The access on to Low Moor Avenue must entail the destruction of an ancient oak tree⁵. The estate roads are only 5m wide and not constructed to take heavy traffic. The noise and vibration of

¹ ID102

² ID162

³ ID162

⁴ ID162

⁵ ID205

buses, every 10 minutes, passing predominately small retirement bungalows would be intrusive. The narrowness of the estate roads would make it difficult and dangerous for buses to negotiate the streets. Our quality of life would be taken from us at a stroke, damaging forever all that we have built. Such damage would be caused for nothing but a cheap quick fix that actually fixes nothing. In any case, there are other solutions to this problem that both Persimmon and the Council are well aware of, even if some do mean that buses must travel for a few more minutes.

The impact on School Lane ~ John Hutton

- 13.12 I share many of the concerns expressed by the Fulford Parish Council, but wish to focus on issues that concern those of us living on or near School Lane¹. School Lane, until recently known as Back Lane, runs parallel to Main Street. It has always been bordered to the east by fields, with a few small houses at the southern end. It now forms part of the eastern edge of the Fulford Conservation Area, and currently enjoys mainly open views over the Parish Council field, the adjacent farmland and towards the south east and the Wolds; the west side of the Lane is within the Conservation Area².
- 13.13 We object to certain features of the proposed development, on the grounds of loss of privacy and visual amenity. Essentially, the direct visual relationship between School Lane and the site would not be sufficiently protected or indeed enhanced, as would be desirable for any new development. Specifically, we suggest that suitable protection and enhancement could be achieved by the imposition of conditions for development in cells 1 and 2; they would be similar to the condition suggested in relation to the properties in Tillmire Close and Low Moor Avenue. The latter are the only other areas where the proposed development would be adjacent to existing housing. Tillmire Close and Low Moor Avenue are not within the Conservation Area. In contrast, School Lane is one of the few points where the proposed development would share a boundary with the Conservation Area. Yet, the density beside School Lane is indicated to be about 40dph (providing for almost 100 dwellings in cells 1 and 2) whereas the density at Tillmire Close would be lower at only 35dph³. One of the design criteria is that the development should have its highest density in the centre, with lower densities at the rural edges. This leaves open the question of density where the development comes close to existing housing. In the case of Tillmire Close and Low Moor Avenue a special condition has emerged. The suggestion is that the same treatment should be extended to School Lane, where a similar juxtaposition occurs.
- 13.14 The conditions requested are as follows⁴:
- Condition 1 would stipulate a maximum of one storey for housing in cells 1 and 2, or a height restriction to the eaves of a maximum of 3m. This is necessary to prevent the new houses looking directly into our windows at both ground and first floor level and to protect the privacy that our gardens currently enjoy. Since many of our houses are dormer bungalows, with the restriction we propose the new houses would be visible only from our first floor windows. If two-storey or even three-storey housing is allowed, these houses would be visible from the ground floor of existing homes.
 - Condition 2 would stipulate that any new houses should be a minimum of 30m from any existing dwelling (brick to brick) to preserve the residential amenity of residents who are used to privacy and uninterrupted views over agricultural fields. Our houses have been on the edge of (de facto) green belt, or what the City of York Council calls greenfield land, for a minimum of 20 years and some houses have been there for almost a century.

¹ ID33

² ID150

³ PH/PJR/1.1

⁴ ID150

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- Condition 3 would stipulate the lowest density (35dph) in cells 1 and 2, no greater than the proposed density in the cells adjoining Tillmire Close and Low Moor Avenue.

13.15 To support these proposed conditions, we note that the west side of School Lane is part of the Fulford Conservation Area, and that planning law seeks to protect the views of a Conservation Area from nearby development. English Heritage indicate that the effect of proposed development outside a conservation area on its setting, or on views into or out of the area, is a material consideration which should be taken into account by the local planning authority when considering proposals¹. Our suggestions are designed to address this requirement. Moreover, views from School Lane across the fields towards the distant Wolds² would be impaired by the development; that would represent significant loss of amenity. And, views from Germany Lane would also be lost³. Hence, views out of, and into, the Conservation Area would be affected adversely without the imposition of the suggested conditions.

The impact of traffic

Access arrangements ~ Fulford Consultation Group; Cllr Barton

- 13.16 Persimmon Homes and their representatives deserve thanks for the openness, frankness and willingness with which they have listened to the genuine issues and concerns raised by local representatives on behalf of residents of Fulford. They have been very responsive to new ideas and suggestions that were made by the Consultation Group and these suggestions have sometimes been incorporated into the new design⁴. It is pleasing that recent changes to the ‘master plan’ now recognise this. Nevertheless, 2 main issues remain unresolved⁵. These relate to the single access road and to concerns about flooding. The first is addressed below. The second is considered in the next section.
- 13.17 The single access road would have the greatest detrimental impact on existing residents of the Fordlands Road area; access to, and egress from, the A19 would take longer as residents on the new development would have priority at the junction between the spine road and Fordlands Road. No provision is made to make up for the loss of on-street parking on the first stretch of Fordlands Road for visitors to the cemetery. It is anticipated that the latter would have to park further up Fordlands Road, competing with existing residents for the available space⁶.
- 13.18 Great emphasis has been given to the bus access via Low Moor Avenue and to the importance of having bus stops close to residents’ homes. Yet a single access road via the A19 provides little opportunity to improve what is currently a poor bus service for the residents of the Fordlands Road estate. And, they would be expected to walk a great distance to reach the nearest bus stop. Instead, consideration could be given to an additional controlled access via Fordlands Road and Cross Lane providing a new link to the A64 junction with the A19; that would provide bus stops along the whole length of Fordlands Road as well as the new spine road enabling greater opportunity to maximise the numbers of passengers using the bus at frequent and regular times of the day for both existing and new community residents⁷.
- 13.19 The scale and size of the development remains a genuine concern, given the number of potential vehicles likely to pass through the proposed traffic light controls and the added impact of a

¹ See Guidance on the management of conservation areas, page 13, English Heritage, February 2006, an earlier version is at CD44

² ID150, Figure 2 (by a well-known local artist)

³ ID150, Figure 3 is a view from Germany Lane identified in PH/PR/1 paragraph 3.54 as a view of ‘high sensitivity’.

⁴ FCG/3 provides an indication of the discussions that occurred.

⁵ ID185

⁶ ID185

⁷ ID159

proposed secondary set of traffic lights at the A19 junction with Naburn Lane. These must cause further delays. That would add to existing congestion. As traffic already backs up along the A19 towards the A64 junction, there are likely to be more occasions when the short slip road would be blocked and stationary traffic would tail back on to the A64. Most residents understand the Council's desire to reduce dependence on the private car. But the City should not achieve this by minimising the road infrastructure, to force residents to use public transport. What is required is cooperation, and the provision of additional road infrastructure and access points would go some way to convincing residents that the Council has their interest and wellbeing at heart¹.

Access arrangements ~ Cllr Keith Aspden

13.20 The most unpopular aspect of the development is the single access road directly on to A19, which is already very busy². The scheme would affect the access to the 300 or so homes in the Fordlands Road estate, impose additional noise and traffic on the Fordlands Road Care Home, damage the Green Belt and impair the character of Conservation Areas in Fulford and Heslington. Surely if a development of 700 houses needs to go ahead, alternatives to a single access road, such as an interchange on the A64, should be available.

Congestion and other problems ~ Heslington Parish Council; Richard Frost

13.21 We are concerned about the effect of all the local developments on traffic in the area. A number of these large developments are in the pipeline, namely the University, Derwenthorpe and Germany Beck, which together with other developments in the area, will place increasing loads on the local roads, particularly the Hull Road and Fulford Road. We thus fully support the objectors to the Derwenthorpe and Germany Beck schemes in their concern about traffic in the local area.

13.22 There are 3 specific concerns³. First, that the traffic volumes are underestimated due to the significant increase in part time students, as well as the effect of other developments. Second, that access and egress at Heslington would be made more difficult at peak times. Third, that 'rat-running' would be exacerbated through Heslington by traffic travelling between the Hull Road and Fulford.

13.23 In relation to the first issue, the Inquiry into the University expansion has elicited that an increase of approximately 3000 part-time students is expected. It is claimed that the traffic figures assume that 2 part-time students are equivalent to one full-time student and that only about 10% of the latter would have cars⁴. However, accommodation is not going to be provided for part-time students, so that it would be likely that they would travel into the University on a daily basis, either from other parts of the City or from further afield. It is thus very likely that a substantial number of the part-time students would travel to the University by car on a daily basis. Clearly, in those circumstances, the number of car journeys generated by students must be underestimated.

13.24 In addition, the effect of traffic generated by other recent development does not appear to have been taken into account. For example, additional dwellings have been built along Lawrence Street and the Hull Road: there is the Barbican development, the shopping centre and large supermarket on Foss Island Road and more dwellings along the Fulford Road. All those schemes must generate additional traffic.

13.25 Access and egress at Heslington is mainly from the Hull Road and into Field Lane, from the Hull Road and Melrosegate into Green Dykes Lane and from Fulford into Heslington Lane either

¹ ID159 and ID185

² ID156 and ID90

³ ID184

⁴ ID184

directly or through Broadway. Those routes would be affected by both schemes. For example¹, the junction of Hull Road with Tang Hall Lane would become even more saturated (roughly 105% and 106%), so encouraging traffic to divert along Melrosegate. But, that road is already operating above its practical capacity during peak hours (with a saturation level of about 90%). This causes long queues into Heslington, as demonstrated when Tang Hall Lane was closed and long queues in Melrosegate were sustained for much of the day. Similarly, at Green Dykes Lane and Hull Road flows are expected to reach saturation levels of 91% and 93%; increased congestion is experienced at Grimston Bar and the Heslington Lane link is also saturated now. In addition, the junction of Fulford Road with Broadway is predicted to become super-saturated (with flows reaching 105%, 110% and 117% on viable roads) and at the junction of Fulford Road and Heslington Lane flows of 95% and 96%) are experienced. Such levels of congestion would make access and egress at Heslington much more difficult at peak times.

- 13.26 Evidence² suggests that a high proportion of traffic (some 35% in the morning and 40% in the afternoon) is due to people using the route through Heslington Conservation Area as a short cut. That damages the ambience of an attractive village street and spoils the character of the Conservation Area. The proposal to accommodate another 700 households on the Germany Beck site would further exacerbate that problem. The current estimates indicate a substantial reduction in traffic flows through the centre of the village, but that depends critically on the successful implementation of the University Green Travel Plan. The concern is that, if that plan works, the lessening of existing congestion levels would encourage additional traffic on to the network, including traffic generated by the development at Germany Beck. Moreover, the connection from that site now proposed on to Low Moor Avenue and Heslington Lane would encourage yet more traffic through Heslington Village.

The impact on flooding

Doubts about flood storage ~ Fulford Consultation Group; Cllr Barton

- 13.27 Flooding continues to be an issue. Since the 2000 flood event many residents have had their insurance premiums increased and feel that a repeat of such an event would mean further increases and the depreciation of property values³.
- 13.28 It is appreciated that the developer is only responsible for the management of surface water runoff from the application site. It is accepted that the proposal makes provision for water storage to cope with this demand and compensates for the loss of flood plain occupied by the new access road and the raising of the A19. But doubts remain about the flood predictions and the figures quoted. Even experts have been known to get things wrong. It is for this reason that residents are cautious about the figures and assurances that the experts are giving⁴.
- 13.29 The calculations appear to provide little spare flood storage capacity within the design. If the predictions are wrong, then the brunt of any extreme floods would be felt by the residents of Fulford and not by the City Council or Persimmon Homes. The consequent costs would not be purely financial; there could be a risk to health if foul water contaminates surface water again⁵. And, there are still issues that the Inquiry should address.
- 13.30 One possibility would be to create additional spare capacity at times of extreme flood by instigating a flood management regime using the ponds to the south of the A64 that drain into that

¹ Y7 provides some of these figures

² ID184

³ ID185, ID2007 and ID2008

⁴ ID159

⁵ FCG/2 indicates sewerage levels in manholes at Cherrywood Crescent. Contamination occurred during the flood of 2000. The pumping station should reduce the risk of any recurrence.

part of Fulford Ings opposite Bishopthorpe Palace¹. The ponds are fed from the River. The idea would be to delay the discharge of flood water into the Ings, thereby reducing the flow in the River at times of extreme flood. It is suggested that storage capacity might be increased by building appropriate flood banks. The spare capacity created could allow some loss of the flood plane elsewhere, for example by providing a car park at the Parish playing field.

Doubts about land drainage ~ Andrew Vevers

- 13.31 There are two problems that the development must overcome. First there is the flooding of the River Ouse, Germany Beck and surrounding areas: second, there is the need to accommodate storm water run-off from the development site. I do not intend to comment on the first issue other than to note that a compensatory flood storage volume is to be provided to replace that lost to the new road. The second issue relates to restricting run-off from the development to flows typical from what is now agricultural land. Development increases the run-off rate and that can lead to flooding. PPG25 seeks to address this by stopping the situation becoming worse when new development is permitted.
- 13.32 The developer makes reference to sustainable urban drainage systems (SUDS), which involve a series of techniques used to restrict run-off. However, no specific proposals are made, no specific SUDS techniques are identified and no detailed calculations or dimensions are provided². Hence, there seems little basis for the Council's optimism³. I am concerned because I know that providing suitable techniques is not always a straightforward issue where there is a level site, particularly where a high water table makes the use of soakaways impractical. The potential scale of the storm control devices required is likely to have significant cost implications and there may be technical problems to overcome. I am particularly concerned about how run-off from the new access road would be treated, as this would be downstream of the main development in an area where it may be difficult to provide storm attenuation⁴.
- 13.33 The land is quite level so that, if the drains are not laid to a sufficient gradient, silt can accumulate and the drains will tend to block up. There may well be sufficient gradient for direct drainage, but not also for storm water storage. Because a storage device requires a free head of water to operate, the inlet must be higher than the outlet. The outlet must also always be at a higher level than the maximum flood level in the Beck, or else storm water will be unable to escape, and it will cause flood locking on the site. During a severe flood in Germany Beck I can see there could be difficulties with levels that allow such devices to drain naturally. Again, silt could collect in such devices and long term maintenance should be provided for. At this stage there are no plans as to how this might be achieved⁵.
- 13.34 The developer has offered to provide an additional volume of 3600m³ of compensatory flood volume in the main stream⁶. But, that is not a substitute for SUDS because it would not arrest the flow from the developed land.
- 13.35 Normally items such as this tend to be dealt with at the reserved matters stage since they are just a matter of doing the calculations once the overall concept has been approved. It is my contention that the SUDS issues are more complex here and must be resolved at the outline stage, and be subject to public scrutiny, as has been with the flood compensation proposals. Indeed I would

¹ FCG/1

² PH/DKM/1.00

³ See Y10 section 5.4 where it is indicated that 'The council is supportive of these techniques subject to suitable management arrangements being agreed which will be secured by condition'.

⁴ ID155

⁵ ID155, which also provides a diagram of the problem described here.

⁶ PH/DKM/1.00

have expected details to have been submitted to this Inquiry¹.

The impact on archaeology

The Battle of Fulford ~ Cllr Aspden

13.36 There is a growing body of evidence to suggest that the 1066 Battle of Fulford was fought on this greenfield site. There is a non-statutory Register, administered by English Heritage, to protect battle sites from development².

Doubts about the location of the Battle of Fulford ~ Keith Mulhearn

13.37 I became involved with the Battle of Fulford 5 years ago when I began research for a book. I did more digging into events than probably anyone before me and in the book put forward many different arguments and opinions to what could have happened in 1066. A lot of my evidence came from maps and manuscripts in the library and my knowledge of the local area and historical events, much of which stemmed from my business as a tour guide in York³.

13.38 It was I who decided that a society⁴ should be formed and it was I who got the original group together at the meeting, though it soon became clear that other people were primarily interested not in the actual battle itself but in preventing development at Germany Beck. Funding was applied for and used for no other purpose than to prove that the Battle of Fulford took place on the site of the development. I then formed another group, the Battle of Fulford Association, whose aim is to re-enact the battle every year in what will become a family fun day.

13.39 From all the evidence that I gathered during my research my conclusion was that the battle, or at least the main part of it, took place at the bottom of the hill closest to the river and not at the top where the development is to be built⁵. Indeed since writing the book it is my belief that a great deal of the battle would have taken place in a location now occupied by the River Ouse⁶. There are clear signs of what might well be a western river embankment beyond Middlethorpe Ings, which consist here of an extensive stretch of flood plain. It is suggested that the River may well have followed a different alignment in 1066, which would imply that a battle fought with the River on one flank and a marsh on the other would be located some distance from the application site. I have been privy to many field investigations involving core testing and metal detectors and can state that no evidence has been found to confirm that the battle took place on the development site⁷.

¹ ID155

² ID156

³ ID268

⁴ This is the Fulford Battlefield Society

⁵ ID168

⁶ As explained in evidence

⁷ ID168

14. The Case for Osbaldwick Parish Council

Introduction

14.1 The Parish Council has limited resources and, of necessity, these submissions focus on those areas of greatest concern relating to housing requirements, housing needs, access arrangements and highway issues. Those matters are addressed by professional witnesses. But other matters, such as the effects on residential amenities, the Conservation Area, flooding and nature conservation, are also of concern to the Council. Such matters are pursued, albeit not by professionally qualified witnesses, though more technical evidence is often available from experts representing other parties.

Housing; numbers, markets and needs

Numerical housing requirements

- 14.2 The Joint Statement on General Housing Provision¹ sets out several potential estimates of the annual housing requirements in York. The highest averages some 915 dwellings each year. That figure would greatly exceed the estimate favoured by the Regional Planning Board, is not supported by the Council, has yet to be tested through the RSS EiP process, involves a doubtful method of predicting household growth and fails to properly acknowledge environmental constraints in York. Instead, reliance should be placed on the figure derived from the approved RSS. That annual average provision of 675 dwellings reflects the reasonable assumption that York should cater for a little more (27%) than its pro-rata share (24%) of new housing to reflect its role as a focus for development². It is agreed that the requirement proposed in the emerging RSS could also be taken into account recognising that it remains untested and subject to potential change. On that basis it is accepted that the residual annual average requirements are 570 and 593 respectively³.
- 14.3 Even taken on their own terms, the calculations undertaken for this Inquiry demonstrate that neither site would be needed now to meet the housing requirements derived from either the approved or the emerging RSS. In relation to the former there would be no cumulative deficit until 2012/13 (and even then only a marginal one) and in relation to the latter a marginal cumulative deficit would not materialise until 2011/12. And, now that permission has been granted for an additional 120 dwellings at Hungate, even those deficits would be delayed by a further year. The result is clear. The estimated oversupply of 273 or 135 dwellings that would accrue by 2011 without any development on the application sites would 'balloon' to an over-provision of some 638 or 500 dwellings (in relation to the approved and emerging RSS, respectively). That would represent roughly the average provision for a whole year. Even by 2016 there would still be an oversupply amounting to 347 in relation to the approved RSS or 94 in relation to the emerging document. Far from demonstrating a pressing need for the proposed developments, permission for the two schemes now would harmfully exacerbate the oversupply of housing in York⁴.
- 14.4 Of course, the figures show that the estimated annual provision is soon likely to fall short of the average annual requirement. But the average annual requirement in either version of the RSS is derived from the total number of dwellings forecast to be needed over the whole period up to 2016. The provision year by year would be an unreliable basis on which to assess the adequacy of

¹ JS3

² JS3 paragraphs 4.3.3 and 4.3.4

³ ID13 and table 1

⁴ The figures here are taken from table 1 rather than ID13, due to the minor error in the latter.

the overall supply. It is in the nature of house-building that provision is inherently variable with an over-provision in one year balancing an under-provision in another. In any case, there would be no reason why a measure of 'real activity' should equate with an artificial construct, which is all that the annual average requirement can be. What is important is that provision should, over a reasonable period, match the estimated number of dwellings needed. The calculations demonstrate that taken over consecutive 5 year periods, the development of the 2 application sites would result in an over-supply of dwellings in York. The existence of an annual deficit over much of that time does no more than balance the substantial over-provision achieved previously. Indeed, seen in that context, it is not obvious that the annual deficits identified could, in themselves, cause any material harm at all.

- 14.5 It follows that, in terms of overall housing numbers, there can be no justification for releasing these sites now or at any time before 2012/13 or 2013/14, depending on whether the requirement to do so is derived from the emerging or approved RSS and always assuming that the additional 120 dwellings at Hungate materialise. The only arguments to the contrary must depend on the need to provide 'family' dwellings and affordable housing. Those arguments are considered below. The over-provision of housing that would materialise by prematurely releasing the application sites could be very damaging. It could stymie the progress of development on brownfield sites, such as York Central and Terry's factory, by increasing competition from schemes on greenfield land at the edge of the urban area. That would contravene important aims of Government policy¹. Moreover, an appropriate delay would present a reasonable opportunity to decide on the release of the application sites in the context of suitably assessed DPDs, thereby encouraging a plan-led approach to development. Hence, delaying a decision now would avoid potential harm, cause no obvious damage and encourage 'good' planning.

'Windfalls'

- 14.6 The windfall assumption used in the calculations amounts to only 143 a year. That is much lower than the annual average of 356 achieved over the previous ten year period. There is no sufficiently robust explanation of why such a reduction in windfalls would be a realistic assumption to make. Moreover, it is always possible that new sites might come forward for housing in response to changing circumstances. And, the additional provision at Hungate, together with the potential provision at Terry's, would appear to confirm that such possibilities are likely. Clearly, even if the 'windfall' allowance were to be only a little higher than the current estimate, the potential over-provision of housing caused by the imminent release of these sites would be even more substantial.

York Central and other sites

- 14.7 The York Central site is adjacent to the City centre and is identified in the 3rd set of Pre-Inquiry Changes to the City of York Local Plan. The vision² for the site is that it should provide high quality life opportunities for future generations. It would do so by the creation of a modern central business district, by attractive, exciting and sustainable design, by a mix of activities and transport modes. This would complement the City's historic core and expand its urban economy, housing choice and cultural life. The site represents a premier development opportunity for the provision of sustainable housing. A 'master plan' is expected in the summer of 2007 and an Area Action Plan by the autumn of 2009³. Those timings suggest that the figures in the housing trajectory of the Annual Monitoring Report might be unrealistic and that the site would not add to the supply of housing until after 2011. But it is important that the prior development of greenfield land, as represented by the 2 applications sites, should not stall development on such a crucial site.

¹ As set out in PPG3 or PPS3

² ID18

³ OPC/SA/1

14.8 There is also the prospect of some housing development coming forward on the Terry's Factory site. The recently reconsidered Development Brief¹ indicates that housing would not need to be incidental to other uses and that housing unconnected with commercial activity on the site would be acceptable. Numbers of dwellings and the timing of delivery remain uncertain. But such proposals can only further weaken the claim that there is an urgent and imminent need for housing on greenfield land in York.

The market and the requirement for family housing

14.9 The assertion that family dwellings are unlikely to materialise on previously developed land because only flats and apartments have been provided in the immediate past flies in the face of the advice propounded in either PPG3 or PPS3. Of course, many urban sites might be near noisy activities such as main roads, railway stations, pubs and clubs. But that is no excuse for excluding family housing from such locations. The whole thrust of Government policy is to give preference for the development of land within urban areas, to make the best use of that land to meet identified needs and to overcome obvious problems by the deployment of good design and a little ingenuity. The failure to apply such an approach with diligence in the past may have resulted in a dearth in the recent provision of family housing, but that cannot justify a continuing failure to apply Government policy. The fact that the most viable inner urban sites have been developed for flats does not mean that development for family housing on some that remain would not be viable. The Council could exercise its armoury of controls, including Local Plan policies, to encourage the provision of family housing on inner urban sites. With ingenuity the efficient use of land might be achieved by accommodating a range of densities providing desirable family housing with and without gardens. The clear application of policy could require a suitable mix of house types to be provided. Past failures should not justify the unnecessary release of greenfield land. No evidence, such as a detailed site assessment or valuation, is adduced to demonstrate that family housing could not be provided on previously developed land within the City.

14.10 In any event, the claim that an imbalance exists, and will persist, between the type of dwelling required and provided is founded on shaky evidence. The 'trend' identified is based on barely 3 years². The absence of evidence over a longer period means that it is impossible to tell whether this is a recent trend or is just a short term phenomenon. Further, a comparison of the requirement for dwelling types with the information on completions and unimplemented permissions³ demonstrates a coincidence between the property types required and those completed or permitted. Whether the requirement is for market or affordable housing, the type of dwelling required by the highest proportion of respondents is a 2 bedroom dwelling, followed by 1 bedroom, 3 bedroom and, finally, by dwellings with 4 or more bedrooms. Remarkably, the market provides dwellings of different types distributed in exactly the same way. Even the percentages are broadly comparable. They might not match precisely. But they do not demonstrate a damaging imbalance between the type of housing required and the type of dwellings provided. And of course, most of those dwellings completed have been built on previously developed land within the City. Clearly, there is not a sound evidential basis for concluding that an imbalance exists in the type of dwelling supplied and required and certainly not one that would warrant the release of the application sites now.

¹ ID44, paragraph 4.16

² It is a period of 2 years and 11 months.

³ See JS4 figure 1 and the percentages below table 4 and figure 3

Table 4: Housing mix required and recent provision in York

Size of dwelling by sector and provision	1 bed	2 bed	3 bed	4 or more bed
Market housing	25%	33%	23%	19%
Affordable housing	33%	42%	22%	3%
Recent completions; 3/2004 to 2/2006	18%	54%	17%	11%

Notes: Source is JS4, figures 1 and 2 and table 4

Meeting the need for affordable housing

The need for affordable housing

- 14.11 There is no dispute that a need for affordable housing exists in York. But, that is no different from many other places. Moreover, policy requires that sufficient provision for housing should be catered for in DPDs and other planning documents. However, paragraph 5(g) of draft PPS3 is absolutely clear that the approach to meeting affordable housing needs should be consistent with delivering the overall level of housing provision. This is now reflected in paragraph 22 of the final document. ‘Based upon the findings of the Strategic Housing Market Assessment and other local evidence, Local Planning Authorities should set out in LDDs the likely overall proportions of households that require market or affordable housing’. The implication is clear and, indeed, sensible. The requirement for affordable housing must be embedded in the overall housing requirement.
- 14.12 It is very difficult to see that such advice is reflected in the evidence submitted. On the contrary, the estimated annual average requirement for affordable housing exceeds that relating to all housing on every measure submitted. If affordable housing were to be but an element in the overall housing requirement, then the latter should be increased accordingly to reflect the needs identified. Yet the Council are apparently content that an annual provision of 675 or 640 would suffice. If those figures properly reflect a need for affordable housing, as policy requires, then it must follow that the real need for affordable housing can only be some suitable proportion of those overall requirements. The latest version of the Local Plan would indicate that it could be up to 50%. That would imply that the real requirement for affordable housing, and the one allowed for by the Plan, would be substantially less than ½ the level suggested. It is unclear that such a level could not be achieved without the schemes proposed on the application sites.
- 14.13 In essence, the claim that the application sites are required amounts to supporting an oversupply of housing to provide for the affordable housing needs identified. That would be irrational if the policy guidance has been followed because it would entail recourse to a factor which has already been taken into account in setting an appropriate level of housing provision as a reason for exceeding that provision. The very existence of such a possibility should raise doubts about the evidence itself.
- 14.14 The fact is that the Housing Market Assessment¹ is flawed. It has not been considered, still less approved, by the Council. Nor is it a planning policy document; there are numerous places where its findings are intended to be subservient to judgements, environmental constraints and other

¹ CD152

considerations¹. The recommendations do not take account of the environmental capacity of the City. Consultation has not been undertaken with interested bodies, including neighbouring authorities, despite the agreed fact that the York housing market does not operate in isolation but has interrelationships with parts of Leeds and Harrogate. That is also contrary to policy because the operation of housing markets should be considered at a regional and sub-regional level and the involvement of stakeholders is important².

14.15 In addition, the document defines 'need' in a way that expands it to a compound of 'demand'. Although the analysis is based on survey material seeking respondents' expectations of what type and size of dwelling they might occupy on their next move, it is clear that this 'aspirational demand' is numerically little different from the responses obtained when people were asked 'what they would like'. And it appears that the researches were drawn to this simple issue of aspiration³. Planning policy is not geared to simply meeting demand. It is subject to numerous environmental constraints, which have to be taken into account⁴. The evidence purporting to identify the level of affordable housing required confounds the concept of 'need' with that of 'demand' and, by ignoring planning constraints that ought to be taken into account, enormously inflates the apparent requirement.

The provision of affordable housing

14.16 The current policy⁵ is to require that 50% of the dwellings on sites accommodating at least 15 units should be provided as affordable housing. The contribution at Germany Beck, due to constraints, would amount to a mere 35%: the contribution at Derwenthorpe would only be 40%. The proposals would thus fail to comply with current policy and make relatively modest contributions to the pool of affordable homes.

14.17 Worse still, the claim that these sites should be released now to make an early contribution to the provision of affordable housing is not borne out by the evidence. In the early stages of development (assuming that dwellings would materialise by about 2009) and before the cumulative balance of provision and supply were to fall into deficit after 2011 (omitting any potential addition at Hungate) the Derwenthorpe scheme would provide about 70 affordable dwellings⁶. That limited provision is based on the assumption that 40% of the dwellings materialising on the site during the early stages of the scheme would be affordable. It could well be that a developer would see advantages in market housing dominating the early development of the site, in which case the provision of affordable units would be lower⁷. The claim is that the provision of 70 affordable dwellings should be seen as the maximum potential contribution during the initial stages of development at Derwenthorpe. It would be a miniscule contribution. And, of course, the same arguments would also apply to the Germany Beck scheme. The modest contributions to affordable housing provision that these sites would make mean that there can be no weighty benefit in developing them now that could be derived from affordable housing matters.

14.18 In addition, because the initial provision of affordable housing is so limited, there is little reason why alternative sources might not offer adequate compensation. The assertion that previously

¹ CD152 paragraphs, 1.14, 6.7, 6.22, 6.23, 13.9 and 13.10, for example.

² PPS3

³ CD152, paragraphs 6.4-6.9

⁴ PPS3

⁵ Policy H2a in CD1

⁶ That is 40% of 175, see table 1

⁷ The Inspector notes that the terms of the section 106 Agreement seeks to limit the scope for this possibility. A plan for the provision of affordable units must be prepared for each neighbourhood and 40% of them must be completed before 60% of the market housing is occupied. Complementary controls ensure completion of the affordable homes. Nevertheless, within those limits there would be scope to provide fewer than 70 affordable homes by 2011.

developed land is not suitable for the provision of family housing also implies that it is not suitable for affordable housing for families. Again, that stance is simply incompatible with the advice in PPG3 and (now) PPS3. There is a mismatch between the approach taken here and the approach taken by the Secretary of State.

Site selection

Is there a sequentially preferable site?

14.19 There is a potential alternative site, of a similar size and in a similar location to Derwenthorpe at New Lane, Huntingdon. The reasons why the County Council disagreed with the Inspector's recommendations that the site should be excluded from the Green Belt are not clear¹. Indeed, the site remains 'hemmed in' by the Ryedale Stadium and is now somewhat divorced from the open land beside the Malton Road by the 'park and ride' facility. Moreover, development at the New Lane site would entail far fewer harmful consequences to development at Derwenthorpe. The former is practically devoid of any ecological or nature conservation interest: the latter is, at the very least, a border-line candidate for SINC status². Similarly, there is no known drainage or flooding concern at the former, whereas the latter is beside Osbaldwick Beck and, as the ridge and furrow testifies, has experienced drainage problems for centuries. And, most importantly, access to the former could be easily achieved via a suitable 'main road' while access to the latter would entail a series of unsuitable arrangements over quiet residential streets and through existing residential areas. A proper assessment of those factors would justify a preference for developing the site at New Lane before embarking on any development at Derwenthorpe.

The impact on the Conservation Areas

14.20 The scheme would devastate the Osbaldwick village Conservation Area. The initial response from English Heritage requested that the potentially adverse impact of the construction traffic should be resolved prior to granting any consent³. That has not been addressed. The request is that it should be addressed now if consent is to be granted. That is exactly the approach adopted in relation to the expansion of the York University campus; a separate route for construction traffic has been proposed from the outset to protect the Heslington Conservation Area. The same approach should apply at Osbaldwick.

14.21 Osbaldwick may be a suburb of York, but it retains many traditional village characteristics; there is a village green, a village church, a village hall, a village pub, and a settled community where people know each other. The place has a long and interesting history⁴. It was designated as a Conservation Area as far back as 1978 and that was extended northwards in 2004 to the line of the old Derwent Valley Railway expressly to 'include the long narrow gardens, the ridge and furrow fields and the wooded paddocks behind the Derwent Arms'. The concern is that the proposed development at Derwenthorpe would erode and eventually destroy the remaining character of the village by the increase in traffic through the village street and by the increase in population from the new suburb so nearby. Indeed, there are only some 2155 on the electoral roll. The scheme would swamp the village adding almost half that number again accommodated in the 540 dwellings proposed. There is a very real anxiety among village residents that, whatever well-meaning efforts the Trust might envisage, an increase in crime and antisocial behaviour must result. Such problems have been on the increase at New Earswick⁵ and, given the lack of real community facilities such as sports halls, shops and the like within the new development, there is no reason to believe that the experience would be different at Derwenthorpe.

¹ ID37

² ID93 and the ES

³ OPC/WM/1

⁴ ID45 provides an extract from David Wilde, Osbaldwick - a suburban village

⁵ OPC/WM/1 and ID45 (press report)

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- 14.22 The fields that form the application site are of historical and social relevance in relation to the village and the way it developed from medieval times. They are denoted as ‘permanent pasture’ and ‘water meadows’ in the historical maps of the village and have been used for grazing for well over a century and several exhibit the remnants of ‘ridge and furrow’. The fields thus form a traditional feature of the village and help to preserve the integrity of the Conservation Area.
- 14.23 It seems that more care is applied elsewhere. A recent application¹ for a much smaller development on the site of an old garth in the village of Wheldrake was recommended for refusal because it ‘would further erode the historic character of the village and conservation area’. The planning officer felt that the proposal ‘was inappropriate in the context of the village conservation area’ and said that ‘too much development erodes traditional village character’. The residents of Osbaldwick could not agree more. The same principles should be applied to Derwenthorpe.

The impact on neighbouring residents

- 14.24 Those in favour of this development have described the sites as ‘derelict’, citing examples of dumped rubbish, burnt-out cars and ‘joyriding’ by youths on motor scooters and motorbikes. This state of affairs has only arisen since the Council decided that development was appropriate here, and stopped maintaining the fields or letting them to farmers for grazing. This deliberate neglect has led to the fields becoming a venue for antisocial behaviour, but it has not stopped a far higher percentage of the community responsibly enjoying the natural interest and beauty of the place. The fields have been used for decades as an amenity. That remains the case; the fields are used for walking, running, cycling and for exercising dogs; the footpaths and cycleways offer the enjoyment of wildlife, native plants and clean air. Although the village is on the edge of the countryside, all the immediately adjoining land is privately owned and not available for public access. Moreover, there is inadequate provision of formally designated public open space in the vicinity and on this side of York a swimming pool and an affordable sports centre have been lost. The application site thus provides an undisturbed natural habitat and ‘green lung’ for the benefit of the surrounding communities.
- 14.25 This site is largely unspoilt. It is not an artificial construct like a normal urban park area. Its value is as a natural open space, left ‘as nature intended’ like the strays of York and Harrogate, or London's Hampstead Heath, and benefiting both human communities and wildlife. Even if formally designated as public open spaces, it is suggested that the majority of users would adhere to the main footpaths, leaving significant areas largely undisturbed and therefore viable as natural habitats. In contrast, the sterile landscaping being suggested as part of the Derwenthorpe scheme would offer no adequate replacement. In any case, the amount of usable open space within the proposed development would be quite small, as swathes of the open areas would be submerged beneath surface water storage ponds or ‘bunded’ to serve as flood storage. That would undermine national programmes to improve health and fitness by making use of open spaces to walk and exercise.
- 14.26 For those reasons, the claim is that the greatest benefit for the greatest number would come from this land being retained as public open space. More footpaths could be created, with the areas of highest ecological value designated as nature reserves. Indeed, observations made in the context of work being undertaken on the LDF indicate that ‘the various Ings and Strays around the City are important for their recreational and ecological value, and the Council would like to see other areas provided for similar uses where this is viable’. It is suggested that it would be viable and highly desirable for the Osbaldwick meadows to become a new stray. That would formalise the status that they have acquired informally and acknowledge their value to the surrounding neighbourhoods, the village and the eastern area of the City as a whole.

¹ OPC/WM/1

The impact of traffic

Access arrangements

- 14.27 It is first necessary to decide what level of traffic the access arrangements should be designed to accommodate. Trip generation rates are derived from the TRICS databases for ‘privately owned houses’ and ‘privately owned flats’; data from ‘edge of town’ locations involving 100-700 dwellings existed for 16 and 8 sites, respectively. Such larger data sets should avoid bias¹. The morning and evening peak trip rates are calculated to reflect the mix of flats and houses likely to materialise on the site. The morning peak trip rate is roughly 0.31 for flats and 0.62 for houses and the evening peak trip rate is, respectively, 0.29 and 0.73. The overall trip rates would be substantially higher than those applied by the Council and the applicants to this proposal of 0.55² (for both the morning and evening). For example, a total of 317 trips would be generated in the morning and 372 in the evening peak periods as opposed to just 298 trips at both times. That would represent 6% and 25% more traffic. And, if trip rates derived from the 85th percentile, rather than the average, had been used, as the guidance suggests³, then 37% and 40% more traffic would have had to be accommodated. For present purposes, the rates derived from the TRICS database are used.
- 14.28 The development is split into four broadly similar sized neighbourhoods all served by separate individual accesses with no route for vehicles between them, save for buses and emergency vehicles. Hence, car journeys between neighbourhoods must entail a long journey around the site using the existing highway network. Those trips do not appear to have been allowed for in the calculations and may form a further source of additional traffic in relation to the flows estimated.
- 14.29 The neighbourhood to be served from Meadlands (neighbourhood B) would contain about 125 units; Meadlands currently serves some 113 dwellings. As 2 points of access would not be available and the road layout would not form a circuit, the scheme would not comply with current guidance⁴. Although the carriageway would be wide enough for a car to pass a large service vehicle, the potential doubling of traffic in a quiet residential street would be unacceptable. Moreover, visibility at the junctions of Meadlands and Bad Bargain Lane would be inadequate⁵. Instead of the 4.5m by 70m required, only 4.5m by 25m can be provided, even with a minor alteration to build out the pavements (and consequently narrow the carriageway) on Bad Bargain Lane. The access would thus be inadequate and unsafe.
- 14.30 The neighbourhood to be served from Fifth Avenue (neighbourhood A) would consist of 185 dwellings. Although the carriageway is some 6m wide, it also provides access to community facilities and a supermarket, as well as to about 150 dwellings. Again, the scheme would not comply with current guidance, although there would be no obvious visibility problems.
- 14.31 The neighbourhood to be accessed via Temple Avenue (neighbourhood C) would consist of 125 units. The road is narrow, barely 4.8m wide, and already serves about 175 dwellings; it would provide access to some 300 dwellings if the proposals were to proceed. Those access arrangements and the dimensions of the carriageway would be inadequate⁶. And the carrying capacity of the road is further reduced by the incidence of on-street parking. Partly to allay that difficulty, a one way system would be introduced. However, that would increase the use of Lang

¹ TRICS Good Practice Guide 2005

² This is the average for the City as a whole. Surveys at Derwenthorpe suggest very similar rates of 0.54 and 0.55 for morning and evening peaks, see Y8.

³ Guidelines for the Preparation of Transport Impact Assessments and Transport Policy Statements, York City Council, paragraph 3.1.4

⁴ DB32, paragraph 2.22

⁵ Places, Streets and Movement

⁶ DB32

Avenue, where visibility is 4.5m by 65m and 4.5 by 85m rather than Temple Avenue, where visibility is 4.5m by 104m and 4.5 by 180m. Also, the visibility from Lang Avenue could be further restricted by on-street parking at the local shops.

- 14.32 The one-way arrangement would itself cause considerable inconvenience to existing residents. Vehicles would use Lang and Ingleborough Avenues in leaving the development and Temple Avenue West in entering the site; Temple Avenue East would remain as a 2-way street. To accommodate that 2-way section, on-street parking would be prevented and parking provided in new lay-bys constructed within the grass verges, though sometimes protruding into the carriageway. The arrangement would entail awkward manoeuvres. Residents at the western end of Temple Avenue would have to travel some 400m, rather than just 30m, around Lang Avenue and Ingleborough Avenue to reach Tang Hall Road. It is unlikely that they would always observe such an awkward arrangement, so exacerbating road hazards and entailing problems of enforcement. In addition, the loss of the grass verges would impair the amenity of the street and the introduction of parking bays would reduce road safety for pedestrians and car drivers alike. And, given that the one-way system would be subject of a Traffic Regulation Order, there can be no guarantee that it would be implemented. Serious doubts must remain as to whether Temple Avenue could accommodate the free and safe movement of traffic generated by the scheme.
- 14.33 The neighbourhood to be served with a new access from Osbaldwick Village (neighbourhood D) would contain 105 dwellings. The 2-way peak hour traffic flows are estimated to be about 87 vehicles in the morning and 129 in the evening, demonstrating the quiet nature of the road. The proposal would generate some 62 and 72 trips in the morning and evening peaks, respectively. That would represent corresponding increases of 71% and 56%. Although not all that additional traffic would go through the village, it is clear that the scheme would have the potential to impair the amenity of existing residents.
- 14.34 The access here would incorporate a 3.5m wide, 'single direction carriageway' on a bridge with a pedestrian zone protected by bollards at the entrance and speed tables to either side. A carriageway of 3.5m is insufficient to allow for 2-way traffic and, given the level of traffic likely to be generated, together with the use of the access by buses, delivery, refuse and removal vehicles, such a restriction is likely to result in queues of traffic extending back into Osbaldwick Village. Moreover, should road works or reinstatement subsequently be necessary, the access would be completely blocked. That would contravene advice in DB32. There would be other flaws. Although a new footway would be provided on the north side of Osbaldwick Village and a new car park at the Village Hall, the substandard footway in front of the latter would remain. Nor is it obvious that the private access road to the rear of Nos.119-137 Osbaldwick Lane, and used by refuse vehicles, has been taken into account. The access arrangements would be unacceptable. And if further evidence were needed, then a refusal in 1989 to allow a much needed Doctors' surgery on the north side of the Village near the proposed site entrance, surely demonstrates the point. The application was refused on the grounds that the resulting increase in traffic would be unacceptable in terms of highway safety¹.
- 14.35 Apart from the access arrangements themselves, there is grave concern over the routing of construction traffic. At present this is to be left for consideration until after permission is granted in the context of details to be addressed by the section 106 Agreement, tempered, perhaps, by conditions. The concern is that, if some of the proposed access roads were to prove unacceptable for use by construction traffic, then more heavy vehicles would be routed through Osbaldwick Village. That could cause serious problems. In the past, and prior to the link road being built, residents remember the vibrations of heavy vehicles causing the stream banks to collapse and

¹ OPC/WM/1 and ID45

structural damage has also arisen from the use of the street by more buses. The road is narrow. It is about 5.1m in width. Buses must encroach into the on-coming lane in negotiating the sharp corner beside the site. And, the advice is that a carriageway below 5.5m in width would be too narrow for the free movement of large service vehicles. Events in the village would lead to conflict and the use of the road by heavy lorries would seriously exacerbate traffic problems, causing inconvenience, delay, dust and noise. Such potential impacts would warrant preventing the scheme until a suitable route for the construction traffic can be demonstrated to be available. The suggestion is that a properly dedicated route from the east of Metcalfe Lane (perhaps using part of Outgang lane) would be necessary.

- 14.36 Finally, the scheme would fail to make adequate provision for car parking. For sites like Derwenthorpe, the current standards would require 1 space to be provided for 1 or 2 bedroom dwellings, 2 spaces for the larger properties and 1 space for visitors to serve 4 dwellings. Assuming a roughly equal split between ‘small’ and ‘larger’ houses, application of those standards would result in a requirement for some 918 car parking spaces. Yet the scheme would provide just 1.1 spaces per dwelling, or some 594 spaces, barely 65% of the maximum usually permitted. There is little to justify such a limited provision. Pedestrian and cycle links are quite good, but such factors would not result in a major reduction in car ownership. Moreover, some roads in the vicinity (like Temple Avenue) are already subject to on street parking problems.
- 14.37 The result must be that prospective residents would be compelled to park on the highway network within or surrounding the site. That would have a serious impact on Temple Avenue and Fifth Avenue, particularly because the scheme itself would serve to limit existing parking there. In addition, the displaced car parking might spill over into Osbaldwick Village. The scramble and extent of on-street parking could impede the movement of cars and buses, as well as conflict with pedestrians and cyclists, so exacerbating road hazards. It is suggested that a reasonable compromise would be to provide car parking spaces at a level of 1.5 per dwelling; that would accord with guidance and technical advice¹. It would result in 810 spaces here. Even on that basis, the scheme would fall short by over 200 spaces.

Measures to reduce car travel

- 14.38 The measures to encourage walking, bus travel and cycling are generally acceptable. However, the car sharing club only need run from the occupation of the 20th dwelling for a period of two years, and so it could be discontinued before the development would be even partially complete. Moreover, the likely impact of a car club on reducing journeys by car is relatively untested and the limited information proffered is barely more than anecdotal. It is unlikely that the ‘club’ would significantly reduce the propensity to travel by car.
- 14.39 Nor should the effect of the proposed new bus service be exaggerated. The proposal is to subsidise the re-routing of the No.27 bus to provide a ½ hourly service across the site connecting to the City centre. Only one bus service would be provided and the limitation on the subsidy could result in the service being withdrawn before the development is completed. The mere provision of vouchers and an information pack about non-car travel cannot guarantee that the material is read, let alone acted upon; this can only serve as a very weak incentive to change travel behaviour. And, perhaps it is a sign of how little confidence there must be in such measures that no assessment is offered of the modal split between car and non-car travel.

Congestion and other problems

- 14.40 The Transportation Assessment² underestimates the traffic likely to be generated by the scheme.

¹ PPG13, JRHT/GWB/1 and JRHT/GWB/1 appendix 8

² CD98

First, the assumption is made that traffic growth would be 1% a year. It is clear, however, that growth rates have been much higher. Evidence from the Local Transport Plan¹ indicates that a 14% growth in traffic is expected to 2011 and a 30% growth by 2021². That is far in excess of the 1% per annum used in the Transportation Assessment. Second, the trip rates used in the analysis are substantially below what would be expected from comparable situations described in the TRICS database; peak hour traffic would be 6% and 25% too low³. This must cast doubt on the capacity of the network and the key junctions to accommodate the generated traffic.

- 14.41 Worse still, not all the critical junctions have been assessed. In particular, the junction between Tang Hall Lane and Osbaldwick Lane is not assessed because it is claimed to be used as part of a 'rat run' and, it is argued, any additional traffic would help to make it less attractive, thereby reducing its function as a 'rat run'. There are flaws in that argument. First, there are no details about the extent of 'rat running', so there are no details about the numbers of journeys through the junction due to its position on the 'best way' home, or to school or to work. Second, no-one knows how those who must use the junction would react to the additional congestion countenanced. Third, the logic of not objecting to more traffic through the junction due to its effect on 'rat running', is that more development would do even better. But, of course, that is to ignore those not using the junction as a 'rat run'. The evidence does not demonstrate that the network would adequately cope with the traffic generated by the proposed development; elements of that traffic have not been analysed.

The impact on flooding

- 14.42 It is understood that the Environment Agency has withdrawn its objection to the application. However, fears have not been allayed, not least because residents have all been contacted recently by the Agency to register their properties for flood warnings, being in a high-risk area.
- 14.43 On some old plans, the fields are described as 'water meadows'. Properties backing onto the site have been flooded and it is thought that wider flooding was only averted because the application site served as an informal functional flood plain. The heavy clay soil has good water-retaining properties, and the uneven surface of the fields retains pools of water in heavy rainfall; runs-off to Osbaldwick Beck thus occurs at a controlled rate. Even so, the Beck rises very rapidly in heavy rain and climate change would exacerbate the problem. The increased hard surface area resulting from the proposed development would intensify those harmful effects. There is doubt that the indicated engineering works would prevent flooding. And, the higher floor levels indicated for the new houses confirm those concerns. Existing dwellings adjoining the site and alongside the Beck are not going to be raised and many drainage details still remain 'to be confirmed'.

The impact on ecology and nature conservation

- 14.44 These matters are adequately addressed by the York Natural Environment Trust and Yorkshire Wildlife Trust; the Parish Council fully supports those cases. It is only necessary to add that the historical value of the hedges and the field structure should be taken into account as well as their ecological value. In any case, the intention to transplant species or translocate habitats would be a poor mitigation strategy. Replacement hedgerow planting would not only take decades to come to an appreciable level of maturity, but also the social and historical significance would be lost. The hedgerows should be left as they are and given adequate formal protection to ensure their continued preservation for future generations.

¹ CD5

² The annual growth rates would be about 2.7% and 1.8% respectively.

³ OPC/GWB/1

Conclusion

14.45 The Osbaldwick scheme would not be needed now and would exacerbate an over supply of housing; it would make only a modest provision of affordable housing to offset such harm. Neither would the release of this greenfield site for housing now offer much in the way of family housing that could not be achieved by other means more in line with Government policy. There would be unacceptable highway consequences. The Conservation Area would be harmed, residential amenities impaired, and concerns would remain about flooding and nature conservation. The Parish Council urges a recommendation for the Secretary of State to determine that planning permission should be refused.

15. The Case for Adrian Wilson ~ objections to the Derwenthorpe scheme

Plans and prematurity

- 15.1 The Council indicated, back in 2005, that current estimates of housing supply would result in an over provision of 1091 homes by 2011¹. Such has been the high level of completion of new homes in York since January 2005 that that figure is likely to be an underestimate and the completions anticipated to 2011 will result in a substantial surplus over the planned requirement. In circumstances where there is an over provision of housing supply and a large amount of brown field sites available to well beyond 2011, development of Derwenthorpe now would be contrary to the guidance set out in PPG3. It should also be considered premature. Moreover, in the absence of an adopted Green Belt for York and an adopted Local Plan the scheme would prejudice the outcome of the emerging Local Development Framework and the proper designation of an inner boundary for the York Green Belt.
- 15.2 In the context of the previous Local Plan Inquiry, English Heritage and others requested that the Council should conduct an Environmental Capacity Study to ascertain how much further development the City of York could accommodate without impairing the setting and historic character of the City. The Council declined to carry out such a study. But, English Heritage are still pursuing their request and want the study undertaken as part of the Regional Spatial Strategy and Local Development Framework. This study should be completed as part of the RSS and LDF before the scheme is permitted; allowing such development now would prejudice the outcome of that study as well as the LDF.
- 15.3 The Strategic Environmental Assessment Directive requires the Council to carry out a detailed 'Strategic Environmental Assessment' in drawing up the LDF². The proposed development site must thus be considered in the context of other available sites and current planning guidance before it is allocated for development, including an appropriate SEA. To do otherwise would breach the relevant obligations under the EU Treaty. The site cannot be allocated under a 'saved Plan' as there is no adopted Plan to save. The claim is that if the site were to be considered as part of an appropriate SEA it is almost certain that development would not be permitted because a large part of the site could be classed as a site of interest to nature conservation and within the flood plain.
- 15.4 The allocation of the site in the Local Plan would contravene other policies, particularly in relation to biodiversity and the Green Belt³.

Human Rights and Procedural Irregularities

- 15.5 The site has not been designated for development under an adopted Local Plan nor under the new LDF. Hence, its development now would disregard the properly lodged objections in place. Allocating the site for development without following the correct legal procedures would thus contravene Articles 6 and 8 of Schedule 1 to the Human Rights Act 1998.
- 15.6 It is my contention that allocating the site for development without following the statutory process prejudices my rights under the Human Rights Act as this would amount to a failure to follow due process and would infringe my rights to personal property and to a fair hearing. In this regard, I have objected to the site being removed from the Green Belt, I have requested that the site be

¹ This is stated at page 5 paragraph 3.1 of the City of York Council Planning Committee Agenda for 31 January 2005, see Annex A of AW/1

² The Strategic Environmental Assessment Directive 2001/42 EC, enacted into UK law by the Environmental Assessment of Plans and Programs Regulations 2004

³ For example, the statements at paragraph 3.2 of chapter 3 and at paragraph 1.2.

included in the Green Belt, I have objected to the development of the site in the absence of any statutory Development Plan and I have objected to the failure to deal with the site as part of the LDF process. In order to plead a case under the Human Rights Act, it is necessary for an individual to show prejudice. Prejudice to me would include, loss of amenity from the loss of the meadows and increased traffic, noise and pollution from the development; it would also include any devaluation in my property, which is adjacent to the site, and inconvenience and disruption during the construction phase of the proposed development.

- 15.7 There have also been procedural irregularities that have undermined effective public consultation. As part of an extended statutory consultation period, the Plans for the development were put on display for local residents on several days in June 2003 at local venues¹ and thereafter at the Council offices. However, at all of those local venues the plans were incomplete and the section dealing with the Environmental Statement was missing. Only when the plans reached the Council offices were full plans made available. At each of the local locations there was a small notice on display stating that the Environmental Statement would be available when completed. No residents realised that plans were incomplete. I raised this issue with the Planning Department and they said that although the plans were incomplete for part of the consultation period, the consultations were extended beyond the statutory period and the complete plans were on display for the required length of time in the Council offices. It is suggested that the absence of the Environmental Statement at the local venues was because it was so controversial and likely to lead to an increased number of objections. The applicants should have had the full plans on display during any period described as statutory consultation
- 15.8 Furthermore, when the site was originally proposed for development, the applicant had 4 ‘master plans’ drawn up. The applicant in conjunction with the Council then put these plans to a public vote. The ‘master plan’ which obtained most votes was the plan by Aire Design. However, the public vote was ignored and the applicant and the Council instead chose to adopt the plan by PRP Architects². It is therefore not open to the Council or the applicant to claim that their development has the backing of the local residents, or worse still, that local residents are in favour of developing the site. Both the applicants and the Council have repeatedly stressed that they have consulted the local community over this development and it has their backing. In reality, the public consultation has proved to be a complete shambles and it is now quite clear from the documents disclosed by the Council that the consultation process was never intended to be a forum for dissent and there were active attempts to manage the consultation process to make it difficult for people to object to the principle of the development or play any meaningful part in influencing the plans.

Housing; numbers, markets and needs

Numerical housing requirements

- 15.9 The Council claim that the proposed development offers more housing that is more sustainable in terms of energy efficiency³ than development elsewhere. But, there is no reason why developments on brown field sites cannot provide housing rather than flats or be sustainable. Indeed, developments on brown field sites must tend to be more sustainable than development on green fields because redundant land and buildings are being recycled and brown field sites in the heart of the urban areas tend to be well served by existing infrastructure including transport. Development of brown field sites also aids regeneration and can improve the amenity of existing

¹ These included, 2nd June 2003, 3rd June 2003, 5th June 2003, 6th June 2003, 7th June 2003 at Tang Hall Library, Monday 9th June 2003 to Friday 13th June 2003 at Tang Hall Community Centre, and 17th June 2003 to 19th June 2003 at Osbaldwick Sports Club.

² JRHT/NI. See also MARA’s case

³ See pages 5 and 6 of the Planning Committee Agenda dated 31 January 2005, Annex A of AW/1

residents whilst preventing urban sprawl.

15.10 The recent de-allocation green field site at New Lane, Huntington (potentially suitable to provide 600 new homes) highlights how successful the City has been in meeting the very high current allocation of new housing. That must undermine any claim that there is desperate shortage of new housing land coming onto the market. It also highlights the inadequacies of previous Plans, as far more brown field land has become available than was anticipated. That may be due partly to rising house prices. It may also be due to the high profits that can now be made as land owners, builders and property developers seek to acquire and redevelop underused and redundant sites.

The Urban Capacity Study

15.11 It is claimed that the Urban Capacity Study¹ seriously underestimates the amount of brown field land available for development in York. The study excludes numerous sites which might be available for development.

15.12 It excludes sites below a threshold of 0.2ha, thereby ignoring sites like that of a former bungalow adjacent to Manor School on Boroughbridge Road which has been demolished to be replaced shortly by a block of flats².

15.13 It also excludes former playing fields on the grounds that there is a shortage in York. But, that has not prevented the Council from allocating some for development. Recent allocations include a playing field at Derwent School. And, there are other much larger sites likely to become available for housing due to a reorganisation of schools in the York area. A new combined technical College and Sixth Form College is being built on Tadcaster Road and at least part of the former Technical College site has been allocated for housing; the site is very large. The former York St John College Croft Campus at Heworth Green has also recently become available; planning permission has been granted for residential development on the site and building is currently underway. In addition, Lowfield Secondary School is due to close and merge with Oaklands School. The Lowfield School site is extensive and could be suitable for housing. Similarly, the existing Manor School is scheduled to close and be relocated further up Boroughbridge Road; the Manor School site would be available for development. Nearby the new Manor School site is the former Civil Service Sports and Social Club, now empty amongst an expanse of playing fields. That too might be available for housing.

15.14 The Study did not encompass empty housing thereby underestimating the potential availability of new housing from underutilised or empty properties. Similarly, the housing potential of empty floors above shops is simply alluded to as being part of the ‘windfall’ allowance. In a shopping centre like York there are many shops where the upper floors could be turned into flats; this resource should be fully considered.

15.15 Gardens are also excluded because the ‘infilling’ of gardens might contribute to ‘town cramming’. But the Council has allowed residential development in residential gardens, so the potential contribution from this source should have been considered. The block of flats being built next to Manor School is one example³. Another example would include a semi-detached house by the junction of Hull Road and Melrosegate; permission has recently been granted to build a new house in what was the garden.

15.16 The capacity of the sites deemed to be available is underestimated⁴. For example York Business Park extends to about 16.4ha. It has been designated for standard employment use and for

¹ ID53

² AW/1, photographs at Annex B

³ Referred to above

⁴ ID53, Appendix C

residential purposes, but the majority of the site has remained undeveloped for over 10 years. Some housing has been built on the site. It is close to existing employment opportunities at Clifton Moor and the undeveloped area would be better suited to housing if there is not the demand for employment development. Similarly a large part of land at Holgate Park, a former British Rail carriage-works, remains undeveloped and has also been empty for many years. The site is close to the City centre and has excellent transport links; it would seem sensible to reallocate it for housing. In addition, the site at Heworth Green, Layerthorpe is listed as providing up to 150 dwellings, but planning permission has now been granted for 172.

- 15.17 And, several large brown field sites that might provide residential land are simply omitted. Some of them are unexpected ‘windfalls’ which have become available since the study was prepared, such as the Terry’s factory site. But some were available at the time of the study. These are described below.

York Central and other sites¹

- 15.18 York Central covers up to 85 acres and is right in the centre of York adjacent to the station. It is described as one of the biggest urban regeneration projects in the country and the Council has previously said it could provide up to 3000 new homes. In the 4th set of Changes to the Local Plan the site is referred to as providing up to 600 homes, much lower than the 3000 homes the Council previously talked about². Given the very large size of the site and its location right at the heart of York, and being surrounded by existing housing of relatively high density, the former figure seems unrealistically low.
- 15.19 The former York College of St John Croft Campus on Heworth Green is redundant following reorganisation. Planning permission has already been granted and building is underway converting some Listed Buildings into 9 houses and demolishing others to make way for 123 apartments.
- 15.20 The former Terry’s chocolate factory, covering approximately 51 acres is close to the City centre with excellent transport links. It would be suitable for development for residential use.
- 15.21 Nearby are the Bustardthorpe allotments, about 90% of which are empty. The Council have previously allowed housing development on allotments which are unused or derelict and where it is clear that there is no demand for allotments in the area. As the Bustardthorpe site is very large and covers several acres, much of it being unused for decades, the redevelopment of the adjacent Terry’s factory might provide the opportunity to redevelop the Bustardthorpe allotments, as well as the land between them and the factory. Some allotments could be retained to meet the demand in the area, but it is clear that the majority of the site is not needed for allotments.
- 15.22 Lowfield School is on a site of over 10 acres right in the heart of an existing residential area in Acomb. Land there would be suitable for housing. Manor School on Boroughbridge Road also covers several acres amongst dwellings. Nearby, Donnelly’s Paperworks were knocked down and turned into housing. The Manor School site would be suitable for housing too. The former playing fields at Derwent School, Osbaldwick Lane cover 3 or 4 acres. The Council says that the playing fields are no longer needed and they are being sold for residential development; outline planning permission is thought to have been granted. Shipton Street School is also closed and the site advertised for sale; this would be suitable for housing.
- 15.23 The City of York Football Club ground might also come up for development if the Club move to

¹ AW/1, Annex B provides photographs of some of these sites. This is not an exhaustive list; it only includes the sites of which I am aware.

² CD1, Table 7.2

an edge of City location. It is very close to City centre and in the middle of a residential area, making it ideal for housing. The former Civil Service Sports and Social Club covers several acres. The Club has relocated and the adjacent fields have been allocated for the new Manor School. Unless the intention is to redevelop the Civil Service Sports and Social Club for the school grounds then it would be ideal for housing.

- 15.24 York Barbican-Centre is a large site covering 4 acres or so. It was sold for redevelopment and planning permission has been approved for a mixed scheme involving some 220 flats. A nursing home on Heslington Road is now redundant and closed. The site covers about 2 acres and is in the middle of a residential area close to City centre; it could be used for flats or townhouses. A redundant grain silo site at Clifton Moor, formerly operated by the MOD, is now surplus to requirements. It covers a very large site of about 22 acres close to existing dwellings as well as the transport and facilities at Clifton Moor; it would be suitable for housing.
- 15.25 There is a redundant garden centre on Field Lane, Heslington that covers several acres. There are excellent transport links and it is adjacent to the University and Fulford. It would be suitable for housing. Similarly, a redundant plant nursery opposite Wyevale Garden Centre is extensive, has excellent transport links and is close to existing job opportunities at Clifton Moor and Northminster Business Park. It is understood that the owner intends to apply for planning permission for housing.
- 15.26 York Technical College on Tadcaster Road covers several acres and is to be relocated. At least some the site would be available for redevelopment and it has been proposed to use the site for affordable housing. The site is close to the City centre and has excellent transport links. Further up the road a site is being redeveloped by Nixon Homes¹. It is not clear whether this was land owned by the Technical College or a separate site. In any event the land was not mentioned in the Urban Capacity Study.
- 15.27 The Development Brief also understates the amount of brown field land available for development in York². It omits the largest brownfield site at York Central. It mentions The Retreat Psychiatric Hospital on Heslington Road as a potential site for redevelopment covering 12ha, indicating the preferred use to be health care. But, to date this site is still operating as a hospital. If it were to be redeveloped in the near future it should be mentioned in the Urban Capacity Study, published only a year later. And, at least one site mentioned in the Brief, Donnelleys Paperworks has had its allocation changed from employment to residential; it now accommodates over 250 new dwellings.
- 15.28 Taking all those matters into account, the conclusion must be that an over provision of housing is more likely than a dire need to find more housing land. It follows that the development at Derwenthorpe would be unnecessary, contrary to the guidance set out in PPG3 and premature.

Meeting the need for affordable housing

The need for affordable housing

- 15.29 The Council claim that the development at Derwenthorpe is desperately needed to meet a shortage of affordable housing. The claim is undermined by the fact that the proposed development does not meet the target for affordable housing set out in the latest version of the Local Plan. Policy H2a requires that proposals like this one should provide 45% of the housing as affordable rented units and 5% for discounted sale. The intention is to provide only 40% of the units as affordable homes. In contrast, the site at Huntington, which has now been de-allocated, would have been

¹ AW/1; see photographs at Annex B

² Consultation Draft Development Brief for Residential Development of New Osbaldwick (now referred to as Derwenthorpe), City of York Council, April 2002, Annex 3, at AW/1 Annex C

required to provide 50% as affordable housing.

The suitability of the scheme; Derwenthorpe

Is the scheme designed for quality?

- 15.30 The style and height of some of the proposed buildings would be out of keeping with the surroundings. Some of the housing would be built at too high a density and is crowded in too close to existing dwellings. Some of the housing appears to have been placed at the minimum legal distance. As the meadows are adjacent to the Osbaldwick Conservation Area, it would have been more appropriate to provide a detailed application in order that the landscape and visual impact of the scheme could have been better understood.
- 15.31 The scheme would fail to comply with the current requirement for affordable housing.
- 15.32 The 2 rows of pylons on the site would also cause difficulties¹. It is proposed to place one row of pylons underground. That would be very expensive and raise technical difficulties. There are already gas mains and electric cables laid under the cycle path which may further complicate this work. Unless the applicant is required as a condition of the planning permission to remove the pylons, I would not consider it guaranteed that they would be removed.
- 15.33 In any case, there is concern about the possible health effects of building new housing near pylons, substations and high voltage cables. At present the advice of the National Radiological Protection Board is that there is no evidence to link high voltage apparatus with damage to health². However, placing cables under ground does not prevent the electromagnetic radiation feared to cause ill health effects; the earth insulates the electric field very well but not the electromagnetic radiation. A very detailed recent study³, which looked at a very large sample, found that living close to high voltage pylons was linked to an increased incidence of childhood leukaemia. On that basis a precautionary principle should be employed and planning restrictions imposed on building new properties close to high voltage apparatus. Should Government guidance alter the current plans for Derwenthorpe ought to be rejected.

Is the scheme sustainable?

- 15.34 The claim is that the scheme is unsustainable and would conflict with important national policies and local objectives. It would lead to increased congestion and pollution in areas, like Lawrence Street, where technical breaches of air quality targets are already occurring or are likely to occur in the near future. The site is of historical and cultural importance, consisting of a network of ancient hedgerows, and the meadows themselves harbour the remains of medieval ridge and furrow. The site is of ecological importance as it consists primarily of ancient wildflower meadows, a large part of which could be designated as a SINC; the site is also home to protected species such as great crested newts and water voles. The development of the site would thus undermine local and national policies for the preservation of such habitats and species set out in the UK Biodiversity Action Plan.
- 15.35 The negative effects of development in terms of ecology and biodiversity cannot be entirely offset or compensated for by mitigation. With hedgerow planting, for example, it can take 15 to 20 years to create a mature hedgerow while the translocation of meadowland has not yet been demonstrated to be an effective method of preserving this type of habitat. Once this site is developed, its cultural, historical and ecological value will be lost forever.

¹ AW/1, Annex P for a plan of the route of the pylons

² The same message is provided by the National Grid in their booklet 'Underground or Overhead: The National Grid's Approach', which is at AW/1, Annex P

³ It is reported that a Government committee will meet in June to consider a report published by Gerald Draper et al in 2005 which links childhood leukaemia with high voltage electricity pylons; see AW/1, Annex P for a Daily Telegraph article

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- 15.36 The site is heavily waterlogged in wet weather and part of it is within the flood plain. Development of the site would lead to run-off into local watercourses which are already at capacity and at risk of flooding. Development of the site is not sustainable in terms of the flood risk.
- 15.37 Allocation of the site is also contrary PPG3 in that land for housing development should only be released in response to needs. Unsustainable, unplanned and uncontrolled growth on green field sites would lead to urban sprawl which would damage the historic character and setting of the City and cause problems with congestion and flooding. With so much development having taken place in York over the last two or three years it looks as if York is actually on target to exceed its housing allocation, as indicated by the rescinding of the allocation at New Lane, Huntington. PPG3 also provides that land should be released sequentially and previously developed sites prioritised ahead of green field sites. Hence, sites like York Central and Terry's factory should be developed before Derwenthorpe. In addition, PPG13 insists that maximum use should be made of 'the most accessible sites, such as those in town centres and others which are, or will be, close to major transport interchanges'. Because the Derwenthorpe site is on the urban fringe of the City prospective residents are likely to be dependent on car use. Although there are cycle routes and bus routes available, the site is not as well situated as the York Central site and other brown field sites which tend to be in the middle of existing urban areas.

Does the scheme 'green' the residential environment?

- 15.38 It is recognised that no provision is to be made within the site for youth and outdoor playing space, although the development would generate a demand for it. Hence, the intention to support additional sports facilities on Burnholme Community College. PPG17 indicates that planning obligations can be used as a means to remedy local deficiencies, especially where new development increases local needs. In this case, a scheme for 540 dwellings would inevitably exacerbate the pressure on existing sport and recreation facilities within an area where a deficiency is already acknowledged. In view of this the local planning authority should have either refused planning permission or insisted on a much higher allocation of amenity space to specifically address the needs which have been identified rather than relying on the already overburdened local facilities¹.

The Green Belt

The 'general extent' of the Green Belt and the status of the site

- 15.39 The principle of a York Green Belt was formally approved by the Secretary of State for the Environment as part of the North Yorkshire County Structure Plan in 1980 and identified as 'a belt whose outer edge is about 6 miles from the York City Centre' (policy E8). The exact boundaries of the Green Belt have never been delineated in any adopted Plan. However, there are sound reasons for treating the Osbaldwick meadows as lying within the Green Belt. To the east of the site lies the Tang Hall residential area, which was built in the 1930's. The meadows have served as a permanent and enduring barrier to that urban area and prevented urban sprawl for several decades; and, the meadows have always been considered to be Green Belt by local residents.
- 15.40 It is implicit in the approved policy that the Green Belt would include green open fields between the built up urban expanse of York and all points on a circumference 6 miles out into the open countryside. In York the Green Belt is intended not just to prevent urban sprawl and encourage the use of brown field sites, the intention is also to maintain the historic character and setting of the City. If no regard whatsoever is given to where the inner boundary of the Green Belt may lie,

¹ ID21 indicates the open space provided in an earlier scheme.

then there might as well not be any Green Belt at all; there must be a presumption that the Green Belt runs from the edge of the built-up urban area and extends 6 miles from the City centre.

- 15.41 The Greater York Study¹, endorsed by all the Greater York authorities, proposed that only limited further peripheral growth around the existing urban area should be permitted and that the longer term development needs of Greater York should be accommodated in a new community (or communities) located beyond the outer boundary of the Green Belt. In adopting this strategy, the Greater York authorities accepted that the inner boundary of the Green Belt should be drawn tightly around the existing urban areas avoiding the need to identify large areas of ‘white land’ to cater for longer term development needs. That would include the application site. Until such time as detailed boundaries are defined in a statutorily adopted Plan, the application site should be treated as if it were to lie within the Green Belt. There is a very strong case that the site does serve Green Belt purposes. It is a large open green space and the Sustrans cycle path runs across it, providing a route to the City: the meadows serve as a ‘buffer’, preventing the coalescence of Osbaldwick village with the Meadlands and Tang Hall, recognised in previous development proposals by leaving the land adjacent to Osbaldwick as public open space and playing fields: the meadows provide an accessible area of countryside to local residents: and, they afford wide open views of the landscape and the surrounding area.
- 15.42 The recommendations made by the Planning Inspector in the context of considering objections to the Southern Ryedale Local Plan Inquiry and the City of York Green Belt Local Plan should bow be reassessed in the light of what is now known about the site, current Government and local policy and current circumstances². Neither Plan was adopted; an LDF is emerging; and there are unheard objections to the application site not being designated as Green Belt land. PPG1 indicates that the planning system should be plan-led; development of the site in the absence of an adopted Local Plan would be inconsistent with that guidance. And, those objecting to the housing allocation of the site have not been given a proper opportunity to put across their arguments.
- 15.43 Nor do ‘very special circumstances’ exist to justify the scheme. On the contrary, PPG2 contains a general presumption against large scale development in the Green Belt and in circumstances where adequate brown field sites are available, development here would be contrary to PPG3. In relation to PPG2, the development would amount to a large scale incursion into the Green Belt which would damage the openness and destroy the amenity and recreation value of the site. It would also destroy that part of the site warranting SINC status and damage the setting and historical character of the Osbaldwick Conservation Area. It would cause coalescence by removing the few remaining fields between York and Osbaldwick. Policy E9 (of the Structure Plan) prevents residential development in the Green Belt. Policy E10 only allows very limited expansion of settlements and policy E4 seeks to provide protection to sites having special townscape or historical interest. Finally, policies A1 and A2 state that non-agricultural land should be used for development in preference to agricultural land. The scheme would contravene all those policies.

The potential contribution of the site to the Green Belt

- 15.44 The Green Belt in York is intended to preserve the setting and special character of the City. The meadows perform this function in several ways. They are of some ecological, historical, cultural and archaeological importance because they follow a medieval layout and have a pronounced ridge and furrow structure. Part of the site could meet the criteria for a SINC as the wildflower meadows have only been subjected to limited agricultural improvement and are home to a diverse range of flora and fauna. The oldest map I have seen dates from the 1850’s and the hedgerows

¹ CD47

² ID20 and ID21

are depicted there following the same lines as they do now. It is thus likely that all the hedgerows would fulfil the criteria for ancient hedgerows on archaeological grounds. The changes are the cycle-path and connecting footpaths running across the site following the former railway line and the national grid substation. The meadows are a large open area which is heavily used by local residents for amenity and they prevent urban sprawl and help maintain some of the rural character of Osbaldwick village, which is a neighbouring Conservation Area on which the impact of the development should be considered.

15.45 The proposal would conflict with findings set out in the York Green Belt Local Plan¹ that:

The special character of the historic City is not, however, limited to the walled City and views of the Minster from outside York. The special character refers to a much wider concept which includes the general size and character of York and the setting of the built area within the surrounding countryside.

In planning terms, the open spaces that extend into the urban area from the open countryside are a major element contributing to the special character of the City. These 'green wedges' make a significant contribution to the amenity and environment of the urban area, in addition to providing opportunities for outdoor recreation and leisure pursuits. They represent an important and integral part of the Green Belt which needs to be safeguarded from inappropriate development.

The special character of York also stems from its relationship with the surrounding countryside which contains a number of attractive villages. The countryside setting of York and the surrounding villages is one of the most important aspects of the City's special character and it is important that this setting should not be eroded. Particularly important is the general band of open countryside within the York Outer Ring Road which links most of the green wedges, and the setting that this provides for the urban area. A further element of this setting which requires protection is the open approaches to the City.

15.46 This is recognised in the Local Plan. The 'green wedges' that run into heart of the built-up areas, legacies of the City's strays and areas of flood plain, are protected under policy NE8. The remaining meadows at Osbaldwick have a similar function, providing a green corridor between the City and the open countryside. The quality of these small open fields and ancient hedgerows is far more valuable than a modern landscape. The meadows link into 2 'green trails' extending into the City via the cycle-track, St Nicholas Fields Nature Reserve and Wiggington Road or via Osbaldwick Beck, Hull Road Park and into the St Nicholas Field Nature Reserve².

15.47 It would thus make more sense to designate the meadows as Green Belt in order to preserve these 'green wedges'. If the boundary is set at Metcalfe Lane, development would be encouraged further east and the 'green wedges' running into the heart of the City would be lost. The Local Plan indicates that³:

York's green areas will be extended, especially along the historic strays and river corridors, which extend from the countryside into the heart of the City. These green wedges contribute to York's rich environment through nature conservation, ecological diversity, recreational opportunities and fresh airflow, as well as being part of the city's historic character and setting.

¹ York Green Belt Local Plan Post-Modifications, North Yorkshire County Council, September 1995, at page 15; see also ID37.

² AW/1, Annex E provides aerial photographs following the line of the cycle path and Osbaldwick Beck into Hull Road Park and the St Nicholas Field Nature Reserve. Annex E includes a photograph taken from the bridge over the cycle path at Tang Hall Lane looking in the direction of the Metcalfe Lane meadows, see also YNET5

³ CD1, paragraph 1.17

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- 15.48 The allocation of the Derwenthorpe site for housing is inconsistent with that stated intention. Although the site is surrounded by built development on 3 sides, it is a large open site so that development would not be discreet. On the contrary; it would have a major impact on the surrounding areas and destroy the openness of the meadows. Treating the site as 'infill' ignores the fact that it serves the function of a 'green wedge'.
- 15.49 The cycle-track provides an attractive and accessible route to the City centre. The meadows create the feeling of having entered the open countryside and they offer rural views, including views of the Minster from some of the 'northern' fields. The proposed development would destroy that sense of openness. The cycle-route has also made the meadows accessible; it connects to paths towards Burnholme School, Osbaldwick village, Meadlands and Temple Avenue. Hence, the meadows are accessible to thousands of local residents as well as serving as an unofficial local nature reserve. There are now very well worn paths running all around the site. My house backs onto the site and I see large numbers of people walking past, mainly people taking their dog for a walk or children playing. I do not know of any other area nearby where it is possible to walk dogs. Children regularly use the meadows to play in and even built a den in the hedgerow opposite. There are occasionally horse riders from the local equine centre who ride across the fields and I have also seen students from the University doing field studies looking at plants and insects. The open space proposed would not provide an adequate substitute. In any case, fragmented bits of 'green space' might simply serve as 'infill'. Walking over the meadows at present is like a walk in the countryside. The closest comparable areas might be the strays at the University and Heslington or Fulford, or perhaps, the small area of floodplain around Tang Hall Beck in Heworth; those areas are not within a reasonable walking distance from Osbaldwick.
- 15.50 Until 4 years ago, when the development proposals emerged, the meadows were grazed: recently there have been several horses grazing the fields and a local riding school exercise their horses on the site. Last year some of the fields were cropped for hay (albeit without the permission of the Council who have failed to maintain the site). It is therefore clear that the site can serve an agricultural purpose¹. It is not clear why the site might be especially difficult to farm. The meadows have been adjacent to the urban area since the 1930s and have always been grazed by cattle or horses and cropped for hay until the Council brought forward plans to develop the site. Since then the Council have not maintained the site, although a few horses are being grazed there. But, if the meadows were maintained and properly fenced, there is no obvious reason why they could not be used again for grazing or for hay. There would also be sufficient support locally and from organisations such as Yorkshire Wildlife Trust and York Natural Environment Trust to help manage and improve the meadows for purposes which could include agriculture, public amenity and nature conservation.

Appropriate Green Belt boundaries

- 15.51 It is unlikely that Metcalfe Lane would form a more natural and permanent Green Belt boundary than the current edge of the built-up area. The ownership of land to the east of Metcalfe Lane is already fragmented and builders have taken out options over this land. The ownership of the land to the east includes about an acre of garden belonging to the Derwenthorpe Arms public house, a similar area belonging to Eastern House and about 14 acres of outbuildings, pony paddocks and garden belonging to Langton House. Adjacent to Meadlands there is a field with a pronounced ridge and furrow used for hay and grazing, though part of a large landholding. Further east there is a gypsy site and the Osbaldwick Industrial Estate. There is thus a very high probability that the Derwenthorpe development would encourage development to the east reaching the Osbaldwick Industrial Estate, Outgang Lane or beyond. Such land could be neglected, as there would be no incentive to maintain or use it once development hopes were raised.

¹ AW/1, Annex D includes photographs of the hay being cut.

The impact on neighbouring residents

15.52 On local roads such as Lawrence Street, air quality targets are already being breached in places and further breaches are set to occur in future. The Council seems to have no way of meeting these targets without restricting development in the area. Even by introducing congestion charging which might lead to a 10% to 15% reduction in traffic flows, the scale of proposed developments on the east side of the City makes it impossible to see how the air quality targets can be met; increased traffic flows generated by new developments would vastly exceed any reductions from congestion charging.

The impact on the Conservation Areas

15.53 The Osbaldwick meadows help to maintain the rural character of the Osbaldwick Village Conservation Area. Moreover, the development would generate additional traffic through the village, damaging its amenity and setting. New development on Osbaldwick Link Road already impairs the ambience of the place. Development of the meadows could further erode the rural character of the village and trigger yet more development to the east of Metcalfe Lane. Even the Council's own landscape architect suggested that the distance between Osbaldwick village and the new development 'gateway buildings' was too short to avoid coalescence¹. The introduction of a car park at Osbaldwick Village Hall would reduce the effective distance further still. Osbaldwick is already conjoined with Tang Hall in the south and south east and is rapidly connecting with the business and light industry to the east.

The impact of traffic

Access arrangements

- 15.54 Of the 4 proposed access roads to the development, 3 are quiet culs-de-sac and the fourth is a Conservation Area. The increased noise, congestion and pollution from traffic are the most contentious issues surrounding this proposed development for local residents. Of these 4 proposed access roads only one is wide enough to be classed as a local distributor road.
- 15.55 Apart from the traffic generated by the proposed development, there is also the heavy construction traffic generated by the building works, scheduled to take several years to complete. The only way to get construction traffic onto the site, if a temporary access road is not built over the open countryside to the east, is to use routes through residential areas. That would detrimentally affect the amenity of local residents. There would be much disruption due to vehicles parking on local roads; there would be increased noise, pollution and dirt; and, the additional traffic would pose a road safety hazard.
- 15.56 The impact of additional traffic has not been assessed for the junctions between Bad Bargain Lane and Tang Hall Lane, Osbaldwick Lane and Tang Hall Lane or Tang Hall Lane and Melrosegate². These junctions are very busy and are close to the development. Their capacity to accommodate the additional traffic should have been assessed. It is acknowledged that the junction between Osbaldwick Lane and Tang Hall Lane causes queues³. The proposals would exacerbate those problems, increase the risk of accidents and add to levels of pollution. That is not sustainable.
- 15.57 The trip generation rates are flawed. Hence, the junction assessments are also flawed. The trip rates are derived from the TRICS database relating to 3 housing estates in Winchester and Eastleigh⁴. That is not an appropriate comparison. The morning and evening peak hour flows

¹ As conceded in a memo dated 28 November 2003 from Esther Priestley to Hannah Blackburn at the planning office (located in the Planning File)

² CD151, Y8 and JRHT/AWM

³ Y8 and JRHT/AWM

⁴ CD151 and JRHT/AWM

amount to just 298 vehicles. It is more common to use 85th percentile and trip rates for the full range of TRICS entries for privately owned flats and houses throughout the UK (except central London) indicate a morning peak flow of 457 and an evening peak flow of 490. Those values are 53% higher than those used in the assessment¹. Moreover, the assessment fails to take into account the impact of the traffic generated by committed developments in the area such as at the University, the Barbican Centre, Foss Bank, Hungate and the former gas works at Heworth.

- 15.58 Fifth Avenue is the widest access road, but St Aelred's School is at the end of Fifth Avenue and generates a lot of traffic. The increased traffic generated by the proposed development would harm the amenity of residents due to increased congestion, noise and pollution and would pose a safety hazard to the school children. The absence of any off-site improvements on Fifth Avenue, due to the 'low impact' of additional traffic, is questionable. At the eastern end the road serves some 49 properties. However, if the development is built this would rise to approximately 234 dwellings.
- 15.59 Meadlands is a quiet residential cul-de-sac and many residents are retired; the road was not intended to cope with heavy levels of through traffic. The proposed junction onto the development would be narrow and unsuitable for larger vehicles. There is little traffic at present and the proposals would have a very detrimental effect on the amenity of those living in Meadlands. It is wholly unacceptable that people who have purchased a house on a cul-de-sac find that the Council want to turn it into an access road for a large scale development.
- 15.60 Temple Avenue is so narrow that it could not accommodate the additional traffic proposed. Moreover, and without proper consultation, the applicant is proposing to reduce the amenity of the existing residents by removing the grass verges, replacing them with paved parking bays and installing a one way system. The proposed one way system would require a Traffic Management Order and it cannot be guaranteed that the Traffic Management Order would be granted, as local residents, like myself, would oppose it. Temple Avenue, Lang Avenue and Ingleborough Avenue were built in the 1920s and 1930s. They were not designed to cope with modern traffic flows. Temple Avenue is very narrow and cars park all the way along one side, effectively reducing the carriageway width to a single lane. There are serious problems with on-street parking as some houses do not have their own driveway or garage. That is exacerbated by the fact that many of the houses in the area are student let properties and it is not uncommon to have several students living in a house each with their own car. The junction at Lang Avenue and Ingleborough Avenue is often congested due the presence of the Co-op Supermarket and a parade of shops. There are worries about the use of this access by emergency vehicles.
- 15.61 The inadequacy of Temple Avenue has been recognised since 1999. The road was described as 'considerably narrower than Fifth Avenue, and [it] experiences a similar level of on-street parking. It therefore appears to be the least able of the four existing access points to support additional traffic, and parking restrictions would almost certainly be required to enable cars to use the route. It would, however, be able to act as a cycle and pedestrian route into the site'². Imposing a one way system on the existing residents of Lang Avenue and Temple Avenue would not only be inconvenient for everyone but would also have a significant impact on the safety of the area due to the increased traffic flows past most of the properties. Experience shows that in residential areas, children are at most risk of injury through road traffic accidents. Highway verges are a means of improving safety in residential areas by discouraging children from running into the carriageway. By removing verges and increasing traffic congestion the risk of death or injury to children playing in the street would be increased. And, the provision of parking bays

¹ AW/1, page 36

² AW/1, Annex O, see Site Survey Summary Report by Ove Arup, dated October 1999, paragraph 6.1.3; it was commissioned by the applicant.

that are half in the verge and half on the carriageway is not an appropriate means of traffic calming; it would be unsafe. Moreover, the position of statutory undertakers' equipment does not appear to have been taken into consideration.

- 15.62 The access at Osbaldwick village is on a tight, narrow bend in the road where planning permission for a doctor's surgery was previously refused, due to physical constraints of that road and the lack of visibility for oncoming traffic. Osbaldwick village is a Conservation Area and the increased traffic generated by the proposed development would damage the historic setting and character of the village.
- 15.63 The applicant and the Council claim that it would not be feasible to construct an access road out to the east of the site as this would encroach into the Green Belt and the development could be served by the existing road network. That is not correct. There is a redundant railway track which runs out to the east of the site and this could be used to create either a permanent or a temporary access road¹. It would be necessary to disturb this land in any event if electricity pylons which run across the development site are to be put underground. The creation of either a permanent or temporary access road out to the east would avoid the need to route heavy construction traffic through residential areas. It could also help to alleviate traffic congestion by providing direct access to the Osbaldwick Link Road and thence to the ring road. It is suggested that the real reluctance to explore the possibility of an access road to the east stems from the potential cost of acquiring the land and constructing the road.

Measures to reduce car travel

- 15.64 It is by no means clear that car use would be discouraged at Derwenthorpe. Although a car club would be funded initially, this is an untried and untested method and it is not clear whether it would be effective. Cycle use in York has actually fallen over the last ten years. It has been claimed that many of the residents of Derwenthorpe will simply walk or cycle into the City. However, the site is a good 30 minutes walk from the City centre and the cycle-path suffers from serious fly-tipping further west and is adjacent to a licensed gypsy site at Layerthorpe. The cycle-path has been dogged by problems with youths riding up and down on motor bikes and scooters; it is badly lit at night, so there is a high risk of mugging and petty crime. These problems are not insurmountable but they require a concerted effort.

Cumulative impacts

- 15.65 One of the major flaws in the transport proposals is the failure to consider the impact of the development alongside the many other schemes on the east side of York. There are currently proposals to effectively double the size of the nearby University campus, a major development is underway at the former gas works site at Heworth, a major retail development is proposed for Foss Islands including a Morrisons superstore, a proposed development of approximately 700 homes is proposed for the Hungate area, over 200 flats plus a leisure centre and casino are proposed for the Barbican site. These are just the large scale developments. There are a huge number of smaller developments particularly blocks of flats which are being built along Hull Road and schemes like the 60 or so homes now being built by Wimpeys on the Osbaldwick Link Road. Neither the applicants nor the Council have considered the cumulative impact of all these developments². It has been claimed that the Faber Maunsell report³ prepared to support the traffic assessments for the proposed University of York campus extension deals with the cumulative impact of the various developments, but as far as I am aware that report does not look at

¹ Inspector's note: The track effectively ends just to the east of the site. It accommodates a telecommunications mast and is obliterated beneath an industrial estate and a gypsy site.

² Inspector's note: Cumulative impact is addressed in Y7 and Y7A, see also the case for the Council

³ CD96

cumulative impacts it simply refers to the other developments which have been undertaken without any detailed analysis. Similarly the new Local Transport Plan¹ fails to assess the impacts of the proposed developments, such as this one, on the east side of York; this was highlighted as a particular weakness by government officials.

The impact on flooding

15.66 There are four issues which concern me in relation to flooding and drainage:

- some of the site is within the flood plain and is at risk of flooding from Osbaldwick Beck;
- the heavy clay subsoil is prone to surface water flooding;
- the run-off from the built areas would exceed the existing run-off and so increase the severity and frequency of flooding from the Beck;
- the development could affect the already high water table, causing the clay to expand and contract and putting neighbouring buildings at risk of subsidence.

15.67 The Development Brief² describes the site as ‘flat, poorly drained and prone to water logging. In addition, Osbaldwick Beck defines the southern boundary of the site and in times of inundation floods part of the site.’ And, at that time (2002), the flood plain map produced by the Environment Agency indicated a large part of the south portion of the site within an area of flood plain³. PPG25 indicates that built development in functional flood plains should be wholly exceptional and limited to essential transport and utilities infrastructure that has to be there. Planning permission should thus be refused.

15.68 Historically Osbaldwick village has suffered from bad flooding in the past. In 1947 most of the village was flooded⁴. Risk of such floods happening again has been reduced by regular dredging of the Beck and by the installation of the Foss Barrier. However, in recent years run off into the Beck has increased because of new developments like those on Osbaldwick Link Road. In the 2000 flood event the Foss Barrier was tested to its design limits and was very close to failing; the army gave warnings to local residents to evacuate fearing that the barrier would fail imminently and Osbaldwick Beck would then inundate surrounding residential areas. With the increased extreme weather and precipitation from climate change, it is only a matter of time before a serious flood does occur again. It is clear that the Beck is running at capacity and there is a real risk of adjacent properties being flooded as these are low lying relative to the Beck⁵. In autumn 2000 during a period of heavy and prolonged rainfall, the meadows suffered from extensive surface water flooding⁶. And, during heavy rainfall there have been problems with surface water flooding for properties adjacent to the proposed development site⁷. This can occur during autumn, winter and spring due to the heavy clay subsoil; the field adjacent to the substation is very marshy⁸. It can also occur about half a mile downstream from the development site in the Hull Road area, where there have been particular problems with flooding from Osbaldwick Beck⁹. I am concerned that it is not within the remit of the Environment Agency to consider surface water flooding and that the issue appears to have been ignored by the Council.

15.69 The National Rivers Authority advised following a site inspection in 1991 that ‘On the day of the

¹ CD5

² CD81 and AW/1, Annex C; Residential Development of New Osbaldwick, Directorate of Environment and Development Services, April 2002, at page 15, paragraph 1

³ AW/1, Annex F

⁴ AW/1, Annex F includes photographs of the historical flooding in Osbaldwick village.

⁵ AW/1, Annex F includes photographs showing the level of Osbaldwick Beck in spring 2006.

⁶ AW/1, Annex G includes photographs taken by Meadlands Area Residents' Association

⁷ AW/1, Annex H includes a copy newspaper article with a photograph of surface water flooding in the Meadlands area.

⁸ AW/1, Annex I includes photographs of that field taken in 2004, 2005 and 2006.

⁹ AW/1, Annex J includes pictures of flooding to houses at the bottom of Abbotsford Road.

inspection on 7 March 1991 standing water was evident on many areas of the site. Osbaldwick Beck which runs along the southern boundary of the site is loaded to capacity and cannot accept any increased surface water run off. Surface water discharge must therefore be restricted to the existing agricultural rate by the use of on site storage and flow control. Details of any proposals in this respect must be submitted to the Foss Internal Drainage Board and the Authority for approval.’ It has been accepted by the National Rivers Authority and their successors, the Environment Agency and by the Foss Internal Drainage Board that Osbaldwick Beck is running at capacity. Hence, the discharge from the application site must not exceed the current discharge; the development of the site must not result in any increased run-off into the Beck.

- 15.70 I am particularly concerned that the methodology used to calculate the current run-off from the site as green fields might be flawed. In this regard the hydrological surveys to ascertain where the site currently drains to were carried out during very dry spells of weather and it was not possible to confirm that all the fields to the north of the site do drain into Osbaldwick Beck. The field adjacent to the redundant substation is very marshy, which would suggest that drainage from the north of the site may not occur or may only occur to a limited extent. If the site is built on it would have to drain into the Beck, which may have to accommodate considerably more run-off than at present. Initially, the Foss Internal Drainage Board required the run-off from the developed site not to exceed 1.4ls^{-1} per hectare, the standard run off rate for green field sites¹. However, the applicant has sought to argue that the existing run-off from the site is higher using J Flow analysis². After rejecting the installation of an ‘intelligent pumping system’ the current proposals involve building a large storage lake to accommodate run-off and mechanisms to slowly discharge the water into Osbaldwick Beck. Although the Environment Agency have removed their objection, it is claimed that these issues have not been resolved. Clay bunds around the amenity areas would provide storage capacity, but they also raise problems which are not within the Environment Agency’s remit. There are safety implications of using amenity areas to hold expanses of water and there may be maintenance problems too. It is not clear how the lake would function, whether it would rise and fall dramatically, whether it would be lined and what effect it would have on the water table. Nor is it clear who would be responsible for maintenance or what would happen if it did not work as anticipated.
- 15.71 A ‘swale’ (much smaller than the proposed storage lake) has recently been built to take surface water from the new development at Murton Way³. It is not clear who is responsible for maintaining and clearing out this storage lagoon and making sure it operates effectively. There are obvious risks to children or animals falling into it and drowning. There may be smells and insects breeding in the stagnant water. Rubbish may accumulate and the lagoon may become an eyesore.
- 15.72 Numerous conditions are imposed on the proposed development, but it is questionable whether they can be enforced. The Environment Agency concede that there is no guarantee that the conditions will be policed or enforced⁴. Moreover, the Council have been unable or unwilling to police and enforce conditions on other developments⁵. Osbaldwick Parish Council have commissioned their own report into the flood risks associated with the proposed development from Halcrow. This recognises that the scheme should not exacerbate flood risks and adequately

¹ JRHT/RJA

² JRHT/RJA

³ AW/1, Annex K provides a picture

⁴ AW/1, Annex L is a letter from the Environment Agency to me dated 10 May 2006 and copies of their last two letters to the City of York Council.

⁵ AW/1, Annex L is a copy of the Local Government Ombudsman report 02/B/10098 dated 29 January 2004, which criticises the City of York Council for failing to enforce planning conditions in relation to drainage and flooding.

contain run-off. But, half a dozen questions are raised¹.

- 15.73 PPG25 insists that a risk-based approach should be taken to proposals for development in or affecting flood risk areas and development controlled by applying a 'sequential test'. The Council have failed to adopt a sequential approach to allocating land for development in York; the meadows would fail on flooding and drainage grounds. Development in the flood plain reduces its storage capacity and is unsustainable as it will simply displace the flood water and exacerbate flood risk elsewhere. Other developments have been built within the flood plain². They include St Barnabas School built last year adjacent to the river Ouse and raised a couple of feet to avoid the risk of flooding: the Murton Way development is also raised a couple of feet to take it out of the flood plain. Clearly, the Council are disregarding government advice. There are many areas of York which are not flood plain and could provide alternative sites.
- 15.74 The proposed development does not go far enough in managing surface water run-off in a sustainable way. In particular, rainwater harvesting to reduce the amount of run off from roofs has not been incorporated in the development. This measure would reduce the discharges to Osbaldwick Beck and would also significantly reduce the consumption of treated water in toilets and for watering gardens.
- 15.75 It is considered that the water table in the meadows and surrounding residential areas is very high. The subsoil consists of heavy clay, which has a tendency to contract when it dries out. In summer heavy cracking and crazing can be seen in the meadows. As the proposals involve draining the site more effectively and as some of the houses adjacent to the site are thought to have foundations only a few inches deep, the applicant should be required to carry out dilapidation surveys prior to commencing work to check the state of surrounding housing stock and monitor any movement, heave or subsidence affecting those buildings; they should be responsible for rectifying any damage caused by the development. This is not included as a condition in the planning permission and in my view, it should have been.

The impact on ecology and nature conservation

- 15.76 The site is home to a number of endangered and protected species including great crested newts and water voles. The site consists of ancient ridge and furrow wildflower meadows and ancient hedgerows which are of both archaeological and nature conservation importance, a large part of the site would satisfy the criteria for designation as a SINC. As an example of a sustainable development, the Derwenthorpe scheme would set a very bad precedent for planning and nature conservation. It would also conflict with UK and European legislation on biodiversity. It would result in the loss of some of our rarest habitats and species. Such losses cannot be replaced nor mitigated for.
- 15.77 Assessments have indicated the grasslands in fields 5 and 6 might meet the criteria for SINC status³ and the marshy grassland of field 9 where great crested newts have been found was also judged to be of sufficient importance for English Nature to insist that it should not be built on. It is also accepted that the site contains a number of hedges of high ecological value and that the proposed development would have a significant negative residual impact upon them. The development would have an impact upon local populations of breeding hedgerow birds. And, the destruction of these hedgerows would conflict with policy NE1. The development would also contravene policies NE5a, NE5b, NE4a and NE5a.

¹ AW/1, Annex M

² AW/1, Annex K

³ CD80

15.78 The Council's Countryside Officer advised¹:

As set out in the report, the primary value on the site is the hedgerows and the northern grasslands. These would, under different circumstances, appear to qualify as grassland SINC. The fact that they are not is simply a matter of their not having previously been assessed by an ecologist in the context of the status of grasslands within the City of York area...

The site has quite extensive areas of species rich neutral grassland (NVC Type MG5). This is a particularly rare habitat type both nationally and locally with some 96% having been lost since 1945. Within York, there is only some 16ha of unimproved grassland left and 40ha of rich semi improved grassland. The 10ha of species rich grassland on this site therefore, even though it has been degraded to some extent, is a substantial and important percentage of this overall total. The degradation could be reversed with careful management and would certainly be the preferred option....

The Biodiversity Action Plan, that has been approved for consultation says that there should be no further loss of this habitat type. If the site had been registered as a SINC, then undoubtedly the recommendation would be to refuse under policy NE5a of the Council's local plan....

Translocation or recreation is not an easy or cheap option and will never be able to compensate entirely for the loss. It should only be considered as a last resort. It should certainly not be seen as an acceptable way to develop SINC's or land of SINC value...

15.79 PPG3 requires local planning authorities to test potential housing sites against a number of criteria including the physical and environmental constraints on development land and to reject poor design. The design for these proposals has failed to recognise that the grasslands in fields 5 and 6 represent an important environmental restraint which needs to be retained *in situ*. Lowland meadows are a priority habitat in the UK Biodiversity Action Plan because of a reported 97% drop in the area of semi-natural grassland between 1934 and 1984. This catastrophe is largely blamed on agricultural intensification, but development pressure is also responsible for a significant part of the continued decline. Hence the proposed action to 'support initiatives to conserve unimproved natural grassland within local government development plans and related policy. A target has been set to attempt to re-establish 500ha of lowland hay meadow of wildlife value at carefully targeted sites by 2010. Against this background the proposals are clearly not sustainable.

15.80 Although the applicant has proposed mitigation measures to offset some of the environmental damage, these cannot compensate for the loss of the site. The mitigation proposal to translocate grassland is a technique which, according to English Nature's research has not worked effectively in the past. The translocation of semi-natural grassland is far more complicated than laying amenity turf. The plants have adapted to particular micro-environmental conditions which are difficult to replicate. It should also not be forgotten that the plants are just the more obvious indicators of the quality of the habitat. The soil is a living entity, with its own balance of bacteria, fungi and invertebrates, established through decades, or even centuries of continuous management.

15.81 In a memo from the Council's Countryside Officer, it is clear that the site is of archaeological and nature conservation importance and that those features were not assessed as part of the allocation

¹ AW/1, Annex N includes the memo from Bob Missin to Hannah Blackburn at the City of York Council Planning Office dated 19 September 2003 and all similar memos on the planning file

process for the Local Plan¹. In future such assessments will be required under the new Strategic Environmental Assessment Regulations. Had such an assessment of the site been carried out prior to it being designated for development, it is unlikely that the site would have been allocated. It was also suggested that it ‘would be advantageous if the land could be managed this year to permit a more accurate assessment of the extent and quality of the site. This would involve cutting and removing the grass and harrowing the land to remove litter and allowing any existing interest to be more easily monitored’. In the absence of any proper maintenance in recent years and with no attempt having been made to carry out the work recommended, the Environmental Assessment of the site should be considered incomplete. It is, therefore, not possible to assess whether proposed mitigation measures are adequate.

- 15.82 Great Crested Newts have been found on the development site. These are a protected species under the Wildlife and Countryside Act 1981. There are stringent requirements to be met before licences are issued by Defra to allow action involving the animals or their habitat. The tests cannot be satisfied at Derwenthorpe because alternative brown field sites are available and the ecological importance of the site has not been fully assessed.
- 15.83 The marshy habitat of field 9 is not only home to rare amphibians, but also contains at least 11 nationally scarce invertebrate species, as well as rare birds and plants. Although it is proposed to retain this field, many hedgerows would disappear along with the most of the wildflower meadows. Field 9 would be stranded amidst a housing estate and the remaining habitats on the site would be fragmented. In assessing mitigation measures the planning department have failed to give sufficient consideration to the potential impact on neighbouring land, in particular changes in water table levels and the quantity and quality of run off onto the grassland.
- 15.84 The impact of the development on water voles which are present in Osbaldwick Beck is a particular area of concern. The applicant’s ecologist has stated that there is not a colony of water voles present along the Beck and suggests it is an unsuitable habitat, though he spotted a water vole himself when surveying the Beck. Very recent water vole records exist for Osbaldwick Beck². The Yorkshire Wildlife Trust has a record of water voles further upstream, dated May 2004 and a latrine and runs were found immediately downstream of the A64 during an unrelated survey. There have been numerous other sightings by local residents and the Environment Agency's pollution officer. The water vole is the fastest declining UK mammal and is a priority Biodiversity Action Plan species. Its’ places of shelter are protected under the Wildlife and Countryside Act 1981 (as amended) and the level of protection for the animals themselves is currently under consideration. According to the second national water vole survey, Yorkshire has lost 92% of its water voles³.
- 15.85 The proposed development would have an adverse impact on water voles in three ways. First, discharges from the developed site, including run-off from roads and paved areas, would be likely to contain contaminants such as oil that would damage the habitat. Second, there would be an increased risk of flooding of water vole burrows. In this situation, water voles may either drown or be forced onto the bank top and be at a greater risk from predators. Third, the scheme would result in a large increase in the numbers of cats and dogs, and predation by such pets would put the fragile water vole population on Osbaldwick Beck at increased risk of extinction⁴.

¹ AW/1, Annex N, dated 14 April 2004, though see also ID93 which includes an ecological assessment of the allocated sites and refers to the ES for Derwenthorpe.

² ID137

³ CD80, paragraph 4.5.3 of Chapter 6: Ecology, in the Environmental Statement states, ‘Given the scarcity of water vole in the City of York, any potential colonies are important in the local context’.

⁴ CD80 indicates at paragraph 5.2.5 of Chapter 6, the Ecology Section of the Environmental Statement that ‘the proposed development would result in increased predation pressure on all small mammals by domestic cats’.

15.86 These matters are addressed by the York Natural Environment Trust and the Yorkshire Wildlife Trust. It is only necessary to add that the historical value of the hedges and the field structure should be taken into account as well as their ecological value. In any case, the intention to transplant species or translocate habitats would be a poor mitigation strategy. Replacement hedgerow planting would not only take decades to come to an appreciable level of maturity, but also the social and historical significance would be lost. The hedgerows should be left as they are and given adequate formal protection to ensure their continued preservation for future generations.

Conclusion

15.87 The scheme would be premature and a decision now would not only pre-empt decisions that ought to be made in the context of emerging Plans, but also prevent proper consideration of objections to the proposal. The development of this green field land is unnecessary because brownfield sites are available. In any case, the site is in an unsustainable location and the proposal envisages an unsustainable form of development. The assessments underestimate the amount of traffic likely to be generated and consequently fail to record its impact on the surrounding quiet residential streets and the congested road network. The effect of the proposal on the flood regime depends upon the accuracy of a mathematical model in place of meeting the standard run-off rate normally applied. The nature conservation interest of the site has not been adequately assessed. Permission should be refused.

16. The Case for Meadlands Area Residents Association

Introduction

- 16.1 The Meadlands Area Residents Association (MARA) represents those occupying the 120 homes in the Meadlands area. A variety of neatly kept mainly ‘dormer’ bungalows are arranged around a quiet road configured as a ‘horseshoe’ and in one or two ‘internal’ culs-de-sac. The place is an attractive ‘home zone’. MARA aims to preserve the present environment¹.
- 16.2 The Derwenthorpe proposal first surfaced in 1999. The Meadlands Area Residents Association representatives have had 39 meetings with the applicants or the Council. The feeling is that the much trumpeted consultation process has been all about what happens on the development site. The concern of residents and their worries about the impact of the scheme on their communities around the site has been ignored. A survey of all 120 homes in the Meadlands area in 2001 and a petition about traffic congestion in the area was presented to the Council, to the applicants and to the local ward councillor. They have not even been mentioned in the planning documents².
- 16.3 The survey of the 120 homes elicited 116 responses³. The loss of the area’s identity and the removal of the Osbaldwick meadows, both as an accessible open space and as a wildlife habitat, are the main concerns expressed. People are clearly satisfied with the existing environment. But there is dissatisfaction with the feedback from the consultation process. In addition, initial concerns⁴ related to the increase of traffic and pollution in the quiet residential street; the loss of amenity due to the loss of the meadows, the potential for overlooking and the noise and pollution caused by construction; the risk of flooding from building on part of the flood plain and on a water-logged site; the pre-emption of decisions on the Green Belt; and worries about security, crime and the impairment of an attractive ‘home zone’.

Housing; numbers, markets and needs

Numerical housing requirements

- 16.4 The development at Derwenthorpe is unnecessary. There are numerous brownfield sites on the eastern side of the City either being developed or that would be available during the period to 2016⁵. The former include sites at Murton Way, Heworth Green, Connaught Court, Hull Road and Birch Park. The latter include the potential for much larger schemes at Hungate, Coppergate, the Barbican and the site at York Central. It is suggested that all those sites are likely to come on stream during the period 2006 to 2016. In accordance with PPG3, development on those sites should take precedence over development on a peripheral ‘greenfield’ site such as that at Derwenthorpe.
- 16.5 Even if it can be demonstrated that insufficient brownfield land can be identified to meet the housing requirements, a preferable greenfield site exists at New Lane, Huntington. The claim is that that site was removed from the housing allocations in order to strengthen the case for developing at Derwenthorpe, a substantial part of which is owned by the City Council⁶. The advantages of the site at New Lane, Huntington are considered below.

¹ MARA3

² MARA1

³ MARA3

⁴ MARA3

⁵ MARA1

⁶ Evidence in chief, Tom Hughes

Site selection

Is there a sequentially preferable site?

- 16.6 There is a potential alternative site to Derwenthorpe at New Lane, Huntingdon. It is a greenfield site extending to some 15ha in a similar location at the edge of the City¹. The Inspector dealing with the objections to the York Green Belt Local Plan similarly recommended that the site should be excluded from the Green Belt². The reasons given for that recommendation continue to apply. Indeed, the site remains ‘hemmed in’ by the Ryedale Stadium and is now even more divorced from the open land beside the Malton Road by the intervening ‘park and ride’ facility. It is not clear why the County Council disagreed with the Inspector’s recommendations. However, it is clear that whatever reasons were advanced, they were not compelling enough to prevent the site from being allocated for housing in the 3rd set of Changes to the Local Plan³. It is difficult to see that they would be a serious impediment to allocating the site for housing now.
- 16.7 It is claimed that development at the New Lane site would have many advantages over development at Derwenthorpe. The site at New Lane is practically devoid of any ecological or nature conservation interest: the site at Derwenthorpe is, at the very least, a border-line candidate for SINC status⁴. The former provides an attractive amenity space used by local people for recreation and cycling: the latter is little more than an unprepossessing paddock. There is no known drainage or flooding concern at New Lane, Huntingdon: but, the Osbaldwick meadows are often water-logged and lie beside Osbaldwick Beck, which can flood⁵. And, access to the former could be easily achieved via New Lane itself, which is a suitable ‘main road’: but, at Derwenthorpe access must involve a series of unsuitable arrangements over quiet residential streets and through existing residential areas.
- 16.8 Moreover, at Derwenthorpe the costs of coping with the disadvantages of developing the site mean that the intention is to provide only 40% of the units as affordable homes⁶. Under policy H2a of the Local Plan⁷ the requirement should be for 45% of the housing to be provided as affordable rented units and 5% offered discounted sale. The site at Huntingdon would have been required to provide 50% of the dwellings as affordable housing. And, the absence of serious impediments to development there would make it more likely that such a requirement could be met.

The suitability of the scheme; Derwenthorpe

Is the scheme designed for quality?

- 16.9 The applicants held a consultation exercise in relation to four ‘master-plans’ for the development at Derwenthorpe. The selection procedure and voting processes are described elsewhere⁸. But, out of the 4 alternatives on offer, local people overwhelming chose the scheme by Aire Design⁹. One set of guiding principles of that scheme involved respect for the three surrounding communities, a strong commitment not to use local roads and to provide buffer zones to adjacent areas. The proposal was to use the line of the old Derwent Valley Light Railway to provide the only vehicular access to the site. That was to be from the east and, apparently, link to the rest of the highway network via an extension to the Osbaldwick Link Road or some similar connection.

¹ See ID17

² ID37

³ CD133

⁴ ID93 and the ES, CD80

⁵ JRHT/RJA

⁶ JRHT/MWS

⁷ CD1

⁸ ID132

⁹ ID27, ID28 and ID132

Although connections to adjacent residential roads are not entirely ruled out, it is certainly the intention that they should largely be for pedestrians and cyclists. The Sustrans cycle track would accommodate a bus route to the west of the site (as well as pedestrians and cyclists), but all cars would have to travel east to the new link. The new road was also intended to provide the only access to the site for construction traffic, thereby removing a potential source of serious disruption to local residents¹.

- 16.10 There were 39 consultation meetings, 6 partnership meetings and a transport topic group meeting held to discuss the merits of the various proposals and set out criteria on which the schemes should be judged². But the Aire Design was rejected in favour of a proposal by PRP that depended on imposing the impact of the traffic and building works on those living nearby³. In relation to Meadlands, the effect would be to destroy a fine example of a ‘home zone’ in order to create ‘home zones’ on the application site. That cannot be a characteristic of a scheme designed for quality.
- 16.11 There are doubts that the scheme would work in practice. Delivery vehicles and HGVs might traverse adjacent roads, attempting to negotiate Meadlands and other approach roads in search of their correct destination⁴. That could cause awkward manoeuvres in tight culs-de-sac once drivers found that access across the new estate was barred; tortuous journeys through the adjacent neighbourhoods would ensue. No evidence has been adduced to demonstrate that the concept of the ‘four quarters’ would work. If it fails, there might soon come a time when the ‘rising bollard’ preventing vehicle trips across the new estate would be lowered for the last time and a traffic ‘free for all’ would generate ‘rat-runs’ from Stockton Lane to Hull Road through Meadlands and Osbaldwick Village⁵.
- 16.12 It is agreed that the creation of home zones, 10mph limits, pedestrian priority, street furniture and other paraphernalia as planned for the new community would be ideal for those living within it. However there has been no consideration made for people living outside the circle. Meadlands is presently the ideal home zone. Residents have little traffic noise or pollution to contend with and they wish that such conditions would continue. It is odd to close residential streets in the City and open up a peaceful suburban street like Meadlands⁶. And, although the concept of the new community integrating successfully with those nearby might seem laudable, it is nothing more than a dream. It is not possible to legislate for good relationships between neighbours.

The Green Belt

The ‘general extent’ of the Green Belt and the status of the site

- 16.13 The Green Belt boundaries are undefined, the Local Development Framework un-adopted, therefore contrary to the Joseph Rowntree Housing Trust and City of York Council’s statement, the application site is within the Green Belt and should be treated as such. The general presumption in PPG2 is against developing ‘greenfield’ sites⁷.

The impact on neighbouring residents

- 16.14 We think that the concept of the ‘four quarters’ is a deliberate ploy to make this proposal appear acceptable. The suggestion that ‘We will be spreading the load to ease the burden of traffic on residents’, should actually be seen as a means of imposing the impact of the traffic generated by

¹ ID28

² MARA2

³ ID27 and ID132

⁴ MARA2

⁵ MARA2

⁶ MARA1

⁷ MARA1

the new estate on all the peaceful neighbourhoods that surround the scheme¹. The traffic flows actually experienced are likely to exceed the levels estimated (see below). But the design itself could generate yet more traffic. Not only might delivery and service vehicles have to ‘double back’ if they arrived at the wrong ‘quarter’, but also additional trips would be generated in such vehicles having to negotiate the surrounding suburbs to reach different parts of the estate². Moreover, there can be no guarantee that residents would not choose to use their cars to travel from one quarter to another, especially if they had to ferry children about and it was wet or dark or late. In addition, ‘rat-runs’ might develop in the circumstances outlined above.

- 16.15 All that additional traffic would have an unacceptable impact on residents in terms of noise and pollution³. People living close to the head of the cul-de-sac would have to endure a 200% increase in traffic. The noise would be exacerbated by cars ‘bumping’ over a raised and paved panel (as part of a proposed ‘gateway’ into Derwenthorpe). The suggestion that an access to a driveway into an adjacent property should be closed is unacceptable. Placing bollards on the footpath north of the ‘gateway’ panel to protect pedestrians would reduce the pavement width and endanger pedestrians, particularly the elderly. Moreover, the majority of properties on Meadlands are chalet style bungalows, with first floor rooms built into roof spaces. Consequently the noise insulation is less effective than in conventional built properties, exacerbating the effect of increased traffic⁴. That would be all the more intrusive because Meadlands is presently the ideal ‘home zone’. Residents have little traffic to contend with; the street is very quiet and pollution-free. There is also concern that, without a properly dedicated route from the east of Metcalfe Lane utilising Outgang Lane or some similar route, construction traffic and HGVs might make use of Meadlands on occasions. That would cause additional noise and fumes, as well as causing a hazard to existing road users on the narrow carriageway.

The impact of traffic

Access arrangements

- 16.16 The proposed development is surrounded on three sides by heavily populated residential areas through which it is proposed to provide access into any one of the four quarters; vehicular access across the development, other than for public transport and emergency vehicles, is to be prevented to avoid rat-running⁵. There is concern that drivers of delivery and service vehicles would not know that an address in a particular part of the estate could only be reached from one particular access. There is clearly a possibility that HGVs and service vehicles would end up traversing adjacent streets looking for a particular location, so adding to road traffic. After a period of confusion and chaos the barrier control system might well be lowered for the last time, leaving the opportunity for ‘rat-runs’ to develop across the estate and the surrounding residential streets.
- 16.17 It is estimated that the proposal would increase traffic in Meadlands by some 170%; at the head of the cul-de-sac (where current flows are particularly low) residents would have to endure something more like a 200% increase in traffic⁶. Yet, the existing turn in to the proposed development at the head of the cul-de-sac is extremely tight. There have been plans to trim back residents’ garden hedges and restrict access to a driveway in order to create the required site lines. Even so, the forward visibility splays normally required would not be achievable and the ‘swept path analysis’ indicates that less space would be available than would usually be required to allow

¹ MARA1

² MARA2

³ MARA2 and MARA1

⁴ MARA2

⁵ ID27

⁶ MARA1 and MARA2

emergency and large vehicles to pass each other¹.

16.18 No count appears to have been undertaken to assess the capacity at the junction of Fourth Avenue and Tang Hall Lane. The recent completion of Applefields School (a school for children with special needs) has led to a significant increase in traffic². The Education Authority indicates that there are 152 pupils conveyed to the school in taxis, cars or mini-buses resulting in some 86 trips during the morning peak hour. In addition, 55 staff cars are accommodated at the school. There is, thus, potential for about 141 vehicle trips to Applefields School during the morning peak. In addition, over 60 parked vehicles can be accommodated at Burnholme Community College on any one day. A total of over 200 vehicle trips in the peak hour could thus be generated by the 2 schools alone. In those circumstances, it would be likely that the junction of Fourth Avenue and Tang Hall Lane would also operate close to its practical capacity or even in an ‘overload’ condition once the development is occupied³. Our survey undertaken on Monday 26th June 2006 registered 665 vehicle movements between 8.00hrs and 9.00hrs⁴.

Congestion and other problems

16.19 The 4 access roads would all lead onto Tang Hall Lane. The assessments demonstrate that Tang Hall Lane is already congested and operating close to its practical capacity during peak hours; some junctions are also busy with queues forming at particular approaches⁵. The Environmental Statement fails to address the cumulative impact (traffic congestion, road safety and pollution) that this development would have on Tang Hall Lane and at its multiple junctions. Residents’ representatives have called for a new vehicle access road to be constructed to the east of Metcalf Lane linking into the Grimston Bar ‘park and ride’ and the outer ring road to restrict further local congestion⁶. Repeated requests have also been made for a substantial upgrading of the existing Sustrans cycle track to provide a direct public transport and vehicular access into the City along the lines indicated in the original ‘master-plan’⁷. Both suggestions would reduce the impact on local residents.

16.20 There is no reference in the application to the relevance of the Local Transport Plan⁸. Feedback from the Department of Transport on the Provisional Plan recommended that the Council should improve the Plan by strengthening how new development would impact on the transport system, expanding the way in which new developments would relate to the regional context and addressing travel patterns for developments planned near to the outer ring road⁹. It is suggested that the development of the Derwenthorpe scheme, together with the numerous other sites in the area, would have a considerable impact on transport infrastructure, which is not addressed in the Environmental Statement.

The impact on flooding

16.21 The southern edge of the application site lies within the indicative floodplain. The proposal to create flood storage lagoons within a residential site is controversial. A large pond would also be potentially hazardous, particularly for children¹⁰. If the Foss Barrier should fail, or the water reach a sufficient level to ‘overtop’ it (as very nearly happened during the floods of 2000), the

¹ MARA2

² MARA2

³ Y8 and MARA2

⁴ MARA2

⁵ Y8

⁶ MARA1

⁷ As put forward by Aire Design in 1999, see ID28

⁸ CD5

⁹ MARA1

¹⁰ MARA1

Beck would flood causing a disaster for many homes in the area¹. It is suggested that this is not adequately addressed. Nor does the selection of the site for development comply with the guidance in PPG25; the site has not been subject to an appropriate ‘sequential’ test. And, when the Environment Agency were pressed for evidence of developments with similar flood alleviation schemes, they failed to produce examples of any that were comparable.

16.22 The developer has failed to take into account the effect that lowering the ground water table would have on existing homes adjacent to the site². Builders, insurers, planners and structural engineers know that the houses in the area are built on shallow foundations within grey clay substrata. Any lowering of the water table would cause drying out and shrinkage of the grey clay. This could have a serious impact on existing homes, causing settlement or subsidence to occur. This issue, and its consequence for home owners, has not been adequately addressed in the Environmental Statement.

The impact on nature conservation

16.23 The application site is presently the only accessible open countryside available to nearby residents. It is used by many people for recreation, dog walking, horse riding and general enjoyment of a wide variety of wildlife, flora and fauna. It is a species-rich environment and contains historic ridge and furrow, wetland meadows and is home to protected species. Translocation would be an inappropriate way to preserve those parts of the site that have to be preserved, especially when the new site is some distance away at New Earswick. The proposed development would conflict with PPG9 and damage the local environment³.

Conclusion

16.24 We would argue that the issues we have raised would have a detrimental effect on the amenity of Meadlands’ residents and also on people living in the area. The ‘safety audit’ clearly shows that road traffic and pedestrian safety would be severely compromised. We consider it is incompatible with the recently issued Local Transport Plan. Permission should be withheld.

¹ MARA4 indicates that if the plans are approved by the EA, then individual insurance policies would be liable to meet the costs of flood damage.

² MARA1

³ MARA1

17. The Case for Mark Warters

Introduction

17.1 Having lived in York all my life, and despite watching with growing concern over the last 15 years as much of the historic City and its surrounding green fields have been surrendered in a development free for all (initiated largely by the Council), I have never felt the need to involve myself in anything like this public inquiry procedure until now. The Osbaldwick meadows are a unique environmental oasis and it is worth fighting for their preservation. Hence, 7 years after these proposals were first aired protests have grown steadily rather than being dissipated, despite the resources of the Council and the applicants being thrown against objectors. As more and more people use the meadows so the protests over their planned destruction have grown¹.

The suitability of the scheme; Derwenthorpe

Is the scheme designed for quality?

17.2 I disagree with the report by Professor Chris Baines² claiming that the size and type of gardens to be provided with the proposed new homes could provide better wildlife habitats than the existing site, which ought to be designated as SINC. Despite both the applicants and the Council extolling the virtues of providing ‘family homes with gardens’, my experience in recent years is that many purchasers of new homes view the provision of a garden as an irritating source of work. A postage stamp sized plot of uninspiring turf, laid on a thin later of topsoil and as little more than a covering to hide the inevitable builder’s debris the damaged soil, very quickly saps the owner's motivation to do anything horticultural. I can well remember carrying out a lot of back breaking work sorting out gardens on the Clifton Moor estate in the early 1990’s where, because of the nature of modern building methods and the lack of appreciation and care over the treatment of land designated for gardens, the new householders were left with waterlogged plots of compacted smeared clay³.

17.3 The Derwenthorpe site, with its heavy clay soil, would present just the same sort of obstacle. Such difficulties, together with the limited time available for busy working people and the problems associated with modern living, such as parking, storage, washing lines and the need to keep an array of wheelie bins or containers for recycling, often results in the garden very quickly becoming paved, or covered with gravel or wooden decking⁴. A garden shed would be erected and, if sufficient provision has not been made for car parking, the front garden is often used for this purpose. Many such ‘gardens’ may consist of little more than a few tubs of seasonal bedding plants. Or, and with a worse impact on the street scene, where there are many rental properties or a high proportion of student accommodation or where tenants have little financial interest in the property, the gardens become neglected and unsightly⁵. Clearly such habitats could not compensate for the loss of habitat and wildlife associated with the destruction of the Osbaldwick meadows.

The impact on flooding ~ enforcement

17.4 There is concern that the Council appear to find it difficult to negotiate, monitor and enforce planning conditions, particularly with respect to flooding and the control of ‘run-off’. This is a crucial component of the Derwenthorpe scheme and the scale and complexity of the proposals

¹ ID84

² ID72

³ ID85 provides some relevant photographs

⁴ ID85

⁵ One example is 67 Temple Avenue, now owned by the applicants, but rented to tenants.

would make the task of control all the more difficult. Nearby properties have been flooded. The site currently retains water but the increased hard surface area resulting from the proposed development would increase run-off into the Beck, thereby intensifying the risk of flooding from that source. Moreover many of the drainage details still remain ‘to be confirmed’.

- 17.5 Experience does not engender confidence. Although permission for the redevelopment of land to the rear of at Towthorpe Road, Haxby, was granted by Ryedale District Council, the City Council was found to have allowed the development to be implemented without complying with the approved plans with the result that parts of the site were up to 400mm higher than they should have been, so impounding water in neighbouring gardens. Now, nearly 5 years later and only at the behest of a report by the Ombudsman, a pumped system to remove the surface water is to be installed at the Council’s expense as the only practical way of solving the problem¹. Similarly, at Murton Way, within a stone’s throw of the application site, it appears that an error has occurred in correctly assessing the flood risk status of a site where development has already been undertaken². To compensate for the loss of flood plain involved, swales have been constructed that have necessitated the extinguishment of a public footpath. There is concern that the swales may not be adequate, given the height of the flood waters in Osbaldwick Beck in May this year³. There is similar concern that the design solution proposed to prevent flooding from the Derwenthorpe scheme may not be correctly implemented or may entail a flaw. The consequences of such mistakes for the surrounding area would be severe.

The impact on nature conservation

- 17.6 Ordinary people do not have the knowledge or resources to argue over specialist points about the conservation value of the huge and varied flora and fauna on the site. What ordinary people do have, along with their local knowledge, is enough foresight and commonsense to see that the proposals would involve the wholesale destruction of a beautiful, quiet and extremely well used community wildlife area. The site should have been correctly managed and maintained by the landowner as befits a site that allows an increasingly urbanised population safe and easy access to historic, open countryside. The claim is that this public asset has been allowed to decline to increase the likelihood of development. The Council’s Countryside Officer acknowledges that parts of the site would qualify for conservation status. Had the site been correctly managed, then perhaps it might all have qualified for SINC status making its allocation for housing indefensible. I can well recall a conversation on the site in the summer of 2004 when the Council’s Countryside Officer suggested that if the scheme were to fail, then the site would have to be re-assessed and the recommendation would have to be that the site should be designated as a Local Nature Reserve⁴. That recommendation should be made now, based on the merit of the site.
- 17.7 As a lay person I am extremely perturbed that two environmental professionals⁵ can arrive at such vastly different conclusions as to the environmental value of the same site. The only rational explanation is that ‘He who pays the piper calls the tune’.
- 17.8 Since the withdrawal of agricultural management from the site when the intention to develop it was announced, the general consensus among local residents has been that the Council have been happy to let the site degenerate to reduce its ecological value and to introduce a general air of neglect and untidiness. For example, the site has not benefited from secure perimeter fencing until my correspondence in late 2005 and the onset of this Inquiry⁶. Osbaldwick Parish Council

¹ ID265

² ID202 and ID203

³ ID266 provides photographs of the Beck

⁴ ID84

⁵ For the YWT, Mr. Masheder and for JRHT, Dr Humphries

⁶ ID84

requested that a boulder be placed near the gated entrance to the village, but were refused. Yet, early this year this gate was protected by a large boulder. Similarly, no attempt has been made to secure the cycle path at Burnholme School and missing field gates were not replaced until my correspondence of 2005¹.

- 17.9 The most positive beneficial action undertaken on the site in the last 18 months has been the grazing of gypsy horses. Contrary to some suggestions, that was not initiated by the Council. Indeed, the Council's Countryside Officer expressed surprise when told that a number of fields had been cropped for hay during the summer and suggested that it would be most interesting to see what might come up in the spring. At no point was it indicated that the Council had initiated the hay cropping. In addition, the 'management proposals' explain that the unofficial hay cropping and grazing by traveller ponies has helped to reinstate a form of management on some of the site. In wildlife terms this is beneficial. It is surprising that gypsies can see a value in cropping the fields for hay, but the Council cannot find contractors to cut it for £5000. However, the promised management strategy did not result in action². It appears that there has never been any management schedule for the site or any attempt to offer the site on an agricultural tenancy since the development proposals were first announced. The inference must be that the ecological value of the meadows was to be degraded as much as possible while the consultation exercise over the development continued³.

Conclusion

- 17.10 It seems to me as a lay person that the Council have done everything in their power to bring forward development on the Metcalfe Lane meadows, not to meet housing need, but to bring about a cash windfall desperately needed to balance their books; they were one of the only local authorities this year to be threatened with rate capping. They seem to me to have done everything in their power to bring about the most favourable situation in which development of the meadows can be considered. They have neglected the site and done virtually nothing to maintain it. They resist any encouragement to consider designating the site as a Local Nature Reserve and ignore the wildlife and amenity potential of this site. They appear to manipulate the availability of brownfield sites and the type of housing being built to justify developing the meadows. A worthwhile and lasting contribution to the housing needs of the City could be made by enhancing the ecology of the application site and forcing the Council to help to create the concept of Derwenthorpe on a much larger scale on one of the largest brownfield sites in Europe at York Central. On those grounds permission should be refused.

¹ ID84

² ID84, appendices includes the result of a Freedom of Information request on the 19th April 2006 and further correspondence.

³ ID84 also gives further details including offers to rent the site or to undertake voluntary work there that were refused.

18. The Case for the Yorkshire Wildlife Trust

Introduction

- 18.1 The concerns of the Wildlife Trust are focused on the scheme at Derwenthorpe. It is accepted that the initial worries that the development at Germany Beck would affect the flood regime, impair the SINC at Germany Meadow and destroy potentially interesting peat deposits could be overcome by the imposition of appropriate conditions or through the section 106 Agreement.
- 18.2 The objections to the Derwenthorpe scheme are centred on 3 of the issues identified at the Pre-inquiry Meeting¹ namely, the Development Plan, the design and layout of the scheme and its impact on ecology and wildlife.

Plans and prematurity

- 18.3 The allocation of land at Derwenthorpe for housing in the City of York Local Plan should only be given very limited weight. The evidence is that the site has been so allocated for a very long time, initially almost a quarter of century ago. It was not evaluated for its nature conservation value initially and no such assessment was undertaken before the allocation was first incorporated into the City of York Local Plan. In any case, there were then outstanding objections to the allocation due to the destruction of hedgerows and pasture, which have not been tested at a public inquiry. And, recent changes to national policy (as set out in PPS9) place a greater emphasis on not just maintaining, but also enhancing biodiversity in a local plan area. In order to take account of those changes properly, land for nature conservation enhancement must be identified in the Local Development Framework². The claim is that the Derwenthorpe site would be well suited to such a purpose. Surveys³ demonstrate that it already contains much of nature conservation interest; it is close to residential areas; and, it is already in public ownership.
- 18.4 There has been an attempt to justify the allocation subsequently by the work undertaken for the Environmental Statement. However, much of that effort seems to be directed at playing-down the nature conservation importance of the site. Moreover, the ecological evaluation⁴ undertaken in ‘reviewing’ the sites allocated for residential development in the context of preparing the 3rd set of Changes⁵ relies, at Derwenthorpe, solely on the information in the Environmental Statement. It is unclear what role this document played in arriving at the 4th set of Changes to the Local Plan⁶, but in any event there have not been any opportunities, until now, to test the allocation in a public inquiry⁷. We therefore conclude that little weight should be attributed to the housing allocation in the Local Plan.

The suitability of the scheme; Derwenthorpe

- 18.5 The scheme would destroy existing wildlife habitats on the site and impair the amenity value of this resource for local people. The claim is that much of this damage is due to the design process being fundamentally flawed. Essentially it appears that information on wildlife and nature conservation constraints were not addressed until the design and layout of the proposal had largely been formed. The result is too little ‘avoidance’ and an excessive reliance on ‘mitigation’

¹ See Notes of the Pre-Inquiry Meeting

² PPS9 5ii

³ Most of these are referred to in YWT1 and listed in the relevant section of the case for the Joseph Rowntree Housing Trust

⁴ ID93

⁵ CD133

⁶ CD1

⁷ Although the housing allocation was tested in the context of the Southern Ryedale Local Plan (ID36), not only did that Plan not proceed to adoption, but also the nature conservation value of the site was not tested.

and ‘compensation’ to address the impact on nature conservation interests. This failing is well illustrated by the intention to retain a large section of ‘field 7’, which surveys reveal to be relatively species poor, rather than areas of ‘fields 5 and 6’, which are relatively species rich. It is thus necessary to contemplate the translocation of turf from areas which are to be built on to areas some distance from the proposed development at New Earswick. Good design would surely have sought to retain the species rich areas *in situ*.

- 18.6 Other flaws are evident. The design fragments the remaining and proposed new habitat. The ‘illustrative -master-plan’ shows 4 discrete open space areas; there is the pond and wetlands at ‘field 9’, the retained ridge and furrow in ‘fields 6 and 7, the small meadows beside the western end of the Sustrans cycle track and the swathe of open space taking in Osbaldwick Beck Park and the village green. The other habitat to be provided by way of compensation for the damage done at Derwenthorpe would be 3km away at New Earswick. Moreover, further fragmentation would occur through the loss or partitioning of ecologically significant sections of internal and external hedgerows.
- 18.7 The site is an important area of ‘accessible natural green-space’. That is confirmed not just by other objectors, but also by the Council, who acknowledge the value of the site for educational and recreational use by local people¹. The site plays an important role in the interface between the City and open countryside². It serves as part of a ‘green wedge’ which runs from Layerthorpe through the application site to open countryside beyond. It would clearly contribute to the ‘potential recreational or amenity value’³ of the cycleway, St Nicholas Field and the SINC at Layerthorpe⁴.
- 18.8 In conclusion, it is considered that the proposal would not meet the requirements of PPS1 relating to the protection of the environment and good design. Furthermore the development would result in reduced accessibility to the countryside for residents of the Osbaldwick, Tang Hall and Meadlands areas; it would also destroy a potential ‘green wedge’ into the heart of York.

The impact on ecology and nature conservation

- 18.9 It is clear from the e-mail sent by English Nature that they have only assessed the proposals from the national and regional perspectives⁵. They have not assessed the scheme from a sub-regional or local perspective. They state specifically that they have not evaluated the site against SINC criteria and indicate that they would not normally be involved in nature conservation issues of only local significance. It must follow that English Nature’s lack of objection cannot imply that there are no significant issues of nature conservation concern⁶.
- 18.10 The first task is to determine the potential value of the site for nature conservation. The claim is that the site merits SINC status largely due to the grassland communities it contains. Selection guideline GR1⁷ seeks to identify areas (down to 0.1ha) of ancient semi-natural neutral grassland supporting particular NVC types; in this case type MG5 is relevant. It is accepted that the presence or otherwise of an MG5 grassland community is perhaps the most difficult to resolve. The claim that this type was present was initially based on the surveys carried out in 2004 and the suggestion that the elements of species richness identified may represent remnants of that type in

¹ See the evidence presented by the York Natural Environmental Trust and Bob Missin in answer to questions.

² See the evidence presented by the York Natural Environmental Trust

³ JRHT/FF, paragraph 5.2.11

⁴ YWT1

⁵ ID176

⁶ YWT2 paragraph 4.29

⁷ ID61

fields 5 and 6¹. There is no dispute about the competence of the respected ecologist² who undertook those surveys and the conclusion drawn is adopted here. Subsequently however, the applicant claims that ‘it is self-evident from the table that there is little correspondence with the MG5 grazed-hay meadow type associated with well drained soils, but better correspondence with other types, and MG1e and MG7d in particular’³. In fact it is far from ‘self-evident’. The constancy tables do not clearly put the grasslands into any specific NVC community. Moreover, these communities do not have crisp boundaries, they grade into each other. A comparison between the surveys undertaken by the Wildlife Trust and those by the applicant casts significant doubt on the completeness of the data set derived from latter. Species have been missed⁴. And, because only the results are provided and not the methodology, it is impossible to replicate the survey, especially this late in the season. It is suggested that the results from the 2004 survey should stand. The fields may not be the best example of an MG5 type grassland, but there are grounds to support the view that the site should qualify under these criteria.

- 18.11 The application of criteria GR4⁵, which seeks to identify areas (down to 0.25ha) of ancient semi-natural neutral grassland that contain at least 8 species listed in particular tables, is easier to resolve. Evidence⁶ indicates that ‘fields 5 and 6’ both individually and collectively score well in excess of the threshold for SINC status. The interpretation of the guideline with respect to the word ‘species’⁷ indicates that ‘species’ must be taken as a group rather than individually. Hence, it is the ‘group’ that must show a reasonable distribution throughout the sward. The species marked in bold in the relevant table would be expected to be patchy in their distribution for a site of county importance. Moreover, the evidence⁸ presented does not show that species distributions are variability within the sward due to agricultural improvements. The variation can easily be accounted for by the micro-topography (ridge and furrow) and irregular management. Fields 5 and 6 therefore qualify for SINC status.
- 18.12 The site is also of nature conservation interest because it supports a mosaic of semi natural habitats (guideline Mh2). In order to understand these criteria it is necessary to read the guidelines⁹. There it is clear that they apply to ‘less intensively managed agricultural or industrial land’. The site contains both. The fact that no single species links all the habitats is not significant. The habitats and species on the site form part of a whole that is more important than the sum of its parts.
- 18.13 The site also exhibits a high structural diversity (guideline Mh3) in relation to particular specified features¹⁰. This appears to be accepted as valid, but only in respect of ‘field 9’¹¹. The report and survey of moths only states that the most valuable part of the site is field 9, and then goes on to discuss some of the threats which might result from the development. Indeed ‘field 8’ is linked to the future security of the hydrology in ‘field 9’¹². The Environmental Statement also shows that other features within the wider site support nationally scarce invertebrates. The application of guideline Mh3 does state that sites should be identified in conjunction with an experienced invertebrate ecologist. The reports are available to the Inquiry.

¹ Supplementary Information August 2004, Chapter 6 ES and CD80

² JRHT/RNH

³ ID40, ID41 and ID143

⁴ YWT2, JRHT/RNH/1 and JRHT/RNH/3

⁵ ID61

⁶ YWT3 and the Supplementary Information August 2004, Chapter 6 ES and CD80

⁷ ID61 paragraph 2.1.5

⁸ YWT2, appendix 3

⁹ Introductory paragraph 2.10 in ID61

¹⁰ ID61

¹¹ JRHT/RNH/3, Rebuttal (No2) at paragraph 2.16

¹² ID40, appendix 2 of the moths survey

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- 18.14 The new National Guidelines for Local Sites¹ place greater emphasis on the educational and recreational elements for site selection. These would add value to this site over and above that recognised in the North Yorkshire SINC Selection Criteria². Taking all those matters into account, the site as a whole should qualify for SINC status.
- 18.15 Given that all or part of the site should qualify as a SINC, policy NE5a (of the Local Plan) and policy N1 of the RSS apply, as well as sections in PPS9. It is also suggested that the nature conservation value of this site can have implications for Green Belt policy and the approach to ‘green wedges’. It is hard to claim that allocating a site of SINC quality for housing would be consistent with claiming that the scheme would represent a model of sustainable development. It is of some interest that the Ecohomes assessment indicates scores of only 4 out of 9 for ‘land use and ecology’ and 0 out of 1 for ‘protection of ecological features’³.
- 18.16 Policy NE5a of the Local Plan refers to the protection of SINC’s unless housing needs outweigh the nature conservation value of the site. The claim is that there is not a pressing need to develop the site for housing now. The residual housing requirements are not estimated to fall into deficit until 2012⁴. It may be that the over-provision of 515 units by 2011 is within tolerance limits⁵. But, that suggests that the figures encompass significant uncertainty. The windfall figure was also challenged as being much lower than in previous periods (356 down to 143)⁶. The mooted availability of some 42ha of land at the British Sugar factory site offers yet further opportunities for development of another large potential housing site⁷. There is a rough timescale for development on this site which indicates that 315 dwellings could be available between 2013 and to 2016⁸. That is about the same as the production from Derwenthorpe for the same period (355)⁹.
- 18.17 In those circumstances it is suggested that the need to develop the site for housing would be insufficient to warrant the permanent loss of land exhibiting SINC quality.
- 18.18 There are also doubts about the reliability of some of the other surveys. English Nature have made their views clear on the presence of great crested newts. But there are outstanding issues which have not been adequately explained. This partly due to the poor quality of the poorly reported methodology. In the wider pond survey the presence of great crested newts in pond OS6 is reported from previous work, though no animals were found there during the survey¹⁰. However, it transpires that this pond had simply been netted during the day and that problems had been encountered with access to some ponds. Ponds OS5 and OS10 form stepping stones towards the pond to be retained in ‘field 9’ (pond OS1), yet there is only the most basic assessment of their habitat. Moreover, timing and design of the amphibian trapping (between 12 April and 26 May) was undertaken a fortnight after great-crested newts had been detected in the pond in ‘field 9’. The traps were clearly intended to intercept newts before they reached the pond and were therefore too late. Also all the traps were to the west of ‘field 9’; that seems a poor design when the only known great-crested newt population was 700m to the south east in pond OS6.
- 18.19 The result is that the information gleaned from those efforts is not adequate to provide an

¹ ID62

² ID61

³ JRHT/NM/1

⁴ ID13

⁵ Mr Courcier’s answer to questions

⁶ See the relevant section of the case of the Council.

⁷ ID151

⁸ ID148

⁹ See table 1

¹⁰ ID41, paragraph 4.3

understanding of size or extent of the great-crested newt population in and around pond OS6 or the way it might be linked to the application site. The Wildlife Trust was aware of the newt survey work, but not of its limitations. It did not have time to undertake newt survey work as the reports were only made available on 20 June 2006. Faced with a lack of reliable information it is difficult to assess the implications for the development decision on the great crested newt.

- 18.20 Similarly, the bat survey¹ is poorly designed or poorly presented. It is claimed to be ‘evident from the plan that all hedges have been surveyed’². All that was ‘evident’ is that hedgerows E and F are given scant coverage compared with others, imparting the impression that internal hedgerows are of less value to the bats than the external ones. These hedgerows are important for commuting and feeding bats of 3 species³. The suggestion⁴ that the hedgerow E (190m long) hedgerow F (225m long) could be adequately surveyed from the ends cannot be right due the limited range of a bat detector. It is much easier to establish how the bats are using the hedgerow from the centre than it is from the ends; for example, at the ends there may be confusion between one feature and another, such as the Beck corridor and the hedgerow.
- 18.21 Bat roosts are given greater recognition within the planning system than commuting and feeding habitat. The two are clearly connected. But, demonstrating the impact that loss of feeding habitat would be likely to have on specific roosts is beyond the means of the Yorkshire Wildlife Trust. The presence of the bats does warrant proper recognition of the hedgerows as wildlife habitat. Bats are feeding along the hedgerow corridors and the brown long-eared bats detected on 30 June 2006 were probably gleaning insects from the hedgerow⁵.
- 18.22 Water voles also appear to have been given minimal consideration. They are repeatedly described as ‘transient’, but there are claims made at the Inquiry that there has been a core population of water voles living on the site for many years. The impact of excavation work for the balancing pond within close to the water vole burrows is likely to be high.
- 18.23 Evidence is adduced to show that the hedgerows, both internal and external, contained from 3 to 10 ‘woody species’ identified in the Hedgerow Regulations⁶. Since all the hedgerows pre-date the Inclosure Acts⁷, some might qualify as ‘ecologically important’⁸ and those would also be ancient and species rich hedgerows as defined in the UK Biodiversity Action Plan⁹. Hence, the internal hedgerows are not ‘relatively species-poor’; hedgerow B (largely to be removed for the access to Osbaldwick Village) almost certainly meets the ecological definition of an ‘important’ hedge. The loss and fragmentation of hedgerows is one of the most severe impacts of the proposal. It would affect the habitat for wildlife like bats, invertebrates and birds. Indeed, the loss of such habitat could result in a small contribution to the general decline of UK BAP species such as the linnet, bullfinch, reed bunting and song thrush. But the loss and fragmentation of the hedgerows would also be a loss of amenity for local people. The hedgerows contribute to the sense of having arrived in the countryside and the screening that the hedgerows give to the surrounding housing accentuates the rural seclusion of the place. The views expressed by the York Natural Environment Trust are supported. The hedgerows contribute to a strong sense of

¹ ID40 and ID41

² JRHT/RNH/3

³ YWT3

⁴ ID143

⁵ YWT3

⁶ YWT3, appendix 1

⁷ JRHT/NM

⁸ Inspector’s note: The room for some doubt is because the species count does not appear to have been related to sampled 30m sections of the hedgerow. Nevertheless, some of the hedgerows including the boundary hedges (and therefore hedgerow B) would certainly be ‘important’.

⁹ YWT4

place and their ‘importance’ in historic terms (under the Hedgerow Regulations) adds to their value¹.

18.24 The mitigation measures are also considered to be far from secure. The assertion that grasslands can be easily re-created is not backed up with compelling evidence². The method for turf translocation would involve rotivating the top 5cm of soil and moving it to the new location. There is no evidence to support the long term (over at least 10 years) success of such a method. The impact on notable species like pepper saxifrage, which is tap rooted, is likely to be severe. Invertebrates would also suffer using this technique. There is no doubt that interesting results can be achieved through habitat creation. But its role should not be to replace habitat but as a means to develop something new³. That reflects the guidance for grassland recreation under Environmental Stewardship schemes. Translocation and creation involve risk and uncertainty. They should be seen as an option of last resort. Old meadows are like old masters (Mona Lisa). A crude copy, fragmented, with the best bits removed, is little substitute for the original.

Conclusion

18.25 This site has considerable depth and breadth to its nature conservation value. Taking each species or habitat in isolation and attempting to mitigate for the development can not reflect the cumulative value attributable to the unit as a whole. The evidence does not justify the permanent loss of this wildlife site in order to meet the housing needs in York. If the development is refused, and housing needs in York increase to critical levels in the future, the opportunity to reassess the site would remain. The Secretary of State is urged to refuse this application.

¹ YWT4

² JRHT/RNH

³ YWT1, appendix 12

19. The Case for the York Natural Environment Trust

Introduction

19.1 York Natural Environment Trust and the Yorkshire Wildlife Trust have similar concerns in relation to the development of the application sites. However, there are differences. The Environment Trust defers to the Wildlife Trust on matters of ecological site evaluation and classification. But the Environment Trust wishes to question the validity of the Local Plan and to concentrate on matters of sustainability, biodiversity and wildlife conservation, landscape, open space and the Green Belt. Other objectors also offered evidence on these issues. Particularly in relation to biodiversity and wildlife conservation, there is less concern with (and there has been less involvement in) the Germany Beck proposals than those for Derwenthorpe.

Plans and prematurity

19.2 Based on long standing experience, there is concern about the work done on the City of York Local Plan, particularly with regard to the even handedness in determining the inclusion or otherwise of sites within the Green Belt. That concern is accentuated with regard to the Council owned land at Derwenthorpe and the attitude to the nature conservation value of the site. It is suggested that the way the Council gathered and presented evidence might be biased. This view was not questioned or rebutted. Lord Best gave weight to these concerns when he told the Inquiry that it was his impression that the Council had not considered any alternative other than development for the Derwenthorpe site. Although it is not the function of Inquiries such as this one to examine the general record and performance of local planning authorities, it is suggested that it is right to bring these matters, which related directly to the subject of the Inquiry, to the attention of the Inspector in the light of Government objectives of fairness, openness and transparency in planning, as set out in PPS1¹.

19.3 The City of York Local Plan² adopted for development control purposes has not been tested at a public inquiry and is not now going to proceed to adoption. There is a general lack of confidence in the Plan. There are many policies and allocations in the Plan that remain subject to objections³, thereby reducing the weight that should be attached to them. However, the wildlife protection policies are not subject to objection and should therefore carry full weight.

19.4 The Plan embodies a lack of planning logic. In a city with no unemployment, the Plan continues to promote development for new employment. The consequence is that workers must be 'imported' inevitably creating pressures on housing and infrastructure⁴. This was not questioned or rebutted, but there were oblique attempts at explanation:

- The unadopted Local Plan would lead eventually to an adopted Local Development Framework. However, the claim is that pressing housing need would make it essential for the application sites to be released now before this process could be completed. There is no explanation of why, in the face of this urgency, the resumption of the adjourned Local Plan Inquiry had been allowed to slip by four years. Moreover, despite the current evidence of continuous rapid development on both brown and green field sites around the City, the evidence indicates a general tendency to dismiss the possibility that any sites other than the application sites could be made available in time. This is implausible. There

¹ Inspector's note: See the relevant subheading in the 'procedure' section. I am afraid that the points made in this paragraph are completely without foundation. CD162, ID17 and ID93 demonstrate that alternative sites have been thoroughly assessed.

² CD1

³ CD158 and CD159, for example

⁴ CD152

are examples of family housing provided on reclaimed brown field land¹ and schemes offering 100% affordable housing on small sites within existing local communities².

- Target figures for growth in job creation and housing are merely derived from regional planning initiatives. It is not clear whether this growth is accepted or even welcomed by the Council. Nor is it clear why the Council have consistently avoided undertaking the widely advocated ‘environmental capacity study’ to determine what level of development York could accommodate without damaging its essential character³. That would serve not only as an aid to planning, but also as a defence against regional demands for excessive development. The difficulties experienced at Chester do not explain why there should be no attempt to learn by the experience and try again.

The Green Belt

Germany Beck

19.5 The site would serve a valuable Green Belt function and provide a proper setting for Fulford Village. The applicants accept that any unsatisfactory aspects relating to the existing landscape at the edge of Fulford Village could be easily rectified. The site would constitute a ‘circumferential green wedge’ linking two ‘radial wedges’, providing the valuable facility for an almost continuous circular walk in rural surroundings⁴. It is accepted that the revised scheme offers improvements in relation to the ‘green corridor’ and the ‘greenways’, though reservations remain about aspects of the detailed design⁵.

Derwenthorpe

19.6 The Osbaldwick meadows provide an important asset both for local people and for others from further afield⁶. The site is readily accessible. It forms open and attractive countryside beside existing communities; it is historically interesting, containing examples of ridge and furrow and fine ‘enclosure’ hedgerows⁷; and it offers a rich wildlife habitat⁸. The meadows form a central part of a strategically valuable, but officially unrecognised ‘green wedge’ bringing countryside links into the City centre via green corridors along the Sustrans cycle track, Tang Hall Beck, Osbaldwick Beck, Hull Road Park, St Nicholas Fields and the River Foss⁹. The meadows fulfil important green belt purposes and functions and the value of this asset should be appreciated as a whole. In particular, their purpose and function as a setting for the City and as a ‘separator’ between York and Osbaldwick village, is imparted by the experience and perception of moving through them, either travelling towards, or away from, the City centre¹⁰. Their cumulative value as attractive countryside, historic meadows and wildlife habitat could not be adequately replaced by mitigation or substitution for individual features. For that reason, the compensation proposed, both on and off the site, would not be proportionate to the loss imposed by the scheme.

The impact on ecology and nature conservation

Germany Beck

19.7 It is accepted that that new proposals for habitat restoration and creation would result in a net

¹ At Mayfields, Dringhouses in questions put to Dr Fordham

² These developments are undertaken by Housing Associations

³ An ‘environmental capacity study’ has been advocated by English Heritage, and is suggested, for example, in CD159. One has been undertaken in Chester with the results engendering a mixed response; Mr Courcier in answer to questions.

⁴ YNET, closing submissions

⁵ YNET2

⁶ YNET2

⁷ JRHT/NM

⁸ YWT1

⁹ YNET3.7, YNET5: YNET8 provides an example of a severed potential ‘green wedge’

¹⁰ ID15

increase in biodiversity in an arable landscape degraded by neglect. This would be at the expense of arable habitat, which is not without its own ecological value¹. That could be improved through an Environmental Stewardship Scheme, and it is suggested that the implementation of such a scheme might be the way forward for landscape and habitat restoration. It is acknowledged that the tenant farmers would make their own decisions about this on financial grounds. Nevertheless, if the possibility of profit from the proposed development were to be removed, then it is claimed that it would be financially beneficial for farmers to take up the provisions of an Environmental Stewardship Scheme². Such schemes are offered by Government on the basis of ‘Look after your land and be rewarded’.

Derwenthorpe

- 19.8 It is considered that the Derwenthorpe site has been subjected to systematic neglect, the effect of which has been to damage its biodiversity and potential SINC status³. The Council acknowledge that some neglect has occurred, due to the recent difficulties of finding contractors willing to mow the sward⁴. And, evidence is adduced (in relation to the Germany Beck site) that neglect of grazing and cutting could lead to a deterioration of biodiversity on grassland sites⁵. It is claimed that, in conjunction with the Yorkshire Wildlife Trust, evidence is adduced to indicate that the Derwenthorpe site is demonstrably of sufficient quality to qualify for SINC status⁶. Moreover, the Council accept that it is, at the very least, a borderline case and capable of restoration⁷. Indeed, the opportunity to restore and manage the meadows would be welcomed by their professional officers⁸. That is the approach adopted at Germany Beck. There, evidence indicates that the Germany Meadow SINC had deteriorated due to neglect and had now reached a condition that would make it a ‘borderline’ candidate for such status. Nevertheless the meadow is not to be replaced with flood storage lagoons, but restored through careful management, with the agreement of the Council⁹. Just such an approach is also advocated in PPS9. It is explained that enhancement of biodiversity involves ‘...sustaining and where possible improving the quality of natural habitat...’. The approach at Derwenthorpe is contrary to that advice and to the practice pursued at Germany Beck. Not only would the meadows be destroyed by the development, but also they would be further damaged by the creation of an alien wetland lagoon and domestic gardens.
- 19.9 It is suggested that the failure to properly assess the ecological value of the site and to acknowledge the scope for restoration may explain the pursuit of a scheme so at odds with policy and practice¹⁰. From the start the Council failed to carry out an ecological evaluation in advance of allocating the site for housing. There is concern about the subsequent presentation of ecological evidence. In particular, an apparently thorough ecology report failed to acknowledge the presence of great crested newts and water voles, even though subsequent surveys eventually identified a few of the former and mounting evidence from several sources during the Inquiry is claimed to indicate a robust and long standing population of the latter¹¹. Although English Nature are satisfied with the mitigation measures to protect the great crested newt, they clearly indicate

¹ YNET2

² YNET closing submissions

³ YNET2

⁴ Bob Missin in answer to questions

⁵ PH/RG

⁶ YNET2 and ID66; YWT1, YWT2 and YWT3

⁷ Y13

⁸ Bob Missin in answer to questions

⁹ PH/RG

¹⁰ YNET closing submissions

¹¹ The results from the thorough and professional survey undertaken are at CD78. A subsequent survey to reappraise the grasslands is at CD80.

that that does not imply their support for the scheme as a whole¹. And although the presence of water voles on the site is described as ‘transient’ no evidence is adduced of a core population elsewhere from which such ‘transients’ might be derived. Such doubts undermine the claims that the application site should not have SINC status. On the contrary, it is considered that the site did, and still does, qualify as a SINC². The unexplained replacement of the first ecologist with those now representing the applicants, lends credence to this view.

19.10 The scope for restoration of this site is very great. Proper management would result in restoration of the biodiversity from remaining elements of indicator species, which further survey work throughout the Inquiry has continued to find. Technical evidence at Germany Beck demonstrates that restoration of management practices would lead to a restoration of biodiversity³. Evidence is also adduced on the successful restoration of the Rawcliffe Meadows⁴. Such measures could be applied to the meadows at Osbaldwick. Of course, creating a wetland lagoon might result in more species being present on the site. But the habitat would be alien amongst the surrounding grassland. The same would be true for the replacement of existing habitats with gardens; despite their undisputed value for wildlife, gardens are not a substitute for such a scarce and threatened habitat as long established grassland⁵.

Conclusion

19.11 At Germany Beck, the value of the application site as countryside and as Green Belt demands its retention. It is accepted that the proposed habitat restoration and creation has merit. But, they are a response to neglect caused by the expectation of development. That should not be encouraged. In any case, there are other means to achieve appropriate restoration.

19.12 At Derwenthorpe, the meadows are valuable as a setting for the City, as pleasant and accessible countryside, as part of the potential Green Belt, as wildlife habitat and as an historical resource. The cumulative effect provides an enjoyable and educational experience for local people and visitors. Such an asset cannot be replaced by disparate pieces of ad hoc mitigation in a piecemeal fashion. The development at Derwenthorpe is intended to serve as an exemplar for the creation of sustainable housing and socially inclusive communities. It could thus be almost anywhere. It does not warrant the destruction of such a valuable site.

19.13 The Secretary of State is asked to refuse of these applications.

¹ ID176

² YNET closing submissions

³ PH/RG

⁴ YNET4 and ID66

⁵ YNET closing submissions

20. The Case for Cllr Jonathon Morley

Introduction

20.1 Osbaldwick ward includes Osbaldwick Village, Meadlands and the site of the proposed development: Fifth Avenue and Temple Avenue are represented by others. I was first elected in 1984 as County Councillor and elected to present Osbaldwick in February 1997. I have served on both the main planning committee and the relevant area sub-committee, but made representations in relation to this scheme.

Site selection

20.2 The evidence indicates that the initial selection of the Derwenthorpe site for development included the provision of a substantial area of open space. That may have affected the level of objections to the scheme. But it also shows that an important reason for selecting the site for development in the first place entailed the need to make good the provision of open space within the City. The scheme no longer achieves that aim and so the initial reason for selecting the site no longer applies.

20.3 My first involvement with the site was in 1991 when I organised a petition asking that the site be 'included in the York Green Belt and to be developed for outdoor sport and formal and informal recreation'. Over 500 names, mainly residents of Osbaldwick and Meadlands, were collected. This was to both Ryedale and the North Yorkshire County Council. An amendment that the site be included in the Green Belt, as then defined in the draft York Green Belt Local Plan, was successful and a draft version of the Plan showed the site within the Green Belt. The deposit Plan was subsequently modified to exclude the land from the Green Belt, to which objections were lodged. However, prior to the Local Plan Inquiry discussions between the York and Ryedale occurred.

20.4 The former, as the owner of the majority of the site, subsequently indicated to the Local Plan Inquiry that the land could be a source of affordable housing for the City. And, a briefing note provided in the context of preparing the Southern Ryedale Local Plan in June 1991, indicated that York City Council had lodged 2 outline planning applications for housing or light industrial in 1968¹. The Greater York Study also proposed that the site be investigated further in order to determine its potential contribution to development land requirements. The study indicated that 'At Osbaldwick there is scope for both housing and recreation or open space on the site'². A detailed development brief was to have been prepared making provision for about 350 dwellings and a significant area for recreation and open space.

20.5 In objecting to the proposed 'change' to include the site within the Green Belt in 1991, the York City Council appeared to accept the need for any development to include a substantial area of open space³.

If this area were to be developed then it would be important to provide a major area of public open space in order to provide a good quality environment and avoid uncontrolled urban development in line with the Council's Charter goals on preserving and enhancing the environment of the City. Playing field provision could be financed as an integral part of the development of the area for housing.

20.6 Subsequent to the Green Belt Inquiry a consultation draft Development Strategy indicated that

¹ JM2.1

² CD47, paragraph 68

³ JM2.2 including report annex

Osballdwick might accommodate the need for playing field provision. A recognised shortage of public playing fields in the City, which warranted examination of all opportunities to improve provision, suggested that the ‘development of the Council’s land at Osballdwick should include playing field provision to meet the needs in that part of the City’¹.

- 20.7 There is also evidence that Ryedale District Council sought to provide open space in the vicinity of the application site since at least 1981. When a draft Southern Ryedale Local Plan was first published, it included a specific allocation of open space in the south-eastern corner of the site. In the next draft Plan published in April 1987 a total of 8.7ha was to be allocated for public open space at Osballdwick Village amongst several other locations. ‘In order to meet the recommended provision for public open space’ land was allocated in the parishes of Osballdwick and Heworth Without². And, the subsequent draft Plan made a more explicit provision of open space as part of the proposals for the site. In the version published in January 1991, policy H4 referred to the allocation of the site for residential development and open space and, in the commentary³, it was stated that ‘an examination of this area shows that part of the site could provide a useful area of open space for both formal and informal recreation. The precise arrangements for this and the housing suggested for the site should be included in a development brief, but the area of open space is likely to be in the region of 6ha’. Subsequently it was stated that⁴:

York City Council has identified a shortfall in the provision of playing fields in the north eastern sector of the City which, given the generally built-up nature of that part of its area, is difficult to satisfy within the City Council's boundaries. An examination of the site at Osballdwick shows that part of the area could provide a useful area of open space to help meet this shortfall as well as providing for the need of Southern Ryedale's population for both formal and informal recreation. The precise arrangements for this and the housing suggested for the site will be included in the development brief. It is likely that the area of open space will be in the region of 10ha.

- 20.8 I consider that the converging intention of the 2 authorities has led to an agreement prior to hearing the evidence at the York Green Belt Local Plan Inquiry. That is confirmed by letter relating to the preparation of the Development Brief⁵. This agreement was conditional upon Ryedale not pursuing the provision of 10ha for recreation and open space in policy H5 of the emerging Plan. Although Ryedale was expected to be content to leave the precise figure for open space to be included in the Development Brief, the plan on which the Brief was to be based provided for 8ha of open space and 350 dwellings. This was referred to by the Inspector⁶. This was publicised, so that residents were aware of the intention to include a considerable element of public open space, possibly also excluding vehicular access to the site, as illustrated by the agreed plan. It is possible that this information may have inhibited objections as residents may have believed that this was a reasonable outcome⁷.
- 20.9 The reorganisation of local government meant that there ceased to be any party to the ‘agreement’ to uphold the agreed principles which had caused objectors such as myself to withdraw their objections. It also resulted in the failure to proceed with a Development Brief until 2002, after the selection of the applicant as partner in the development of the land and a competition had been undertaken to choose a ‘master plan’. The subsequent Development Brief does echo features of the modified ‘master plan’. Nevertheless, in the relevant section the Brief indicates a requirement

¹ JM2.3

² Paragraph 3.7 of the Plan and policy OH2

³ At paragraph 4.26

⁴ JM1

⁵ JM2.4

⁶ CD37

⁷ JM2.6

for the 'provision of outdoor sport within the housing site'¹.

The suitability of the scheme; Derwenthorpe

- 20.10 The current proposals fail to provide any formal playing fields. On the contrary, the scheme relies on off-site provision in the form of community access agreements to the playing fields at Burnholme College. Previous proposals for the school indicate what might have been possible². There now appears to be an increasing need for such provision in area following planning permissions allowing development where there is little prospect of providing on-site sports provision and inadequate alternative open space. Many of such developments are relatively well placed to access the Osbaldwick site by means of the Sustrans cycle-track. Permissions at Heworth Green at St John's and, potentially, on the gas works site itself, are close to an access on to the Sustrans cycle track at the junction of Heworth Green and Mill Lane. Developments at Layerthorpe are close to the access at Hallcroft Road³.
- 20.11 In addition to meeting the needs for additional playing fields, provision at Osbaldwick might ease the clear pressures imposed by the development on the maintenance of bio-diversity on the site. I believe that areas dedicated to sports might make better neighbours to grassland and habitat of wildlife interest than would new dwellings. Instead, the areas of open space are very much constrained by the extent of the development, as currently envisaged by the applicant, and in contrast to the scheme agreed to previously. I suspect that the figure for open space given by the applicant as approximately 30% of the total site area (about 6ha) may well include the quite large areas of ponds created by the development. If the intended allocation of 8ha of open space was implemented, there would be more opportunity to make a meaningful contribution to the retention of wildlife habitat and the sporting provision for this area of the City⁴.
- 20.12 The recent major change to open space provision appears to be neither major nor a significant change. Placing a running track into already planned 'open spaces' seems to add little. It is not clear what area is thereby to be regarded as recreational provision within the site; it could be the area of the track itself or a surrounding area. In any case, it does not address the provision of formal play areas which previous Councils sought to address.
- 20.13 Proximity to the Sustrans cycle track for access to the playing areas should influence the location of the public open space, along with the possibility of extending the 'wedge of green' from the Green Belt on the other side of Metcalfe Lane. This suggests that the approximate position suggested by the plan agreed by the previous Councils is the appropriate location, subject only to the possibility of taking in grassland or other habitat worthy of preservation in the public open space (such as the protection of field 9).
- 20.14 Adequate provision for open space may also provide for a better access arrangements⁵. Locating the majority of the public open space in a concentrated area either north or south of the Sustrans track may remove the need for buses to cross the track, which would be used by pedestrians and cyclists. If the only access from Osbaldwick village was to public open space on the south side of the Sustrans track no such conflict would arise. Alternatively, if it was felt that the open space could be more effectively concentrated in the north east sector then a similar access restriction could apply from Meadlands. The cycle track should be regarded as an important feature of the scheme; it provides an environmentally friendly means of access to the site, as well as representing a historical link with the previous use of the area. I believe that its value could be

¹ CD81

² JM2.5

³ JM1

⁴ JM1

⁵ JM1

enhanced if it did not stop at Metcalfe Lane but provided an access into the Green Belt.

20.15 The cycle track might provide the basis for an eastern access route to the site for construction traffic. There are planning and practical difficulties in implementing such a solution because such a route would traverse land that has been regarded as falling within the Green Belt. But, there are exceptional circumstances that would justify it on this site, particularly the relatively short term nature of the construction period and the longer term gain that could accrue if the cycle track could be extended¹. If the cycle track could be extended at least as far as Outgang Lane that could potentially provide a northerly footpath and cycle link as well as taking cyclist clear of the village before linking with the road network. Recent developments and the need to relocate pylons might make this a more realistic possibility².

Conclusion

20.16 The reasons for selecting the site initially are not reflected in the current proposals for the development, particularly in relation to the provision of open space and the way in which the layout impinges on the cycle track. The current proposals should be amended accordingly.

¹ JM2.7 and 8 indicates work on a York to Dunnington Cycle route

² JM2.9 and 10

21. Written Submissions

The Environment Agency

Germany Beck

- 21.1 The Flood Risk Assessment satisfied PPG25 and therefore the Environment Agency has no objection to the application, provided conditions relating to surface water drainage works, compensatory storage, surface water runoff storage and the prevention of storage of materials in the floodplain are included on the decision notice. The Agency is not aware that a 'sequential test' has been applied. The site was allocated for housing long before the publication of PPG25 in July 2001. If this site had been put forward for allocation more recently application of the 'sequential test' would have been expected.
- 21.2 The Agency considers that the proposed development is unlikely to have an adverse impact on biodiversity and geology. Ecological surveys have not found any species listed in the EU Habitats Directive likely to be affected by the proposed development and there are no SPAs or SACs likely to be affected. Surveys have not identified any species protected under the Wildlife & Countryside Act 1981, or protected under any other legislation, on the proposed development site. The Agency has been involved in discussions with English Nature over the likely impact on Fulford Ings SSSI and with the City of York Council on the effects on the SINC beside Germany Beck. No adverse affect is anticipated on the former and plans are agreed to protect and if possible enhance the latter.
- 21.3 Germany Beck is a small watercourse draining agricultural land to the south east of York, discharging into the River Ouse to the south of York at Fulford. Germany Beck is classified as an 'ordinary watercourse' rather than a Main River. Local Authorities have permissive powers relating to flood prevention, maintenance of flow on 'ordinary watercourses'. But the site is within the Ouse and Derwent IDB area, which is the drainage authority having regulatory powers over works that are carried out on such watercourses.
- 21.4 All consultations have been based on the best data available at that time. During the early consultations from 1999 this was the Indicative Floodplain Map. In 2004 this was replaced by the Flood Zone Maps to illustrate the zones defined in PPG25. These are based on national modelling work using more sophisticated techniques and the maps are updated quarterly. The site partly lies within Flood Zone 3. Zone 3 represents the best estimate of areas with a 1% chance or greater of flooding each year from rivers with a catchment area greater than 3km², ignoring the presence of any defences. Aerial photographs and site topography indicates there is a low section of land acting as floodplain adjacent to the length of Germany Beck. Our records show that part of the site has been subject to flooding during the 1947, 1968, 1978, 1982, 1991, 1995 and 2000 flood events. This occurs when high water levels in the River Ouse prevent the natural flow from Germany Beck discharging into the river; this then floods the land adjacent to the Beck until the flood water level in the River Ouse has subsided. In large flood events this secondary flooding can also affect the A19, with floodwater on the carriageway. In normal conditions there are no known flooding problems along Germany Beck as it is able to discharge naturally into the River Ouse. The Beck flows through two culverts, one at Fordlands Road and one under the A19 prior to reaching the confluence.
- 21.5 There are 2 reports produced by the Agency relating to flooding issues on the Ouse. One is a hydrological study to provide modelled levels of predicted flooding, such as the 1:50, 1:100 and 1:200 year flood levels. The other report, 'The Ouse Strategy', is a long-term plan for flood risk management on the River Ouse. This includes areas that might qualify for flood defence schemes, or the raising of existing defences as well as looking at land management in the

catchment to control the effects of flooding. The strategy is still at a draft stage and does not specify the construction of any flood defences in the Fulford area, nor are any anticipated. The reason for this is that flood alleviation schemes are normally funded through DEFRA and are prioritised throughout England and Wales on a cost benefit ratio. A scheme to protect existing properties at this location would not score highly enough to be eligible for funding from DEFRA.

- 21.6 Consultations have been undertaken on several occasions between 1998 and 2004. These indicated that:
- as part of the site was in floodplain, compensatory storage would be required;
 - there might be a risk of flooding to the development itself;
 - storage for surface water drainage would be required on site;
 - the access road flooded in the 2000 floods, so an alternative access might be required and;
 - the foul drainage system surcharged in the 2000 floods, so the proposal should ensure that such problems would not be exacerbated;
 - a Flood Risk Assessment would be required. That submitted in March 2004 allowed the Agency to remove its objection to the scheme, subject to suitable conditions.
- 21.7 The FRA is prepared in accordance with the advice in PPG25. The highest recorded flood level is 9.65m AOD and a report on the River Ouse by consultants provides a modelled 1% flood level of 9.81m. The proposed housing would be set on land outside the predicted flood zones and above the modelled flood level. Floor levels would be raised a minimum of 600mm above the modelled 1% flood level, plus an additional 300mm freeboard to allow for climate change. It was previously agreed that the surface water run-off from the development could have an unrestricted discharge to Germany Beck. Although that would not cause any drainage problems during normal conditions, in a flood the surface water run-off would be unable to discharge due to the capacity of the Beck and the river level. The FRA suggests the use of SUDS to restrict surface water run-off and storage areas further upstream to allow surface water drainage to be stored when it is unable to discharge.
- 21.8 The Agency's Conservation Section have been involved in the consideration of the proposed development adjacent to Germany Beck over a number of years since the proposals were first put forward. The Agency's main focus of concern has been on the Beck itself and associated wetlands with particular regard to protected sites and protected species. In co-operation with City of York Council's Countryside staff the Agency have agreed plans to protect and if possible enhance the ecological interest of the SINC designated by the City Council and known as Germany Beck Meadow. The Agency have also had discussions with English Nature over the possible impact on the Fulford Ings SSSI and, guided by their response, are satisfied that the proposed development would not have an adverse impact on this nationally important site. In those circumstances, and the agreed mitigation and enhancement measures for the SINC the Agency has not objected to the proposals on ecological grounds.
- 21.9 The Agency will continue to liaise with all parties to ensure that adverse impacts are avoided during both the construction and operational phases of the development and we will continue to seek opportunities to enhance the ecological interest in the area. The Environment Agency have no objection to the proposed development in principle, but have requested that the City of York Council condition the provision of compensatory storage, the management of surface water run-off from the site, the prevention of materials being stored in the floodplain and the displacement of flood water. The Agency are satisfied that the Flood Risk Assessment covers these points adequately in accordance with guidance contained in PPG25.

Derwenthorpe

- 21.10 The development site is adjacent to Osbaldwick Beck, an 'ordinary watercourse' forming the southern boundary of the site; it is a tributary of Tang Hall Beck and the River Foss. Although

the Agency has a general supervisory duty over all matters of Flood Risk Management, the Foss IDB has a supervisory role over all aspects of land drainage here. The Environment Agency's engineers have been working closely with the Foss IDB throughout the consultation process of this application.

- 21.11 All consultations have been based on the best data available at that time. During the early consultations from 1999 this was the Indicative Floodplain Map, which suggested that approximately 50% of the site was at flood risk. In 2004 this was replaced by the Flood Zone Maps to illustrate the zones defined in PPG25. These are based on national modelling work using more sophisticated techniques and the maps are updated quarterly. The site is now only partially within Flood Zones 3 and 2, as defined in PPG 25; most of it is in Flood Zone 1. Zone 3 is the Agency's best estimate of the areas of land with 1% or greater annual chance of flooding from rivers in catchments greater than 3km². Zone 2 is the Agency's best estimate of the areas of land that could flood under extreme conditions with a 0.1% chance of flooding each year. Both estimates assume the absence of any defences. The Agency does not hold any records of extensive flooding to the site from Osbaldwick Beck. However we are aware that the site can become waterlogged following heavy localised rainfall, most probably due to the underlying heavy clay soils in the area. We are however aware that there are existing flooding problems downstream of the site from Osbaldwick Beck.
- 21.12 A Floodplain Mapping Study has been undertaken for the Agency by consultants and includes both Osbaldwick and Tang Hall Becks; the aim was to understand how the watercourses might react following rainstorms across the catchment. The modelling considered the potential failure of the Foss Barrier and pumping station, and also the impact of blockages of the various culverts. In addition, more detailed topographical information was used to refine the extent of a 1% flood. This information informs the FRA. The indication is that the culverts and structures downstream of the development site restrict flood flows. Thus, the Agency believes that Osbaldwick Beck is likely to be sensitive to any increase in surface water run-off. However, this work indicates that the area believed to be at risk from a 1% flood event has been reduced significantly. The study also suggests that the influence of the Foss Barrier and pumping station is limited this far up the catchment. As the best available data for Osbaldwick Beck, the results of this report have been the basis of subsequent comments made by the Agency.
- 21.13 Consultations have been undertaken in the context of the allocations made in the Local Plan and in relation to the application site. The latter have occurred on several occasions between 2002 and 2004. These indicated that:
- an FRA was required in accordance with PPG25. A 'sequential test' was deemed inappropriate due to the previous consultations and the allocation of the site in the Local Plan;
 - objection lodged to the allocation of the site in the 3rd set of Changes to the Local Plan
 - objection to FRA submitted with the application requiring further consideration to the surface water management proposals;
 - revised FRA still raised some concerns over the details of the surface water management proposals;
 - FRA 'Addendum Report - August 2004' provided sufficient information and detail to demonstrate that the development should not increase flood risks; floor levels would be least 600mm above the 1% flood level. The Agency removed the objection to the scheme subject to conditions.
- 21.14 The results of the Agency's Floodplain Mapping Study showed that a much reduced area of the site would be at risk from a 1% flood as compared to the area shown on the earlier Flood Zone Maps. The final plans show that there would be no dwellings sited within the area at high risk (zone 3) and that the floor levels would be raised at least 600mm above the 1% flood level to

provide a margin of safety. This should give some protection against any inaccuracies in the model as well as increases in flood level and flows as a result of climate change. The main flood risk issue in the site specific FRA is the surface water run-off management, which was not covered in the Study. The site suffers from surface water problems due to the heavy clay soils. Nevertheless, the applicant demonstrates that the existing run-off rate from the site is significantly higher than the $1.4/s^{-1}$ rate for which the drainage system is to be designed for. Considerable discussion led to a SUDS solution with a large surface attenuation pond involving both gravity and pumped discharge options. This is accepted as appropriate. It is agreed that the drainage proposals would have a beneficial effect in some storm conditions compared with the existing situation on the undeveloped site. Hence, flood risks elsewhere would not be exacerbated by increased surface water run-off from the application site.

- 21.15 The Environment Agency is satisfied that the applicant has provided sufficient information, the FRA now accords with PPG25 and demonstrates that the proposed development should not pose an increase in flood risk either to the new dwellings or to existing property elsewhere within the Osbaldwick Beck catchment.

English Heritage

- 21.16 No objection is raised in principle to the detailed proposals put forward¹. But it is considered undesirable for the expansion of York to proceed on a piecemeal basis rather than in the context of a properly prepared policy framework. The long-held view is that an assessment should be undertaken to determine the ‘environmental capacity’ of the City to accommodate growth while ensuring that proposals do not harm the historic character of York in the long term².
- 21.17 York is one of a handful of settlements in England which has a Green Belt whose primary purpose is to preserve the setting and special character of a historic town. Of those settlements, however, York is unique insofar as it is the only one where precise Green Belt boundaries have yet to be formally defined. In view of the status of the York Green Belt, English Heritage is concerned about the principal of large-scale development around the periphery of the historic City being granted outside the Development Plan process because that might prejudice the definition of the inner Green Belt boundaries that ought to occur in the context of the emerging Local Development Framework. Given the primary purpose of the Green Belt, that could harm the special character and setting of the historic City. In addition, the applications are being considered without any strategic assessment of what the capacity of the historic City, as a whole, might be to accommodate further growth. An Environmental Capacity Study is required to assess the ‘fixed’ capability of the City to absorb future development.
- 21.18 Because the primary purpose of the York Green Belt is to preserve the setting and special character of the City, it is necessary to consider:
- What are the elements which contribute to the ‘special character’ of the historic City, how sensitive are those elements to change, and at what point would they be irreparably harmed by further growth, and
 - What aspects contribute to the ‘setting’ of the City, and at what point would these be irreparably harmed by the growth of York?
- 21.19 The implication which derives from the primary purpose of the York Green Belt is that, in order to protect the setting and special character of the historic City, eventually there may be a need to limit the further expansion of the City or to accommodate the future needs in a way other than by peripheral expansion. If that were not so, then there would have been no need for an encircling Green Belt around York. In order to ascertain at what point the special character or the setting of the City might be harmed (and, therefore, where a halt should be put upon the further growth of York) an assessment needs to be undertaken of the capacity of the historic city to accommodate further growth. Such an assessment should not just relate to what parts of York, in visual terms, are important to its setting and character, but should also extend to an evaluation of the effects which future development might have upon the other aspects which contribute to its ‘special character’. This is a view that has been put forward on several previous occasions, including by the Urban Panel and by CABE³.
- 21.20 Without such an assessment, it is not possible to ascertain whether the development strategy envisaged for the City is compatible with the primary purpose of the Green Belt or whether the Green belt boundaries eventually identified through the LDF would be likely to have the degree of permanence envisaged in national policy guidance. Granting permission for the application sites would prejudice the definition of the inner Green Belt boundaries and so harm the special character and setting of the historic City.

¹ Document 10, letter 52, May 2006

² Document 18

³ Document 18

21.21 These applications are being considered without any overall assessment of what the capacity of the City, as a whole, might be to accommodate growth without harm to its special character or setting. Moreover, there has been no consideration of the cumulative impact which these proposals, together with all the other sites emerging through the Local Development Framework, might have upon the character or setting of the historic City. English Heritage considers that it is the Development Plan - with its strategic overview of the City as a whole - which is the most appropriate mechanism for determining whether or not these sites should be developed. Incremental decisions on large development sites made outside the Development Plan process is not only against the underlying philosophy of the planning system as a whole, but is also unlikely to be in the best interests of the proper planning of this historic City and the definition of a Green Belt which would fulfil its primary purpose.

York Environment Forum

21.22 The York Environment Forum believes that permission should not be granted for these applications until a full Environmental Capacity Study has been carried out¹. The purpose of such a Study is to determine the finite capacity of a place to accommodate change without endangering the qualities which make it special. Then, on the basis of that analysis, to devise policies and guidelines to prevent that capacity from being over-reached. The crucial point is that a special place has a fixed capability to absorb activity and that this capability should be measured and monitored so that action can be taken to avoid that capability being exceeded. For example:

Applied to historic towns, the concept (of environmental capacity) supposes that every place has a fixed capability to absorb people and activities, but at some point the town may be able to take no more without losing the qualities that make it a special place. If the elements that make up that special character can be identified and monitored, action can be taken to prevent the limits being over reached². [It] sets out to identify and understand the special historic qualities of the town and to identify the tensions they are under. Simple methods of measuring the change in these qualities as circumstances alter, by the use of easily available indicators, are needed. The ... total of all the special qualities, the indicators of change and the possible critical points of future change, make up the capacity framework. The second stage sets out to examine the effect on the capacity framework of ... several hypothetical scenarios, each representing a possible future for the town. By examining the outcome of such scenarios, the effect of future policy decisions can be predicted. Thus a set of guidelines may be drawn up, within whatever policy framework is in place, into a plan for the management of the historic town and its irreplaceable assets.

21.23 The 'call' to undertake such a study has now been made without success for over a decade.

- In the context of the Structure Plan, the Panel concluded that the City could not accommodate what was, at that time, a much more limited amount of growth than is proposed at present without harm to its character.
- In March 2003, the Urban Panel of English Heritage and the Commission for Architecture and the Built Environment, in assessing the impact of 2 major brown field sites, indicated that significant new development in the City must be judged against a full understanding of its capacity to accommodate additional growth without harm to its character or setting.
- In 2003, responding to the 3rd set of Changes to the City of York Local Plan, English Heritage objected to all proposed development sites on the grounds that the primary purpose of the Green Belt around York is to safeguard the special character of the City, which might be harmed by unconstrained growth, so that the starting point for the definition of the Green Belt around York must be some assessment of how much growth the City can accommodate before its setting is impaired.
- In 2004 the York Environment Forum made representations the Green Belt Working Group that an Environmental Capacity Study was necessary. This was declined (in the end by the Regional Assembly) on the grounds that similar work had already been done in preparation of the Local Plan and would be covered by work required for the production of a Sustainability Appraisal for the Local Development Framework.

21.24 It is not accepted that a Sustainability Appraisal would provide a comparable assessment to an

¹ Document 17

² This 'definition' is taken from the Foreword to the Final Report on the Environmental Capacity Study for the City of Chester, Arup Economics and Planning, Final Report on Environmental Capacity: A Methodology for Historic Cities'; for Chester City Council, February, 1995

Environmental Capacity Study. The former does not recognise that a special place may have a finite capacity to absorb change. In any case, it is intended to weigh and balance different options with the object of applying the least damaging option rather than preserving the special character of an historic City. Moreover, neither form of assessment has yet emerged. Similarly, the Conservation Area Appraisal for the 'historic core' of the City (intended to provide SPG for the Local Plan), is also uncompleted. Now that the Plan is abandoned in favour of preparing a new LDF more than 10000 objections remain outstanding. These should be taken into account in determining the large scale development schemes at Germany Beck, Derwenthorpe and the University.

- 21.25 The Local Plan has never been subjected to a full independent scrutiny; there is no statutory Green Belt; and, there is no attempt to demonstrate why the City is now able to find locations for a greater level of development than previously anticipated without adversely affecting the special character and setting of the place. Yet high levels of new development are being accommodated.
- 21.26 Permission should be refused until an assessment has been made of the impact due to the scale of growth proposed demonstrating that it would not damage the special character of the historic city. It must also be shown that the allocations and policies based on that assessment are in place to safeguard the special character and setting of the City.

David Gamston

- 21.27 There is also concern that the forward planning documents do not pay nearly enough regard to the unique characteristics of York¹. There are local and regional political agendas for economic growth, but they seem to ignore the capacity of special places like York to accommodate it without harm. There should be more serious work done on defining the ‘carrying capacity’ of this historic City.
- 21.28 Objections are lodged to some 700 houses being accessed from a single road to the already over-trafficked A19.
- 21.29 And, the absence of any properly-constituted Local Plan or LDF setting out the extent of the Green Belt and the level of housing requirements lead to calls to post-pone any decision now. As the City of York Local Plan was abandoned, with many issues unresolved and objections unheard, it should not be accredited undue weight. At the pre-Inquiry meeting the Inspector declared himself reluctant to dismiss the ‘years of planning effort’ by the Authority, but that should not condone bad or indifferent planning. Similarly, Green Belt must depend on a proper strategy towards growth and urban limits. Again, both this and the development land allocation question would seem to come back to the larger issue of first defining the ‘carrying capacity’ of the City as a whole. The representations made by English Heritage and the York Environment Forum are thus important.

¹ Document 19, David Gamston’s letter

22. Written Representations

Germany Beck

- 22.1 The representations received are almost entirely to express some form of objection to the scheme.
- 22.2 Replies to consultations on the original submission and later amendments are summarised in the Committee Report¹. There were many objections to the scheme from local residents and interest groups mainly due to the perceived impact of the scheme on amenity as a result of vehicular access, flooding and effect on a purported battlefield site. There have been many points made in 5 petitions (including one with 719 signatures) and 156 letters².
- 22.3 Representations received in relation to the application up to 24 March 2006 have been analysed by the Council³. In the 73 letters of objection received, the most common reasons for objection were:
- The level of traffic generation and a single point of access on to the A19 (points made 66 times)
 - Flooding (52)
 - Historic value of battlefield site (31)
 - Loss of open space and the rural character of land (24)
 - Preference for brownfield rather than greenfield development (22)
 - Loss of Green Belt (17)
- 22.4 There was one letter of support, on the grounds of housing needs in York.
- 22.5 Representations received subsequently and during the Inquiry reiterate many of those points. Typical concerns include:
- That Low Moor Avenue and Heath Moor Drive should not be used as part of a bus route across the site because the roads are narrow, the properties close to road and the impact would result in the loss of privacy and damage the community.
 - That the traffic from 700 houses would generate some 1400 cars all using one access on to a busy and congested road; congestion on the A19 would thus be increased. The access arrangements would cause particular problems for Fordlands Road residents.
 - There would be an increased risk of flooding due to raising the spine road across the flood plain and raising the level of the A19.
 - That the development would encroach on to what ought to be Green Belt land and damage the setting of an historic City.
 - That the scale of the scheme would impair the setting of the Fulford Conservation Area.
 - That the site of the battlefield should be preserved.

Derwenthorpe

- 22.6 There were many objections to the scheme from local residents in terms of the impact on their amenity as a result of the increased traffic movements, increased flood risk, and increased pollution. There have been many points made in 2 petitions and a total of 180 letters⁴.
- 22.7 A number of letters of objection and a few of support were also sent to the Planning Inspectorate as a result of the application being 'called-in'. Those received up to 24 March 2006, have been

¹ Appendix 2, Y4

² Y4, Appendix 2, pages 29-35

³ Y3

⁴ Y3, appendix 2 sections 3.3, 7-8

analysed by the Council. In the 36 letters of objection received, the most common reasons were:

- That the traffic generation would be too high and the access arrangements inadequate (point made 31 times).
- That the scheme would result in the loss of high quality wildlife habitat or open space (23).
- That the proposal would exacerbate flood risks (18).
- That brownfield sites should be developed before greenfield sites (11).

22.8 There were also 7 letters of support. The most common reasons were:

- That development would remedy vandalism and improve a neglected site (7).
- That the scheme involved designs of quality and a pioneering approach to the provision of 'social' housing (5).

22.9 Representations objecting to the scheme received subsequently and during the Inquiry reiterate many of those points. Typical concerns include:

- The site offers an attractive environment close to houses. It represents a unique stretch of countryside providing the only remaining area green space between the edge of the City and the ring road. It is the only green area for dog walking and other forms of quiet recreation.
- It provides a haven for protected and unprotected wildlife, supporting grasslands, hedges and ponds and providing habitats for water voles, great crested newts, hedgerow birds and bats. The fields contain medieval meadowland, which is of historic interest. But the land is blighted by the prospect of development and it has been allowed to become degraded by poor management.
- The site ought to be part of the Green Belt. It should not be developed until brownfield sites in east of the City, such as Heworth Green, New Lane, Huntingdon, Hungate, and Coppergate have been developed. There are other ways of providing sufficient housing; derelict houses should be refurbished or run down areas rejuvenated first.
- The site is in the flood plain. It is also badly drained and can retain quantities of surface water. The scheme would appear to entail some lowering of the water table on the site. That could lead to subsidence of existing houses. Many properties nearby are built on shallow foundations susceptible to the movement of clay soils, thereby causing subsidence.
- The access arrangements would be inadequate to cope with the traffic generated. The new traffic would cause congestion, noise and fumes and all of it would traverse unsuitable roads through existing estates causing congestion, noise and fumes. All 4 access roads eventually lead to Tang Hall Lane, which is already severely congested. In any case, there is no guarantee that the 4 quarters proposed would not be opened up to enable traffic through the estate. It is suggested that there should be an access road east of Metcalf Lane, as had been proposed in the Aire design.
- The arrangements at Temple Avenue would be particularly poor. The road is narrow and properties let to student increase the competition for scarce car parking places already. Providing more green space to the east and with an access on to Hull Road, would have allowed Temple Avenue to be used only for pedestrians.
- The arrangements at Meadlands are equally narrow and unsuitable; it is suggested that a private access would have to be closed. The estate is already a quiet home zone. An upgraded Sustrans cycle track could have accommodated some vehicular link, but that has been ignored.
- A previous scheme here envisaged only 360 dwellings. Now 540 are proposed, which is too many.

22.10 Representations supporting the scheme suggest that:

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- The scheme encompasses the importance of long term housing management, attractive and integrated communal areas and affordable housing. It brings together innovative thinking on standards of design, tenure, traffic management and sustainable communities.
 - Contributions to the provision of a new sports hall at Burnholme College are welcomed. Currently the school have to use the University facilities and must pay to so.
 - Some local people also support the scheme considering it to be well thought out and exhibiting a high standard of design. The Trust itself is welcomed and the consultations supported. It is suggested that it has always been known that the field would be built on.

23. Representations made at the Evening Meetings

Germany Beck ~ Thursday 20 July 2006

23.1 Many residents voiced similar concerns and, not surprisingly, many reflected matters that had been raised in the written representations. Not everyone understood precisely what the scheme entailed, so some explaining was necessary during the course of the evening. The gist of the main points raised include:

- The sudden announcement of the provision for the bus route across the site was seen by some as a 'trick' to divert attention from fundamental objections to the development. In any case, Low Moor Avenue and Heath Moor Drive should not be used as part of a bus route across the site because the roads are narrow, the properties close to road and the impact would result in the loss of privacy and damage the community. There are many old people on this estate partly because it is quiet and the houses easy to manage. The scheme would entail the destruction of an attractive tree.
- That the traffic from 700 houses would generate far too much traffic to be accommodated on an already busy and congested road; congestion on the A19 would thus increase. It can sometimes take a long time to get from Fordlands on to the main road now. In congested conditions traffic can back up to the A64 and interfere with traffic on the trunk road.
- Congestion must add to noise, fumes and emissions from traffic, spoiling the Conservation Area and undermining the 'sustainable' building purportedly to be undertaken on the site.
- The site is in the wrong place to provide for the needs of local people. It is too close to the A64 and can only encourage commuting to Leeds and residents likely to own more than one vehicle.
- The schools also generate a considerable amount of traffic in the mornings and afternoons; turning into or out from School Lane can be difficult. More vehicles on Heslington Lane would cause hazards.
- The access arrangements would cause particular problems for Fordlands Road residents.
- The cycle routes and footpaths proposed would not always provide adequate alternative modes of travel. The route to the City can be under water in times of flood. They are also narrow. The pavements in the village should not accommodate pedestrians and cycles.
- The flood event of 2000 could have been substantially worse if it had coincided with high tides. The River Ouse is tidal as far as Naburn Lock. There would be an increased risk of flooding due to raising the spine road across the flood plain and raising the level of the A19. Moreover, run-off would increase. That could affect the flooding regime of the SSSIs
- Fulford has the ambience of a village and the expanse of agricultural land creates a peaceful setting. Sky larks and yellow hammers used to be heard in the fields. The scheme would destroy such tranquillity and impair the setting of the Fulford Conservation Area. The development would encroach on to what ought to be Green Belt land and damage the setting of an historic City.
- Land could be developed elsewhere to provide for the needs of York residents. Persimmons own the garden centre opposite Walmgate Stray. There are empty houses for sale in the vicinity of the Barracks and advertised in the evening paper.
- That the site of the battlefield should be preserved. It is difficult to identify remains at a medieval battle site.

Derwenthorpe ~ Thursday 29 June 2006

23.2 Many residents expressed similar worries and some of the points raised reflected matters identified in the written representations. The gist of the main points raised include:

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- The site offers an attractive environment close to houses. Meadlands is a quiet 'home zone' and the site complements it, providing a stretch of countryside for walking, taking grandchildren to play or walking the dog.
 - The site provides a haven for protected and unprotected wildlife, supporting grasslands, hedges and ponds and providing habitats for water voles, great crested newts, hedgerow birds and bats. The fields contain medieval meadowland, which is of historic interest. But the land is blighted by the prospect of development and it has been allowed to become degraded by poor management.
 - The site ought to be part of the Green Belt. It should not be developed until brownfield sites have been developed. The site at New Lane, Huntingdon does not possess the nature conservation interest or the traffic problems associated with Derwenthorpe.
 - The site is in the flood plain. The car park at the nearby school can be under water. The site is badly drained and can retain quantities of surface water.
 - The scheme must entail some lowering of the water table. The concern is that would alter the hydrology and affect the characteristics of the glacial sand and clay beneath the site. That could lead to subsidence of existing houses, especially in Meadlands where many properties are built on shallow foundations susceptible to the movement of clay soils. Underpinning might be necessary. The developers should fund such work, if required. Some thought that the 'retention tank' at the nearby school had collapsed due to the unstable nature of the sub-soil. However, a more convincing reason proffered was that it has been poorly constructed.
 - Concern was expressed that the 'retention pond' proposed would be a danger to children.
 - The traffic generated by the scheme would be additional to the traffic generated by the local schools. Applefield Special School has recently been extended to take pupils from schools that have closed. Almost all the children (about 160) are conveyed by car or bus to the school.
 - The access arrangements would be inadequate to cope with the traffic generated. The new traffic would cause congestion, noise and fumes and all of it would traverse unsuitable roads through existing estates causing congestion, noise and fumes. All 4 access roads eventually lead to Tang Hall Lane, which is already severely congested.
 - There is no guarantee that the 4 quarters proposed would not be opened up to enable traffic through the estate, creating more hazards for the surrounding neighbourhoods.
 - The access arrangements at Meadlands are narrow and unsuitable; it is suggested that a private access would have to be closed. The estate is already a quiet home zone.
 - The scheme has been pursued regardless of the views expressed by residents. A previous scheme here envisaged only 360 dwellings. The scheme proposed by Aire Design and preferred by residents involved a new access to the east of the site as well as the use of the Sustrans track by some vehicles. The scheme chosen rides 'rough-shod' over those views.

24. Conclusions

24.1 The application site and its surroundings are described in section 2 and the main features of the proposals, the section 106 Agreements and some of the key conditions are outlined in section 3. The Environmental Statements, together with the updated environmental information (as referred to in section 1) has been taken into account. As indicated in section 1, PPS3 and PPS25 were issued after the close of the Inquiry; it is the draft versions of the documents that are referred to here. The numbers in square brackets below are references to previous paragraphs in this report.

24.2 Bearing in mind the above facts, I find that the overriding considerations here are as set out in the 'call-in' letters. Specific answers to the questions raised are set out in annex 3 to this report. They form the basis for the matters addressed at the Inquiry which sought to focus on whether these proposals would:

- accord with the Development Plan, as far as it relates to either site;
- be justified by policies, proposals or arguments that remain relevant even though they are embodied in previous planning documents;
- prejudice emerging plans or foreseeable policies;
- make crucial contributions to meeting housing requirements in York in terms of:
 - the provision of dwellings,
 - the need to provide family housing, and
 - the need to provide affordable homes;
- satisfy tests set out in the draft version of PPS3 in terms of:
 - the 'sequential' test and the 'sustainable' qualities of each site location,
 - the 'quality' and 'sustainability' of the schemes,
 - the efficient use of land and the contribution to a verdant residential environment;
- constitute inappropriate development on land that ought to be treated, for the time being, as if it were within the York Green Belt and, if so, be justified by 'very special circumstances';
- impair, rather than preserve or enhance, the setting of adjacent Conservation Areas;
- spoil the privacy, peace or prospect nearby residents might reasonably expect to enjoy;
- satisfy tests set out in the PPG13 in terms of:
 - providing safe and suitable access arrangements,
 - fostering travel by means other than the private car,
 - not exacerbating traffic congestion unduly, and
 - contributing to long term aims to set out in the Local Transport Plan;
- satisfy tests set out in the draft version of PPS25 in terms of:
 - accommodating flood risks identified for each site,
 - complying with the 'sequential' or the 'exceptions' tests,
 - making suitable provision for managing surface water in a sustainable way;
- significantly harm important nature conservation interests or provide adequate mitigation for any harm caused;
- obliterate important archaeological remains, or their setting, that warrant preservation.

24.3 The conditions appropriate to each scheme are set out in 2 annexes attached to this report. The appropriate form of one or two conditions is considered at the end of this section. There are also 2 Agreements associated with the schemes.

Plans and prematurity

Plans

24.4 The Development Plan consists of the approved RSS (2004) and the North Yorkshire County Structure Plan; the latter was last altered in 1995 but much of it (including Green Belt policies) has not been materially changed since it was first approved in 1980. Neither of those Plans

provides site specific details. Neither document unambiguously designates either application site for any specific land use. Indeed, no detailed statutory plan has identified either site in relation to a planning policy except the Flaxton Town Map, which was published in 1973 after taking a dozen years or so to pass through the Ministry from its draft submission in 1961; it shows the Derwenthorpe site as not within the Green Belt. Of course, a cacophony of Plans, studies and Development Briefs have subsequently identified the application sites for a land use planning purpose, usually for housing. But, none of those documents has progressed to a recognised statutory stage. [4.1-4.4, 5.7, 5.8, 5.41, 5.42, 6.1, 8.1, 8.14]

- 24.5 Little can be gleaned from the Development Plan as it currently stands. The North Yorkshire County Structure Plan indicates that ‘a belt whose outer edge is about 6 miles from York City centre’ should be designated as Green Belt (policy E8). But, as detailed Green Belt boundaries have not been defined in any statutory Local Plan neither site is unambiguously identified as being within, or without, the Green Belt. And, of course, the related housing figures, which were only projected to 2006, are now out of date. An average annual housing requirement can be derived for York from the approved RSS (using policy H1 and some assumptions). But, apart from supporting a preference for new housing to form ‘extensions to main urban areas’ if previously developed land or sites within large towns cannot be found (policy H2), that strategic document does not identify appropriate locations to accommodate the housing required. Hence, if the application sites are outside the Green Belt and additional land for housing can be demonstrated to be necessary in order to meet the housing requirements, then the policy framework would support these schemes as extensions to York provided no overriding harm were to ensue in relation to other interests. If, on the other hand, the sites should be treated as being within the Green Belt for the time being, then ‘very special circumstances’ would be required to justify their development. The ‘very special circumstances’ that might exist here are derived, essentially, from the quality of the schemes and their potential contribution to meeting a variety of housing needs. [4.1-4.4, 4.9-4.12, 5.7, 5.8, 5.13-5.15, 5.41, 5.42, 6.1, 6.3, 8.1, 14.2]
- 24.6 Can any guidance be gleaned from the plethora of non-statutory Plans and planning documents that do identify the sites for a specific land use planning purpose? The Secretary of State’s decision at Monks Cross suggests that ‘very limited weight’ should be given to the York Green Belt Local Plan and to the City of York Local Plan because they remain unadopted. And, although used for development control purposes, further work has now ceased on the latter in order to progress the LDF and Core Strategy under the Act of 2004. But, ‘very limited weight’ does not mean ‘ignore’. Moreover, the Courts have frequently ruled that a very wide range of matters are capable of constituting ‘material considerations’ in the context of making planning decisions and should, therefore, be taken into account. It would be very surprising if Local Plans, albeit unadopted but prepared to comply with the Government’s aim to achieve a Plan-led approach to development, were to be barred from the possibility of constituting a ‘material consideration’ here. Numerous decisions, including Court judgements, also demonstrate that neither the age nor the statutory status of Plans is, in itself, sufficient reason to pay very little regard to their contents. Indeed, the Monks Cross decision demonstrates that the crucial test relates to the continuing relevance of the policies, proposals and the supporting reasoning. In that decision the limited relevance of the reasoning for continuing with the allocation at Monks Cross was demonstrated (due to an absence of ‘need’) and there was also a failure to show that the allocation complied with current policy (namely a sequential approach to site selection). It follows that the Monks Cross decision does not imply that everything in the cited Local Plans must always be given ‘very little weight’ or that the approach at Monks Cross can be automatically applied to the application sites. Rather, the test is how relevant the policies, proposals or reasoning remain. [4.41, 5.43, 6.24, 8.13, 14.2]
- 24.7 Part of that test relates to the consistency exhibited by relevant planning judgements over time.

The site at Germany Beck has been assessed as suitable for housing in the context of several different planning exercises over the previous decade. The core of the site was identified for housing in the deposit consultation draft of the Selby District Local Plan in 1995 with access from the A19. That followed the Inspector's recommendation, accepted by the local planning authority (the County Council) and published in the post-Modification version of the York Green Belt Local Plan in 1995, to exclude most of the site from the Green Belt. The allocation remained through 4 sets of pre-Inquiry Changes to the City of York Local Plan over the 7 years from 1998 to 2005, including the comprehensive reassessment of allocated housing sites undertaken for the 3rd set of Changes in 2003. A Development Brief was published in 2000 and revised in the light of consultations in 2001 setting out the principles for residential development on the site. [4.1-4.4]

24.8 The site at Derwenthorpe has been shown as a housing site for a quarter of a century. Early Plans (including the Flaxton Town Map) had excluded the site from the Green Belt. It was first identified for housing in a draft Southern Ryedale District Plan of 1981. The allocation remained in the Greater York Study (1991), an exercise required by the Secretary of State, and in the planning processes leading to the post-Modification versions of the York Green Belt Local Plan (1995) and the Southern Ryedale Local Plan (1996), supported by the Inspector's recommendations. Those Plans and recommendations form the basis of the site remaining allocated for housing through the 4 sets of pre-Inquiry Changes to the City of York Local Plan and the comprehensive reassessment of housing sites undertaken for the 3rd set of Changes in 2003. A Development Brief was published in 2002 setting out the aims and framework for housing development and indicating the requirement to achieve a high proportion of affordable housing. [5.8, 5.9, 20.2-20.9]

24.9 It seems to me that such effort should not be thoughtlessly discarded. First, it has been embedded in the planning process and directed towards the preparation of Local Plans. As such, past decisions must have been made on the basis of the emerging policies and proposals contained in those documents, particularly as they progressed further along their paths to adoption. Certainly, the York Green Belt Local Plan and the Southern Ryedale Local Plan passed through every stage except for the final formal adoption. And, even the City of York Local Plan has passed through 4 sets of Changes in response to extensive consultation exercises. Second, the suitability of the application sites for housing is the result of several different professional assessments, some of which incorporate a thorough independent scrutiny. Although such professional opinion must be rigorously tested, those assessments are still capable of being relevant, provided appropriate circumstances still pertain. Third, in the absence of any statutory Local Plan, according 'very limited weight' to the documents actually available must bestow 'very limited weight' on the only Plans that allocate sites for development. In fact, however, some of those allocations attract considerable support and are, even now, being pursued with vigour. The allocation at York Central, for example, remains relevant partly because it would make good use of vacant or underused land close to the City centre. This illustrates that it is the relevance of the allocation to current policies and circumstances that remains important even when the age and status of the Plan may be inauspicious. Fourth, the long period over which both sites have been shown as suitable for housing in some form of Plan or planning document must encourage commensurate investment decisions. An unadopted Plan does not remove risk, but it is not intended to be capricious. The policies and proposals are meant to guide the development and use of land. Whether they should still do so depends upon how relevant they remain. [4.1-4.4, 4.9-4.12, 5.7, 5.8, 5.13-5.15, 5.41, 5.42, 6.1, 6.3, 8.1, 14.2]

24.10 For those reasons, much of this report is directed at testing just how relevant the policies, proposals or reasoning supporting the allocations still remain, since the applications reflect the allocations. And, where changes in policy or circumstances have occurred, it is necessary to assess whether they would justify or jeopardise the proposals. In addition, any harmful consequences that might arise from the schemes must be enumerated. Most of those relate to

matters of detail. However, a general concern is that permission for these schemes now could prejudice decisions that ought to be taken in the context of emerging Plans or strategies. [7.1, 8.1-8.4, 9.1, 15.1-15.4, 18.3, 18.4, 19.2-19.4]

Prematurity

- 24.11 Government advice is that ‘prematurity’ should not be a ground for refusal unless a scheme is substantial or significant enough to prejudice decisions on the scale, location or phasing of development being addressed in a DPD policy. Moreover, even if a DPD is at a consultation stage but with no prospect of early submission for examination, then refusal on the grounds of ‘prematurity’ would seldom be justified. These schemes would certainly be substantial enough to prejudice decisions on the scale, location or phasing of housing development; together they would provide about 20% of the dwellings required in York over a 10 year period. But, no relevant DPD exists here. Not even the Core Strategy has reached an appropriate consultation stage. There is simply no policy or proposal ‘being addressed’ in any emerging DPD for the schemes to jeopardise. [4.5, 4.6, 5.9, 5.12, table 1]
- 24.12 The advice in the draft and published version of PPS3 is even more stringent. It implies that ‘prematurity’ issues cannot apply in relation to ‘site allocation DPDs’, although where permission would discourage development on allocated (and suitable) brownfield sites it should be refused. I do not address the first part of that advice for the reasons set out in the preceding paragraph. The latter part is essentially an application of the sequential test. The evidence adduced demonstrates that neither scheme would discourage development on any allocated and developable brownfield site. On the contrary, the requirement to develop the application sites is predicated on the assumption that all allocated and conceivable brownfield sites are developed up to 2016. Not only is there no evidence that these schemes would stymie impending development on any brownfield site, but also recent experience has been of significant development on brownfield land in spite of these allocations. The Urban Capacity exercise did not identify a significant source of currently unknown brownfield sites that might contribute to the housing requirements. And, the one ‘surprise’ (being the possible availability of the site at the sugar beet factory) remains no more than a possibility entailing substantial preparation, investigation and infrastructure works before any on-site completions could be realised. The schemes would not be premature in the sense defined by both draft and published PPS3. [5.10-5.12, 6.3-6.9, 7.2, 7.3, 6.3, 6.22, 8.1, 14.5, 14.6, 15.9]
- 24.13 Objectors canvass delay on slightly different grounds. First, the claim is that delaying a decision for a couple of years or so would allow a determination to be made in the context of properly considered strategic policies (in an updated and adopted RSS) and, possibly, also in an emerging (even adopted) Core Strategy. The fundamental alterations likely to be embodied in those documents would warrant the limited delay required. Second, it is suggested that because the purpose of the York Green Belt is to protect the setting and special character of the historic City, the encircling configuration currently chosen must imply the existence of a point where further peripheral growth could be harmful. Decisions should thus be delayed to enable an ‘environmental capacity study’ to be undertaken to ascertain the capacity of the historic City to accommodate further growth. Third, it is argued that the contribution of these sites to meeting the housing needs identified in the early stages of development would be modest enough to imply that such a delay would be harmless. [4.5-4.8, 5.12, 6.9-12, 7.2-7.8, 8.2-8.8, 9.1, 14.2-14.18, 15.9-15.29, 16.4, 16.5, 18.3, 18.4, 19.2-19.4, 21.16-21.29]
- 24.14 I agree that issues of prematurity can relate to the emerging RSS, since it forms part of the Development Plan. In this case the ‘general extent’ of the York Green Belt and the housing requirements of York are to be discussed at the EiP. A report is forecast for January 2007 containing appropriate recommendations, so raising the possibility of the revised RSS being adopted within 18 months. Nevertheless, I do not agree that permission for the application sites

now would be likely to prejudice such strategic considerations. The bulk of the submissions on housing requirements and needs argue for an increase in provision and, although the outcome must remain uncertain, the likelihood of the required provision being reduced to an extent that would render either site surplus to requirements seems to me to be too remote to warrant much consideration. As for the 'general extent' of the Green Belt, it is just that. The outcome of the EiP process may identify the broad extent of a Green Belt, but it could not define detailed boundaries and, for that reason, it would be unlikely to clarify whether or not either site was, or was not, Green Belt land. And, even if radical options for a 'new Green Belt' were to emerge, none of those canvassed would be stymied by the schemes proposed. Both schemes would be consistent with a strategy to extend the City to the ring road, or to expand it along radial routes but preserving 'green wedges' (as neither site would impinge on a 'green wedge' for reasons dealt with later) or to maintain a tightly drawn Green Belt (since both sites are 'urban extensions' to the City). In my view, therefore, the schemes could proceed without prejudice to the emerging RSS. [4.9-4.12, 5.13-5.14, 6.9-6.12, 7.7, 8.2-8.4, 8.13-8.21, 9.1-9.14, 14.2-14.18, 15.9, 15.39-15.43, 16.4, 19.5, 19.6]

24.15 Would a delay be warranted to await the preparation of the Core Strategy? There is no indication that the likely content of the Core Strategy would provide any further guidance relevant to the development of the application sites that could not be derived from the RSS. It is not impossible for a Core Strategy to include the allocation of strategic sites. But there is no indication that such an approach would be followed here. On the contrary, the published Local Development Scheme indicates that the 'allocations and proposals map' would not be adopted until August 2009. Worse still, the programme has already slipped. As yet only preliminary consultation has taken place on the Core Strategy; there is no sign of the 'preferred options', let alone a document for submission to the Secretary of State, both of which entail public consultation phases. As currently envisaged, it is likely that the emergence of detailed DPDs would suffer consequent delays. Moreover, the allocation of land and the definition of inner Green Belt boundaries are likely to prove very difficult. Indeed, the 6 year hiatus in taking the City of York Local Plan beyond its deposit stage (due largely to problems associated with the detailed definition of the Green Belt) might illustrate the potential magnitude of the task. In my view, the programme set out in the LDS is likely to prove unrealistic. I would be surprised, in spite of the forecast by the Council, if a relevant detailed DPD were to be adopted before 2010; it could be much later. In those circumstances, I am unconvinced that a delay in deciding these applications would serve any useful purpose. [4.5, 4.6, 5.9, 6.9, 6.18, 8.2, 14.5]

24.16 Would a delay be warranted to await the results of an 'environmental capacity study'? Obviously not. As English Heritage raise no objection in principle to the detailed proposals put forward, it must follow that their concern about the 'environmental capacity' of York does not encompass any harm from the application schemes, including in the long term. It may be that an 'environmental capacity study' might provide a useful framework in which to assess future proposals. But, it seems to me that the current manifestation of the concept embodies some flawed assumptions. Some of them include the idea that an historic town might have a 'fixed' capability to absorb people and activities; that the elements contributing to that special character can be identified and monitored; and, that simple methods of measuring change can be identified. More importantly, an assessment of the quality and characteristics of the spaces around York that contribute to the special character of the City, and hence to the primary purpose of the Green Belt, have already been undertaken in the context of Green Belt appraisal. Neither application site would encroach into to any space identified as contributing to that Green Belt purpose. And, of course, that is confirmed by the recommendations made in the context of the York Green Belt Local Plan. Neither site was considered to contribute to the special purpose of the York Green Belt. [4.5, 4.6, 5.9, 6.9, 6.18, 8.2, 14.5, 4.43-4.46, 5.44-5.48, 6.71-6.73, 7.16, 7.41, 8.22-8.24, 9.4-9.11, 10.1-10.3, 15.44-15.50, 19.5, 19.6, 21.16-21.26]

24.17 Would a delay be harmless? It is demonstrated below that without any development on the

application sites there would be a substantial dearth of housing land to meet current requirements up to 2016. Even with the proposed schemes the ‘over-provision’ estimated would be marginal; it would amount to barely 2 months supply in relation to the emerging RSS and about 7 months in relation to the approved document. Those ‘surpluses’ could be swamped by the margin of error inevitable in such exercises. But, even taken at face value, it is clear that delaying development by 2 to 3 years could well result in a failure to meet the current housing requirements by 2016 (the consequences of which are explained in more detail below). Moreover, preventing development for a couple of years now could well entail substantially more delay. Even assuming that new applications submitted in the context of an adopted (or nearly adopted) DPD progressed through the system much more quickly, there could be no guarantee that objections would be prevented or that further work on an ES would not be required. And, of course, any change in circumstances would need to be accommodated. All large scale schemes require extensive preparation and a decision to ‘stall’ the current programme might entail additional time to start it again, so accentuating the likely shortfall in the housing provision. In addition, there is a flaw in the claim that such a shortfall could be made up by development elsewhere. Essentially, the sites canvassed as providing an additional source of housing would actually be accommodated within the ‘windfall’ allowance, even if such additions were to materialise, which is sometimes doubtful. There is no obvious additional source of housing provision. (This is considered in more detail below.) [4.5-4.8, 5.12, table 1, 6.9-6.12, 14.2-14.18, 15.9-15.29]

- 24.18 Such delay could, all too easily, jeopardise the Derwenthorpe scheme. The proposal is currently supported by the agreement of the Housing Corporation to provide funds in relation to the affordable housing proposed and the activities of the Trust as a Housing Association. Those funds could not be guaranteed if the scheme were to be ‘stalled’. On the contrary, it would be necessary to apply for a new Housing Corporation Grant. The process is fiercely competitive and the outcome would depend upon the quality of competing schemes in relation to the Corporation’s objectives pertaining at the time. [5.12]
- 24.19 The conclusion is that the schemes would not be prejudicial to emerging plans or foreseeable policies, so that delay on those grounds would not be warranted. On the other hand, preventing development could result in a failure to meet current housing requirements and jeopardise the ability to implement at least the Derwenthorpe scheme.

Housing; numbers, markets and needs

- 24.20 The City of York Local Plan allocates both application sites for residential development. Because that Plan is not a statutory document and, although used for development control purposes, is not now to be taken any further, it is necessary to thoroughly test the basis for those allocations to determine whether applications that reflect them are still warranted. The two main tests relate to the Green Belt and the housing requirements. The question of whether either site should be treated as Green Belt for the time being is addressed later. Below I consider whether ‘greenfield’ land for residential development (whether consisting of the application sites or some other ‘greenfield’ location) can be demonstrated to be necessary in order to meet the housing requirements for York. Those housing requirements are examined in relation to:
- numbers,
 - the need for particular types of housing (in this case family dwellings), and
 - the need for affordable housing.
- 24.21 As the draft and published version of PPS3 indicates, applications for housing made in advance of a DPD, or in relation to unallocated sites, should be considered favourably where:
- there is an imbalance in demand and supply (including for affordable housing),
 - sites are suitable and,

- schemes make efficient use of land and provide a good mix of high quality homes without any unacceptable impact on the environment.

24.22 It is, essentially, the first of those tests that is applied here. The suitability of the sites and the quality of the schemes are addressed later. However, the degree of imbalance in the demand and supply of housing that would warrant development on a 'greenfield' site is not yet a tried and tested concept and, as I explain later, the evidence here is inconclusive. Hence, my assessment is confined to the more traditional question of whether the provision of housing is likely to meet the housing requirements.

Numerical housing requirements

24.23 Are developments of the scale proposed necessary to meet the number of dwellings required in York up to 2016? Those requirements are derived from the approved and the emerging RSS. The analysis undertaken for the Inquiry shows that without these 2 'greenfield' sites the annual provision would fail to meet the annual requirement for every year between 2007 and 2016 and that, although modest surpluses would pertain at 2011 (at least on a residual basis), there would be a substantial deficit (amounting to about $\frac{1}{3}$ of the requirement) over the period 2011-2016. Indeed, even on a residual basis there would be a shortfall of nearly 2 years' provision in relation to the emerging RSS by 2016. In my view, that would represent a substantial shortfall. And, I think that it would be one of sufficient significance to warrant action to manage the required delivery of housing development, as indicated in both draft and published versions of PPS3. [4.9-4.12, 5.13-5.15, 6.3-6.9, table 1]

24.24 There are 3 main lines of objection to that stance:

- Because the housing trajectory demonstrates an oversupply of 273 or 135 dwellings by 2011 (in relation to the approved or emerging RSS, respectively), development of the application sites could be delayed. Because the proposed schemes are estimated to lead to an over-provision of some 638 or 500 dwellings by that date and some 347 or 94 homes by 2016, a delay would be imperative to prevent harmfully exacerbating an oversupply of housing in York. [8.5, 14.2-14.5, 15.9, 15.10]
- The housing trajectory underestimates the supply of dwellings likely to be available over the period to 2016. The number of 'windfalls' is underestimated, the Urban Capacity Study is not comprehensive and identified brownfield sites could be brought forward for development earlier. [14.6-14.8, 15.11-15.28]
- Alternative sources of housing land on preferable brownfield sites can be identified. (The existence of preferable 'greenfield' sites is considered later.) [14.5-14.8, 15.11-15.28]

24.25 It seems to me that the notional over-provision of housing resulting from the development of the 2 application sites would be very small. It would amount to less than 6% (in terms of the approved RSS) and just over 1% (in relation to the emerging RSS) by 2016. Those margins could easily be obliterated by the inherent inaccuracies in the data or in the assumptions. In any case, no evidence is adduced to demonstrate that such marginal 'surpluses' would have any harmful effect or stymie development on brownfield sites. First, it is not as if either of the application sites offers especially easy development opportunities. Both schemes would entail significant infrastructure works as well as substantial contributions to provide community facilities and affordable housing. And, both schemes have taken an inordinate time to reach even this stage. Second, much residential development has recently taken place on brownfield land in spite of the allocations and Development Briefs encouraging housing provision on the application sites. There is no evidence that York is 'blest' with a surfeit of housing or dwellings in unsustainable locations. On the contrary, the recently built apartments are occupied, overall vacancy rates are very low, prices are buoyant and the new dwellings largely occupy previously developed land close to the City centre. Third, that experience is reflected in the housing trajectory because it is assumed that development of the brownfield sites identified would not be curtailed by building on

the application sites. No evidence is adduced to demonstrate the contrary. [4.9-4.12, 5.13-5.15, 6.3-6.9, table 1, 8.5, 14.2-14.8, 15.11-15.28]

- 24.26 Apart from the inherent inaccuracies in the data, the assumptions used in the housing trajectory provide further reasons to treat the marginal ‘surpluses’ estimated with caution. First, the trajectory incorporates a specific contribution from York Central from 2011. That seems a highly optimistic assumption to me. The programmed Area Action Plan for 2009 is already behind schedule. A substantial new road and improvements to the northern ring road would be required, land exchanges are likely to be necessary, a CPO might be needed, land assembly would be required, severe contamination identified and treated and an appropriate mix of uses allocated and arranged over the site. In my view, such tasks are unlikely to have been completed to the extent that would prevent delay in the assumed provision of dwellings from the site. Second, I think that the assumed level of production and the start dates on the application sites are likely to slip. Even if planning permissions were to be issued shortly, a great deal of preparatory investigation would be required under the terms of the suggested conditions and the Agreements. And, of course, both schemes entail large scale infrastructure works. In those circumstances, I rather doubt that homes would be available during 2008/9 at all. [section 3, 4.9-4.12, 5.13-5.15, 6.3-6.9, table 1, 6.18, 14.2-14.8, 15.11-15.28, annexes 1 and 2]
- 24.27 Moreover, I do not accept that a delay in developing the application sites would be harmless. Taking the trajectory at face value, a delay of 2 to 3 years would result in a failure to meet the current housing requirements by 2016. And, as indicated above, a decision to ‘stall’ the current programme of development might well necessitate more time subsequently to get work underway and to accommodate any change in circumstances. In the absence of alternative and preferable sites, that would simply accentuate the likely housing shortfall. Worse still, such delay could further ‘stall’ the Derwenthorpe scheme by requiring a re-application to the Housing Corporation for funds in relation to the affordable housing proposed and the activities of the Trust as a Housing Association. [4.7, 4.8, 5.12, table 1, 14.3-14.5]
- 24.28 I appreciate that the draft and published versions of PPS3 might imply that one aim of managing the delivery of housing development should be to maintain a balance between demand and supply. I am sure that that cannot mean that the average annual requirement should always be in ‘balance’ with the annual provision. Some ‘lumpiness’ in the provision of housing is a fact of life, particularly in relation to development on large or difficult sites. But, perhaps it might be reasonable to look for a rough balance over a 5 year period as being sufficient to ‘iron out’ the ‘lumpiness’ in provision. A ‘residual’ analysis can mask the effects of a continuing annual deficit. In this case, the trajectory indicates that, without development on the application sites, there would be an annual deficit over the whole of the period 2007-2016. Over the first 6 years of the trajectory (2005-2011) initial surpluses roughly balance subsequent deficits. Over the last 5 years (2011-2016) the supply would significantly fail to meet the requirements; whether it be the approved or emerging RSS, the shortfall would amount to about 1/3 of the overall requirement. Because past ‘excesses’ have not resulted in a pool of unoccupied dwellings or an obvious ‘easing’ in the housing market, that dearth in provision could foster several damaging consequences. It is not just the failure to accord with the RSS. The shortfall must also exacerbate housing needs and distort the housing market in York leading to more in-commuting, upward pressure on house prices and an increase in the inability of residents to find suitable accommodation in the City. Such consequences also have serious implications for the sustainability of the City and the mix of the communities within it. [4.9-4.14, 5.13-5.17, 6.3-6.11, table 1, 6.30-6.34, 14.2-14.10, 15.9, 15.10]
- 24.29 And, of course, such difficulties could stymie the ability of the City to respond to the roles envisaged for it in the emerging RSS. There, York is identified as a sub-regional centre, a key driver of the regional economy and as a focus for the ‘science city’ initiative. It is argued elsewhere that to fulfil those roles a substantially higher level of housing provision would be

required. Those are not matters for me. But, I do consider that an identified dearth in provision over a noticeable 5 year period would jeopardise the roles envisaged for the City and, as a consequence, undermine the strategy emerging through the RSS process. The consequences would be very damaging. [4.9-4.11, 5.13-5.15, 6.3-6.10, table 1, 8.5, 14.2-14.5]

- 24.30 I turn now to consider whether it is likely that the housing trajectory might seriously underestimate the supply of dwellings in relation to ‘windfalls’, the Urban Capacity Study or the speeding up of development on brownfield sites.
- 24.31 It is true that the level of recent ‘windfalls’ not only significantly exceeded earlier trends, but also was over twice the level currently allowed for in the trajectory (and the latest version of the Local Plan). But there is almost no likelihood that such levels would continue. First, the recent figures are partly the result of suitable brownfield sites not being allocated for housing in earlier versions of the Local Plan. Now that the 2 application sites are the only allocated greenfield sites of any size, most of the obviously suitable and potentially available brownfield land has been allocated, so greatly reducing the scope for ‘windfalls’. Second, recent ‘windfall’ rates are largely due to developers providing flats rather than houses on the City centre sites that became available. In my view, that reflects a response to market demand. But that cannot be guaranteed to continue. And, there is some evidence (from the ‘balanced housing market’ analysis) that, although a demand for small homes may remain, a demand for flats may not be so strong. Third, some of the sites recently developed were identified in the course of preparing the Urban Capacity Study. Naturally, the best sites have been developed first. Subsequent sites are likely to be harder to develop or involve significant constraints, as is demonstrated by the Terry’s factory and British Sugar sites. And, the Urban Capacity Study confirms the lack of any obvious unforeseen potential elsewhere. Fourth, the ‘windfall’ allowance is taken from the latest version of the Local Plan, which incorporates further justification for the figure used. Fifth, it seems to me that the reasons advanced warrant the assumptions made about ‘windfalls’ in the first and second years of the trajectory. I consider the ‘windfall allowance’ to be reasonable and robust. [4.11-4.14, 5.14-5.17, 6.3-6.16, table 1, 14.2-14.8, 15.11-15.28]
- 24.32 I accept that both the draft and published versions of PPS3 suggest that an allowance for housing on ‘windfall’ sites should only be included where it is not possible to allocate sufficient land over the first 5 year period of a DPD; and it is justified by local circumstances; and the allocation of sufficient land can be demonstrated to have unacceptable impacts. Although past experience at York might well warrant some allowance for ‘windfall’ development, the information on which to assess the other 2 criteria is simply not available at this stage. Nevertheless, it seems to me that the appropriate test here should be slightly different. The task is to ascertain whether the development of 2 large ‘greenfield’ sites on the edge of the City might be necessary to meet the housing requirements in York. Government policy is to meet those requirements by development on brownfield sites in preference to building on ‘greenfield’ land. Almost all ‘windfall’ development in York has been on previously developed land. Hence, the inclusion of an allowance for dwellings on ‘windfall’ sites is a partial application of the sequential test to these schemes. It ensures that the proposed developments are really necessary. [4.11-4.14, 5.14-5.17, 6.3-6.16, table 1, 14.2-14.8, 15.11-15.28]
- 24.33 There should be no doubt that the ‘windfall’ allowance makes an important contribution to the housing provision; by 2016 more dwellings on ‘windfall’ sites would have been built than on the 2 application sites together. And, ignoring any contribution from ‘windfalls’ would hasten the onset of a cumulative deficit (by about a year), so providing further justification for the allocation of, and the proposed development on, the application sites. For the reasons outlined above, I think that an approach ignoring the potential contribution from ‘windfall’ sites would conflict with the appropriate application of the sequential test in the circumstances that pertain at York. [6.13, 6.14, table 1, 14.6]

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- 24.34 As for the Urban Capacity Study, it seems to me that it is a comprehensive exercise largely undertaken in accordance with national advice. Where departures might be perceived they operate to make the coverage more comprehensive. The York study adopts a lower size threshold (0.2ha) than is common elsewhere and, in addressing ‘vacant dwellings’ as a potential source of supply, identifies the vacancy rate as very low. Indeed, other analyses demonstrate that vacancies in any sector are well below 2%, barely sufficient to support the efficient functioning of the housing market in my view. Of course, that would be consistent with a dearth in supply and a high demand for dwellings in York. No obvious source of untapped potential is identified. That includes ‘living above shops’, which is the subject of a concerted programme directed at bringing floors above shops into use for housing. In any case, it is important to note that any planning permission would be recorded in the monitoring process and could be reflected in the appropriate figures for sites with planning permission or as part of the ‘windfall allowance’. In my view, the Urban Capacity Study provides a comprehensive indication of the potential for development of brownfield sites that existed in York as at 2002. [6.15, 6.16, table 1, 15.11-15.17]
- 24.35 Is there any evidence that housing development could be brought forward on identified sites to forestall the need to develop either of the 2 application sites? From the housing trajectory it can be seen that there are only 2 sources to achieve such an aim, the site at York Central and development on allocated sites not benefiting from planning permission in 2005. (Development on allocated sites with planning permission is assumed to be complete by 2011.) The only other source would involve sites that are unidentified in the housing trajectory, but which arose as possibilities during the course of the Inquiry. I deal with the latter later. [6.15, 6.16, table 1]
- 24.36 As I indicate above, I think that the programmed development at York Central is very optimistic. Not only is the programmed Area Action Plan behind schedule, but also very considerable preparation remains necessary involving technical and legal constraints as well as public consultation. Moreover, I agree that even when development commences building rates would be unlikely to exceed the level assumed. The site is not an established location for housing and the housing market may take some time to ‘take off’. And, of course, developers would not want to flood the market. For similar reasons, the scope for accelerating development on the allocated sites would also be limited. No evidence is adduced to indicate how such obstacles could be overcome. Indeed, the time taken to address all the problems entailed in developing the 2 application sites illustrates that, in reality, the pressure is for programmes to slip rather than speed up. In the absence of compelling evidence to the contrary, I think that is likely here. [4.11, 5.14, table 1, 16.18, 16.19, 4.7, 15.18]
- 24.37 It is finally necessary to examine whether alternative sources of housing land can be identified on preferable brownfield sites. The Inquiry considered numerous sites suggested as possible ‘alternatives’ to the 2 application sites. In my view, the evidence presented by the Council reflects a thorough assessment of those possibilities. I do not repeat it here. Instead, it is enough to emphasise that even on the basis of the most heroic assumptions envisaged, the possible provision on those sites would represent no more than the ‘windfall allowance’. ‘Windfalls’ are not mythical. They materialise in identifiable places. So, identifying the possibility of 50 new dwellings materialising on the sites at Derwent and Shipton Street Schools amounts to no more than identifying a future ‘windfall’ site. In the period 2011-2016, it might seem that an additional source of land is identified because, on the basis of the most optimistic assumptions, the dwellings accruing on the newly identified sites would equate with the full ‘windfall allowance’ over the same period. Since unidentified conversions, more intensive development and schemes on small sites would also make a contribution to that allowance, it might be deduced that it should be increased or an additional source of housing added to the trajectory. In reality, however, I think that the realisation of such a source would be too uncertain to warrant incorporation in the trajectory. In this case, the playing fields at the Manor and Lowfield Schools are most unlikely to be developed for housing at all and no housing would be likely to materialise at the British Sugar

factory site before 2016, if ever. In those circumstances, less than 1/3 of the possible 'windfall allowance' would be likely to materialise. I consider, therefore, that the 'alternative' sites identified do not provide a realistic alternative source of housing land to the application sites. Their contribution to the provision of housing would be accommodated within the allowance for dwellings on 'windfall' sites. [6.20-6.29, table 1, 14.8, 15.19-15.28]

24.38 For all those reasons, I find that:

- a substantial shortfall in providing sufficient housing to meet current requirements would accrue without development on 'greenfield' land, such as the application sites;
- the proposed schemes would result in only a notional over-provision of housing that, even if it were to materialise, would have no harmful effects;
- delaying development on the application sites would be likely to lead to a shortfall in the provision of housing and jeopardise at least one of the proposals;
- the 'windfall' assumptions are reasonable and the Urban Capacity Study thorough;
- evidence does not provide cogent reasons to assume that development on brownfield sites can be brought forward or speeded up, nor is the contribution from alternative sites identified likely to exceed the level accommodated by the 'windfall' allowance;
- it follows, in the absence of the application proposals, that a substantial housing shortfall would remain that would have damaging consequences for the housing market for York and the strategic aims set out in the emerging RSS.

The market and the requirement for family housing

24.39 Councils are advised (in the draft and published versions of PPS3) to have regard to the 'overall balance between different household types to be provided for' across a Plan area; essentially to ensure that housing provision is made to include family, single person and multi person households. Plans have always incorporated provision for a wide range of different household types, at least qualitatively, particularly on large sites. What is a bit different about the draft advice is that such provision should now be embedded in assessments of various housing markets and strategic documents. That has been attempted here by applying a Balanced Housing Market Analysis to derive the number and type of dwellings likely to be 'required' in York. [5.16, 5.17, 6.30, 6.31]

24.40 This Balanced Housing Market Analysis is based on respondents' expectations of where they might be, and what type and size of dwelling they might occupy, on their next move. The results are then applied to the estimated difference between the supply (from household dissolutions, out-migration and moves within the City) and demand (from household formation, in-migration and moves within the City). Since demand in York exceeds supply, the only provision for meeting it must be newly built or converted dwellings. Hence, the 'expectations' might provide an indication of the mix and distribution of those new dwellings likely to be sought by those moving house. A 'match' might imply a 'balanced housing market'. [5.16, 5.17, 6.30, 6.31, table 2]

24.41 The evidence indicates that there is an imbalance in the mix of dwellings sought compared with the mix of those recently built. There appears to be a dearth of houses (rather than flats) in the 'market' sector, and to a lesser extent in the 'affordable sector', though in terms of size recent completions seem to roughly reflect 'expectations'. Clearly, the identified 'imbalance' would be addressed by the proposals on both application sites. [4.13, 4.14, 5.16, 5.17, 6.30-6.34, table 2, 14.9, 14.10, table 4]

24.42 I think that such a finding should be treated with caution. I appreciate that the 'expectations' derived from the analysis are quite subtle, reflecting elements of 'aspiration' and 'realism' on the part of respondents, albeit that such realism would be unlikely to encompass a thorough knowledge of the housing market. But I have 3 main concerns. First, as very clearly acknowledged, the analysis is not yet tempered by planning constraints. That stage still has to be applied. So, it may well be that an annual provision of some 1175 dwellings would meet

respondents' 'expectations'. But that must be accepted as impossible, at least for the moment, because current requirements derived from the RSS provide for barely half that number. Second, people may seek a small house, but they may 'make do' with a flat 'for the time being': and, they may aspire to an owner occupied house but occupy a private rented one while they 'look for something better'. I consider that little effort should be expended in meeting such 'needs'. They are simple consequences of the way that the housing market operates. On the other hand, the evidence indicates that many more people 'aspire' to live in York than can be accommodated there. Those households would thus be forced to live outside the City. That might encourage unsustainable travel patterns, depending on the choices made (like the proportion choosing to commute by car) or stymie the economy of the City (by depleting the labour market, for example). Planning policies could reasonably address such difficulties. The evidence currently available is really only the first step to addressing such distinctions. [5.16, 5.17, 6.30-6.34, table 2, 14.9, 14.10, table 4]

24.43 Third, the comparison between 'expectations' and 'recent completions' is based on less than 2 years' evidence of the latter. In my view that is simply insufficient to ascertain whether the apparent 'imbalance' indicated by the analysis is a response to short term opportunities or a more fundamental structural failing in the market. I appreciate that an effort is made to examine the likely impending provision from sites benefiting from planning permission. But some of the larger sites only have outline permissions, so the estimates embody some heroic assumptions. Moreover, it can be seen from the housing trajectory that, shortly, substantially more dwellings are expected to be built on sites without any planning permission; the analysis takes no account of the opportunity that that might present to influence the size and type of dwelling provided. Nor does it take account of the potential for the market to respond to the 'expectations' expressed. I would expect such forces to be influential in the 'market' sector, since their 'expectations' can be supported by some ability to pay for them. [4.13, 4.14, 5.16, 5.17, 6.30-6.34, table 2, 14.9, 14.10, table 4]

24.44 Taking those matters into account, I consider that the apparent imbalance in the demand and supply of houses rather than flats cannot yet be translated into part of the quantitative requirement for more dwellings in York. Qualitatively, however, the schemes would make an important contribution to providing a wide range of houses, including family houses. And, they would complete the process of providing the housing 'package' originally envisaged in the City of York Local Plan. The time required to prepare for development on the application sites has meant that provision has so far materialised elsewhere; as it happens, providing a preponderance of flats on allocated brownfield sites and through 'windfalls'. But, development of the application sites has always been envisaged and their development is now required to achieve the mixed 'package' of housing provided for in the Local Plan. There would be other benefits. A broad mix of housing suitable for different household types would be offered on these large sites, as draft and published PPS3 advises. And, that would facilitate the creation of a vibrant community, an important aim of both schemes. Moreover, the provision of family housing on the application sites would, at least qualitatively, help to 'balance' the type of dwellings recently built within the City. In the long run such 'balance' would be important to foster sustainability in relation to the employment and housing markets in York, and for the population of the City. [section 3, 4.13, 4.14, 5.16, 5.17, 6.3-6.34, table 1, table 2, 8.6, 14.9, 14.10, table 4]

Meeting the need for affordable housing

24.45 I have similar concerns in relation to the assessment of housing needs. Neither the Housing Needs Assessment undertaken in 2002 nor the updated 'needs assessment' undertaken as part of the Balanced Housing Market Analysis in 2006 are 'planning' documents. Indeed, the latter has yet to complete further stages, involving consultation with stakeholders and the establishment of links to other sub-regional and regional housing markets. It is obviously impossible to provide 720 or 790 affordable dwellings annually just to meet newly arising housing needs (as the 2 analyses indicate) if the annual average housing requirement is no more than 640 (as in the

emerging RSS, for example) and the policy is to insist that 50% of new dwellings should be affordable but only on sites of 0.3ha or more or in schemes involving at least 15 dwellings. And, of course, that does not address estimates of ‘existing need’ at all. Given the planning constraints imposed by the Local Plan (which reflects the advice in draft PPS3 here) and the emerging RSS, I would suggest that a realistic level of provision for affordable housing would amount to about 200 units annually. (That would amount to roughly 30% of the overall provision derived on the basis that many schemes would be too small to warrant any affordable homes and a provision of only 50% would be required from the remainder.) I accept, however, that there may be a special need to provide additional affordable family houses because such ‘requirements’ are less easy to meet; many more Council flats become available than houses, homeless households tend to ‘require’ 3 and 4 bedroom accommodation; most Council dwellings ‘lost’ under the ‘right to buy’ legislation were houses; and, both the Council and the Joseph Rowntree Housing Trust find it hardest to meet the need for affordable family housing. [section 3, 4.15, 4.16, 5.18, 5.19, 6.3-6.29, table 1, 6.35-6.37, table 3, 14.11-14.15, table 4, 15.29]

- 24.46 Could such a level of provision be met without the schemes proposed? The evidence indicates that the maximum contribution that might materialise from suitably large ‘windfall’ sites, from unimplemented or uncompleted planning permissions, from the remaining sites allocated in the Local Plan and from schemes supported by the Housing Corporation but currently without planning permission would amount to an average of about 90 affordable dwellings a year over the next 10 years up to 2016. Clearly, the identified potential supply would fail to address even the ‘realistic’ level of provision possible under current planning constraints. Indeed, it would be less than ½ such a level allowed for. There is, thus, an urgent need to identify additional land to make up the shortfall. [4.15, 4.16, 5.18, 5.19, 6.35-6.42, table 1, table 3, 14.11-14.15, table 4]
- 24.47 Both schemes would represent a very significant contribution to meeting the need for affordable housing in York, particularly in relation to providing affordable family housing. The scheme at Germany Beck would result in 245 additional affordable units, of which 55% would be 3 or 4 bedroom houses, while the scheme at Derwenthorpe would provide 216 affordable homes, of which roughly, 41% would be 3 or 4 bedroom houses. The combined provision of over 460 affordable homes would represent almost ¼ of an annual realistic level of provision envisaged over the 10 year period. And, a substantial proportion of that provision would be in the form of family homes, the most difficult type of accommodation to provide. In my view, the proposed schemes would make a crucial contribution to the provision of affordable housing in York. [section 3, 4.17, 4.18, 5.20, 5.21, 6.42, 8.7, 14.16-14.18]
- 24.48 I accept that, for carefully explained reasons, the Council do not require these applications to be judged against the current version of policy H2a in the City of York Local Plan. However, it seems to me that such a test is relevant here because it is partly supported by the emerging RSS and the Housing Market Analysis and because I think that Government policy requires stringent tests to be applied to demonstrate the necessity of developing ‘greenfield’ land. Any failure to meet the 50% level of provision for affordable housing thus requires justification; the application of this test was discussed at the Pre-Inquiry Meeting. [4.18, 5.21, 5.22, 6.43-6.46, 7.6-7.8, 8.8, 14.16-14.18]
- 24.49 The evidence submitted is partly based on adapting the 3 Dragons ‘toolkit’ (developed for London) to York. This is now a reasonably well known device, tried and tested in the context of numerous appeals, and details are set out in the respective cases. Modest returns for the developer and builder are incorporated into the model (in this case 15% and 10%, respectively). The analyses show that once exceptional items and the cost of the Agreements are taken into account, the residual for the Germany Beck scheme would be a little under £5m and that for the Derwenthorpe proposal about £13m. Land acquisition costs should be deducted from those sums. The result is that in neither case would the schemes be viable if additional affordable housing were to be provided. At Germany Beck the provision of 50% of the units as affordable homes

would result in a negative ‘residual’ amounting to just over £4m: at Derwenthorpe it is demonstrated that the Trust is already proposing to provide a subsidy of £0.6m to achieve the 40% level currently intended. Clearly, the scope to increase the level of affordable housing still further would be very limited. It would depend on unforeseen circumstances, such as house price rises at a faster rate than building costs or the ability of the sustainability measures to command a higher price than is currently anticipated. In my view, the exercise demonstrates that both schemes would provide as much affordable housing as possible, which is what policy H2a actually requires. [4.19-4.23, 5.22-5.25, 7.6-7.8, 8.8, 14.16-14.18]

- 24.50 Of course, if sale prices were likely to be higher and the ‘saleable’ floorspace greater, then there might be scope to provide more affordable housing. But the evidence presented does not convince me that that would be so. The arguments seem to reflect differences between ‘gross’ sale values sought and sales achieved as well as figures relating to schemes devoid of affordable housing instead of incorporating 35% to 40% of the units as affordable homes. Moreover, the assertion that more housing could be accommodated on the sites does not seem to reflect the density likely to be achieved on schemes incorporating the open space, the range of house types or proportion of family houses proposed here. I see no reason to question the other unit costs used in the analyses. [4.21-4.23, 5.24, 7.6-7.8, 8.8, 14.16-14.18]
- 24.51 It remains to ensure that the level of affordable housing proffered on each site would be likely to be secured. At Germany Beck the mechanism would be the section 106 Agreement. Quite apart from securing the proportion of affordable homes to be provided on the site during the phases of development, the document insists that the completed affordable homes should be offered to a Housing Association approved by the Council and that the offer should remain open for a period of 18 months. If no agreement could be reached within that period the ‘offer’ would be ‘marketed’ to alternative Housing Associations (approved by the Council) for a further period of 18 months. It seems to me that such arrangements ought to be more than adequate to allow a Housing Association to respond to the offer of affordable housing and to secure the necessary funds to purchase the properties. If, after a period of some 3 years (in the extreme), funds had not been released or the offers not taken up, then it would be entirely reasonable for the default clauses of the Agreement to take effect. [4.17, 5.1-5.5, 5.20, section 106 Agreements]
- 24.52 In relation to the Derwenthorpe scheme, the Trust is itself a Housing Association and funds have been secured from the Housing Corporation to implement the scheme. Moreover, given the ethos, objectives and reputation of the Trust, I have every confidence that the affordable housing proffered would be provided and that, if circumstances allowed, efforts would be made to achieve an even higher proportion, as promised. Nevertheless, the mechanism to achieve 40% of the units as affordable homes would be provided by the terms of the section 106 Agreement. [5.1-5.5, 5.20, section 106 Agreements]
- 24.53 I conclude that the schemes proposed would make a crucial contribution to the provision of affordable housing in York and provide the maximum level consistent with achieving reasonably viable developments. I have no reason to doubt that the arrangements in place would secure the affordable housing proffered.

Site selection

Is there a sequentially preferable site?

- 24.54 It has been demonstrated above that a substantial shortfall in providing sufficient housing to meet current requirements would accrue without development on ‘greenfield’ land. The application sites provide one solution. Moreover, they would appear to embody the most suitable type of location, being ‘urban extensions’ favoured by PPG3. (The advice in PPS3 is more complicated, although many of the considerations listed there are addressed elsewhere in this report.) The task now is to consider whether any ‘sequentially preferable urban extension’ can be identified in

place of either application site. It should be clear from the outset that, given the protracted evolution of, and the effort expended on, the Local Plan, that must be very unlikely. The sites included in the 4th set of Changes have been subjected to considerable scrutiny. Assessments have been made in the context of the Green Belt, the Urban Capacity Study and the 3rd set of Changes, including sites emerging from objections or consultations made in the context of the Local Plan process as well as those initially proposed as allocations. [4.24, 5.26, 6.47-6.49, 8.9, 14.19, 16.16-16.18]

24.55 The site selection process included assessments based on the following criteria:

- the historic character and setting of York,
- environmental matters, mainly nature conservation and flood risks,
- sustainability criteria such as access to public transport, facilities and services,
- the impact on the road network,
- land in the Green Belt (as shown in the 4th set of Changes), and
- the sequential test, a preference for sites within urban areas or forming urban extensions. [6.50-6.53]

24.56 The detailed application of those tests is set out in the reported cases. It seems to me that there are good reasons for excluding the few sites within the urban area deemed to have passed those tests but found to be unsuitable for development. The impact on residential amenity and the character of an area (in relation to a small site at Lea Way, Huntingdon), or serving as a focal point in a Conservation Area (in relation to the Retreat, Heslington), or unavailability (in relation to York City Football Club's ground at Bootham Crescent), or designation as open space (as at York Rugby Ground) all provide cogent planning reasons for preventing residential development on such sites. The MOD land at Fulford is allocated for residential development, but the overall result of the exercise is that insufficient 'greenfield' land can be identified 'within the urban area' to meet the housing requirements. It is thus necessary to search for 'urban extension sites' to meet the housing requirements of the City. The only sites that pass all the relevant tests are the 2 application sites. It follows that there is no obvious sequentially preferable site that could be substituted for either location as a means of meeting the housing requirements in terms of numbers, mix of dwellings and affordable units. [4.24, 5.26, 6.54, 8.9, 14.19, 16.16-16.18]

24.57 Nevertheless, objectors are concerned that the site at New Lane, Huntingdon could provide a potential alternative, particularly in relation to the Derwenthorpe scheme. I realise that this greenfield site was allocated for housing in the 3rd set of Changes (albeit as something of a 'reserve site' under the terms of policy H3b), but removed in recognition of its previous Green Belt status once it became clear that sufficient land could be provided without it. Having visited the site and its surroundings I am not convinced that all of it would need to remain open to serve any appropriate Green Belt purpose. On the contrary, it seems to me that the recommendation made by the Inspector for the York Green Belt Local Plan remains relevant. And, perhaps his reasons for that recommendation are even more pertinent now that the extensive 'park and ride' facilities have been constructed to the east. Even so, there is a balance of advantages and disadvantages between the New Lane site and the application proposals. True, there is nothing of importance for nature conservation at New Lane and the road itself would provide a straightforward access to any development. But there is a Scheduled Ancient Monument on the site and studies indicate that development could exacerbate congestion that would undermine a key aim in the Local Transport Plan to use the A1237 as a means of diverting traffic away from the City centre (this is set in context later). There are thus good reasons for not allocating the site at New Lane for housing now. In any case, the site would not be sequentially preferable to either of the application sites. It would be, like them, an urban extension site utilising 'greenfield' land. [4.24, 5.26, 6.55, 6.56, 8.9, 14.19, 16.16-16.18, 20.2-20.9]

Are the locations sustainable?

24.58 Both application sites are in ‘sustainable’ locations. And, given the ‘sustainability’ criteria used to select sites for residential development in the Local Plan process, it would be surprising if it were otherwise. Hence, there are frequent bus services on Main Street, Fulford and Heslington Lane in relation to Germany Beck and through Osbaldwick Village in relation to Derwenthorpe; the latter also benefits from a ½ hourly bus service along Bad Bargain Lane. Similarly, at Germany Beck there is a post office, one or two shops and a small general store in Fulford and both a primary and secondary school in Heslington Lane. At Derwenthorpe there are numerous facilities within a 10 minute walk, including primary schools, shops, a library and a health centre. Both sites are also close to several community buildings and connected to footpaths and cycleways, so facilitating opportunities to reduce reliance on the private car. [section 2, 4.25-4.27, 5.27, 5.28, 6.57, 6.58, 7.9, 7.10, 8.10-8.12]

The suitability of the schemes; Germany Beck and Derwenthorpe

Are the schemes ‘designed for quality’?

24.59 It is rare, in my all too extensive experience, to come across schemes of such quality and that exhibit, in their different ways, pioneering approaches to large scale residential development. The details are set out in the reported cases. But the aim of each scheme is to create a vibrant mixed community contributing to, and integrated into, its surroundings. There would be a wide variety of housing in terms of size, type and tenure designed to reflect local styles in a traditional or in a contemporary manner and offering substantial proportions of affordable homes. At Derwenthorpe an important innovative approach to the provision of affordable housing is a key part of the scheme; the housing would be indistinguishable and integration would be fostered, supported by social and administrative infrastructure. In both schemes ‘design guidance’ or ‘design codes’ are to be employed to ensure a high quality of design. Every property would achieve an ‘EcoHomes’ rating of ‘excellent’ or ‘very good’ and all would be designed to a ‘lifetime’ standard. The use of ‘home zones’ and ‘perimeter blocks’ integrated with footpaths, cycleways and open space would provide a clear structure to the layouts and offer safe and easy movement between neighbourhoods as well as into the surrounding areas and facilities, so fostering natural surveillance. Extensive areas of open space and ‘natural areas’ would be provided and off-site facilities created or enhanced at local schools. ‘Sustainable drainage systems’ would be incorporated into the schemes and landscaping designed to create, in both cases, an attractive sylvan edge to the urban area. [section 3, 4.28-4.30, 5.29-5.32, 6.59, 6.50, 8.10-8.12, 13.1-13.6, 9, 15.30-15.33, 16.9-16.12, 17.2, 17.3, 20.10-20.15]

Are the schemes sustainable?

24.60 Both sites are selected to be in sustainable locations (as indicated above). A local shop would be provided at Germany Beck to supplement the local facilities and both schemes would incorporate further measures to support public transport, encourage travel by means other than the private car, provide sustainable and adaptable housing, enhance biodiversity and prevent flood risks. I agree with the Council that the proposals would represent pioneering sustainable development in relation to large scale housing schemes. [section 3, 4.31-4.34, 5.33-5.37, 6.61, 7.12-7.15, 8.10-8.12, 15.34-15.37, 20.10-20.15]

Do the schemes make ‘the best use of land’?

24.61 The average net density at Germany Beck would be roughly 40dph: the average net density at Derwenthorpe would be about 39dph. This would satisfy the guidance set out in PPG3, together with draft and published PPS3. [section 3, 4.35, 5.38, 6.62]

Do the schemes ‘green’ the residential environment?

24.62 Both schemes would incorporate substantial amounts of open space; 47% of the whole site at Germany Beck and 33% of the site at Derwenthorpe would constitute some form of open area.

And, of particular importance, the open areas, incidental landscaping and planting would be integrated with the residential neighbourhoods, footpaths and cycleways, so creating a verdant residential environment easily accessible by residents. In my view, the landscaping and open space incorporated into both schemes would reflect the landscape and ecological features of the respective sites. Nature Parks or ‘natural areas’ are designed to enhance the SINC or to incorporate some important hedgerows, ponds for newts or the remnants of ‘ridge and furrow’ agriculture. I consider that both schemes demonstrate adherence to the advice in PPG3 as well as draft and published PPS3; I agree with the Council that the proposals would be consistent with policy L1c of the Local Plan. [section 3, 4.36, 5.39, 6.63-6.65, 8.12, 15.38, 20.10-20.15]

The Green Belt

The ‘general extent’ of the Green Belt and the status of the sites

- 24.63 The ‘general extent’ of a Green Belt around York has existed in some form or other for at least 30 years and bits of it have been represented in a cacophony of cartographic schemes some 15 years before that. The latter were probably the areas referred to in 1975 when the Minister decided that ‘all the Green Belt around York should have the status of ‘sketch plan’ Green Belt’ for the time being. As the *Myton* judgement demonstrates, the appropriateness of applying Green Belt policies to sites within such a ‘sketch plan’ Green Belt should always be considered. That would have been the case at Germany Beck. Different considerations would have applied at Derwenthorpe because, after a dozen years or so, the Minister approved the Flaxton Town Map in 1973; the site was shown as excluded from the Green Belt. However, even that degree of ‘certainty’ was superseded by the eventual introduction of the ‘new’ planning system (originating in the 1968 Act) requiring a 2-stage approach to the designation of Green Belts. Only the first stage has been undertaken at York. Hence, the ‘general extent’ of a Green Belt is identified by policy E8 of the North Yorkshire Structure Plan (approved in 1980) as ‘a belt whose outer edge is about 6 miles from York City centre’. The policy is appropriately imprecise. It provides no clue at all as to where the inner boundary should be and no certainty as to how the outer boundary should be configured. Nor does it imply that all open land within 6 miles of the City centre should be Green Belt. The document is intended to deal with strategic matters rather than details and, to reinforce the point, the policies and proposals are ‘illustrated’ not on an Ordnance Survey base, but diagrammatically on a Key Diagram. [4.37-4.39, 5.40-5.42, 6.66, 8.14, 8.15, 9.2, 15.39, 15.40, 16.13]
- 24.64 PPG2 explains how the second stage of the process should be applied. ‘Up-to-date approved boundaries are essential, to provide certainty as to where Green Belt policies do and do not apply’ and adopted Local Plans are to be the vehicle to provide such detail. That does not mean that the absence of an adopted Local Plan prevents identification of a Green Belt or the operation of Green Belt policy. It simply means that there must be some uncertainty about exactly where the Green Belt is and to what sites Green Belt policy should be applied if there is no statutory Local Plan to convey the detail ultimately required. Within the ‘general extent’ of the Green Belt identified by the Structure Plan it seems to me that there must be degrees of uncertainty. The application of Green Belt policy to sites beside the inner boundary must be very uncertain; there might be less uncertainty in relation to sites on the outer boundary; and less still to sites in the middle of the ‘belt’ surrounded by fields and farmland. But, in reality the hierarchy must be more complicated because, in order to ensure the reasonable permanence of the Green Belt, ‘safeguarded’ land might need to be identified and isolated villages ‘washed over’ or confined behind their own boundary. To cope with such uncertainty the application of Green Belt policy must be tested where only the ‘general extent’ of a Green Belt is defined. The test is, essentially, whether there is any reason not to apply Green Belt policy for the time being. And it involves, in my view, considerations of appropriateness, prematurity and precedent. The test is evident in the Monks Cross decision. And, of course, it is the test that should be applied to the application sites. [4.37-4.39, 5.40-5.42, 6.66, 8.14, 8.15, 9.2, 15.39, 15.40, 16.13]

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- 24.65 A contrary view advanced at the Inquiry is that the ‘general extent’ of the Green Belt should be regarded as precisely defined. The claim is that:
- as the ‘general extent’ of the Green Belt is intended to replace the sections of previous statutory and ‘sketch’ Green Belt, it must incorporate the detail commensurate with those earlier definitions; [8.14-8.18]
 - the requirement (set out in PPS1) for Plans to provide certainty about the use and development of land means that the ‘general extent’ of a Green Belt must convey a commensurate degree of precision; [8.14-8.18]
 - the option to define detailed Green Belt boundaries in Local Plans is only an option to ‘exclude’ land from the ‘general extent’ of a Green Belt and to make minor adjustments to detailed boundaries; [8.14-8.18]
 - the application of Green Belt policy applies to the ‘general extent’ of the Green Belt. It does not depend on the designation of detailed boundaries. The bundle of decisions supports such a stance. [8.14-8.18]
- 24.66 It seems to me that it is a contradiction in terms to expect the ‘general extent’ of a Green Belt to be precisely defined. And, although it might not have been impossible to incorporate detailed elements (particularly the sections of Green Belt defined on approved Town Maps or other Development Plans) into the 1980 Structure Plan, the opportunity was not pursued. As a result, the ‘general extent’ of the Green Belt identified under policy E8 of the Plan replaces and supersedes both the previous statutory and ‘sketch’ Green Belt without incorporating the previous level of detail. That is, simply, a matter of fact. Nor does the advice in PPS1 require such a level of detail to be imported into the Plan. Identifying the ‘general extent’ of the Green Belt provides guidance as to where Green Belt policies might apply. Different degrees of uncertainty would apply to particular sites, depending on their location and other circumstances. But, such uncertainty would be resolved by applying the test indicated above. I see no logical distinction between that situation and the application of numerous criteria-based policies commonly found in Structure Plans. It is not certain that such policies apply until the tests derived from their criteria have been pursued. The same applies to the operation of Green Belt policy where only the ‘general extent’ of a Green Belt has been identified. [4.37-4.39, 5.40-5.42, 6.67-6.68, 8.14-8.20, 9.2, 15.39, 15.40, 16.13]
- 24.67 I do not accept that the option to define detailed boundaries in Local Plans is only an option to ‘exclude’ land from the ‘general extent’ of a Green Belt. I accept that almost all the recommendations made in relation to the York Green Belt Local Plan are formed in those terms. But, if nothing else, the decision to first ‘exclude’ and then ‘include’ the substantial site at New Lane, Huntingdon (in the evolution of the York City Local Plan through the 3rd and 4th set of Changes) demonstrates that other options are available. I accept that such a change forming, on its own, a strategic alteration to the ‘general extent’ of the Green Belt might be ruled out. But it seems to me that scope to undertake substantial changes would remain. After all, the concept of a ‘general extent’ is appropriately ‘general’. And, of course, the generality of the concept does not prevent the application of Green Belt policy to particular sites. I agree that the policy can be applied without the designation of detailed boundaries and that the ‘bundle of decisions’ supports that stance. The key is to test whether, on the basis of appropriateness, prematurity or precedent, there is any reason not to apply Green Belt policy for the time being. It is in that context that the *Myton* judgement remains, at least partially, relevant. [4.39-4.41, 5.41-5.43, 6.67-6.68, 8.16-8.20, 9.2, 15.40-15.42]
- 24.68 For those reasons it is unnecessary, and also inappropriate, to look for extrinsic evidence to define precisely where the ‘general extent’ of the York Green Belt might be. And, in my view, it would be very odd if documents prepared by officers as a ‘discussion paper’ and as a ‘progress report’ (in 1981 and 1983, respectively) were to be used to reinterpret the Key Diagram. Such a function would clearly usurp the statutory role of the Key Diagram, conflict with the strategic nature of the

Structure Plan and pre-empt the decisions procedurally required to be taken in the context of preparing Local Plans. Moreover, I consider that the RSS process would be most unlikely to provide any more than an indication of the ‘general extent’ of the Green Belt at York. As a strategic document it would almost certainly not take the designation of Green Belt land any further, in terms of precision, than the Structure Plan. [24.14, 4.37-4.41, 5.41-5.43, 6.67-6.68, 8.16-8.20, 9.2, 15.40-15.42]

- 24.69 It is thus necessary to test whether, on the basis of appropriateness, prematurity or precedent, there is any reason not to apply Green Belt policy to either application site, for the time being. I think that the reasons are compelling. They emanate, essentially, from the almost adopted York Green Belt Local Plan and the Southern Ryedale Local Plan, together with the draft Selby District-wide Local Plan and the latest version of the City of York Local Plan. In my view, it is relevant that the first 2 Plans passed through every stage on their path to adoption save for the formal adoption itself. And, it is important that the recommendations of the Inspector in relation to the York Green Belt Local Plan (to exclude both sites from the Green Belt) were neither predicated on a particular ‘need’ nor subject to a particular form of development, but simply reflected Green Belt purposes. They are, therefore, likely to remain relevant. But, it is most important that, in contradistinction to the Monks Cross decision, the evidence presented at this Inquiry demonstrates that the allocations set out in the City of York Local Plan remain, not just relevant, but also essential. The evidence shows that the various housing requirements of the City cannot be met without allocating the application sites for residential development; and, it shows that no sequentially preferable site exists that could be substituted for either scheme. For the reasons set out above, neither scheme would raise issues of prematurity or precedent. It follows that there are compelling reasons why it would be inappropriate to treat either site as Green Belt land now. Moreover, if that view is not accepted, I think that those same reasons would constitute very special circumstances sufficient to outweigh any harm to the Green Belt, and the limited harm identified later in this report. [24.37, 24.43, 24.52, 24.55, 24.56, 4.37-4.41, 5.41-5.43, 6.67-6.70, 8.16-8.20, 9.2, 15.40-15.43]
- 24.70 Has there been any change in circumstances or policy that would undermine that stance? One important change is that the recommendations made in relation to the York Green Belt Local Plan assumed provision for about 1000 additional dwellings located in a new settlement somewhere beyond the Green Belt. Given that neither application site warranted Green Belt status when the pressure for housing around York might have been provided for elsewhere, it would be surprising if they were to warrant such status now when the abandonment of that strategy must focus attention on finding ‘urban extension sites’ to meet the housing requirements of the City. In relation to the Germany Beck scheme, there are claims that a recent ‘appraisal’ of the York Green Belt now includes areas that contribute to the setting of villages, like Fulford, ‘whose traditional form, character and relationship with the City and surrounding agricultural landscape is of historic value’. It is a matter of fact that the ‘appraisal’ does not refer to Fulford in that way. And, for reasons that I explain, mainly in relation to the Conservation Area, I do not agree that the Germany Beck site makes an important contribution to the setting of Fulford or to the historic character of York. In relation to Derwenthorpe, it is important that, but for a fleeting proposal quickly rescinded, it has never been shown as within the Green Belt on any Plan over very nearly the last half century. Those circumstances serve to confirm my view that neither application site should now be regarded as within the Green Belt. [4.37-4.41, 5.41-5.43, 6.67-6.70, 8.16-8.20, 9.2-9.11, 15.40-15.43]
- 24.71 In relation to the Germany Beck site, the City of York Local Plan shows that the proposed junction with the A19 and a short section of the spine road would be on land shown as within the Green Belt. Such arrangements have always been intended. In any case, the evidence indicates that the proposed access arrangements offer the only acceptable way of providing vehicular access to the site (a point considered in a bit more detail later). In those circumstances, the identified need for housing and the absence of any sequentially preferable site, the development of this

Green Belt land must constitute ‘very special circumstances’, as recognised in PPG2. [4.42, 8.21, 9.2-9.11, 10.1-10.3]

The potential contribution of the sites to the Green Belt

24.72 The principal purpose of the York Green Belt is to preserve the setting and special character of the City. Both sites were carefully assessed during the Inquiry into objections to the York Green Belt Local Plan and neither site was found to contribute to that special purpose. The reasons, which I adopt, are set out in the cases presented by the applicants and the Council; I do not repeat them here. Neither site forms part of the historic strays and green wedges crucial to the character of York, as the ‘Green Belt ‘appraisal’ confirms. Neither would either site fulfil any other Green Belt purpose. And, of course, there is an important distinction between the purposes of including land within a Green Belt and the objectives for land actually in it. Nothing has subsequently changed materially that would warrant a different decision except the need to find more land for housing in the vicinity of York. [4.43-4.46, 5.44-5.48, 6.71-6.73, 7.16, 7.41, 8.22-8.24, 9.4-9.11, 10.1-10.3, 15.44-15.50, 19.5, 19.6, 21.16-21.29]

Appropriate Green Belt boundaries

24.73 Both schemes include substantial landscaping to create or reinforce a strong sylvan edge to the urban area. And, in both cases the boundaries that would result from the schemes would reflect the advice in PPG2 to create secure boundaries following clearly defined features, such as streams, tree belts or woodland edges. Again, the details are set out in the cases presented by the applicants and the Council, which I adopt. I do not deny that garden hedges and school fencing could serve a similar purpose. But, in my view, both schemes would result in particularly appropriate Green Belt boundaries. [4.47, 5.49, 6.74, 6.75, 8.25, 9.12-9.14, 15.51, 19.5, 19.6]

The impact on the Conservation Areas

24.74 The ‘statutory duty’ imposed by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the desirability of preserving or enhancing the character and appearance of Conservation Areas is reinforced by PPG15 as well as the RSS, the Structure Plan and the City of York Local Plan. [6.76]

24.75 At Fulford the Conservation Area has been drawn to include ‘areas extending behind Main Street, which are part of the historic field pattern and landscape setting of Fulford’. No part of the Germany Beck site to the east of School Lane is included within the Conservation Area boundary. I consider that to be a careful reflection of reality. Although vestiges of medieval enclosures may remain, too many of the hedges have been removed or have become so intermittent as to be virtually non-existent, that the impression is of a flat prairie-like expanse that no longer conveys the impression of an historic field pattern or provides a significant landscape setting for Fulford. Moreover, closes and culs-de-sac, together with other suburban infill development, intervene between the site and the core of the Conservation Area. The one place where an older pattern of development remains evident (towards the north part of School Lane) a swathe of existing and proposed open space would provide a visual distinction between the development and the dwellings on School Lane. Subject to suitable conditions, I see no reason to disagree with the assessment of English Heritage that the housing proposed would not adversely affect the character or appearance of the Conservation Area. [4.48, 4.51, 6.77, 7.17, 8.26, 9.15, 10.4]

24.76 The proposed junction between the A19 and the spine road would affect the setting of the Conservation Area and alter the front garden of a property within it. I agree with the applicants that the impact of the latter would be very localised and limited. But, the construction of the junction would entail some loss of vegetation. It would also involve changes to the width of the A19 and the introduction of signals, signs and lighting at an ‘entrance’ to the Conservation Area; additional flood prevention measures would involve the construction of a low wall and probably entail some further loss of trees. I think that the curve in Main Street would serve to limit the

impact of those works on the core of the Conservation Area. But I am in no doubt that the entrance to the place would be impaired by the scale of the road works envisaged, in spite of the replacement planting and landscaping proposed. In the end this is a matter of balance. No other means of access to the site is available and, in my view, the harm to the setting of the Conservation Area would be limited. It would not be sufficient to prevent essential residential development. [4.49, 4.50, 6.77, 7.18, 8.26, 8.27, 10.4]

24.77 At Osbaldwick the Conservation Area was recently extended with the intention of including land that formed an ‘open rural setting’ to the village or that retained a ‘legacy’ of the village’s medieval past. The extension does not include the Derwenthorpe site. Again, I consider that decision to properly reflect the character of the place. Thick hedgerows screen the site from the Conservation Area, especially from the core of the village. That part of the designated area abutting the site includes barely more than the road itself, which here turns past ordinary suburban houses reflecting neither the traditional pattern of development nor the character of the buildings that contribute to the appearance of the Conservation Area. As the scheme would incorporate a substantial landscaped buffer zone to reinforce the separation of the site from the village, I agree with the Council and English Heritage that the proposal would not adversely affect the character or appearance of the Conservation Area. [5.50, 5.51, 6.78, 14.20-14.23, 15.53]

The impact on neighbouring residents

Visual impacts

24.78 The housing proposed at Germany Beck would be adjacent to relatively few dwellings in Tillmire Close, Low Moor Avenue and School Lane. Elsewhere the site abuts schools, playing fields and farmland. In spite of the design aim to prevent adverse effects on neighbouring residents, I think that some specific controls would be warranted. A condition is suggested to limit the height of new dwellings backing on to the housing in School Lane and Tillmire Close and I think that similar controls relating to the distance between existing and new properties would be warranted too. The extraordinary position and curtilage of Osborne House demands special attention along similar lines. I recommend appropriate conditions. [4.52, 6.79, 9.16-9.18, 10.6, 13.7-13.15, 22.1-22.5, 23.1]

24.79 The outlook of those occupying the Fordlands Road Retirement Home would be affected by the spine road. The road would be elevated and surmounted with an ‘acoustic wall’ so that the resulting structure would reach about 3.8m above ground level as it passes the south eastern corner of the Home. At that point the structure would be some 16m distant, though it would pass at an angle and be some 30m distant from the main elevation. I think that the intention to retain the dense hedgerow and to soften the outline of the road by substantial landscaping would adequately ameliorate the visual impact of the structure in relation to most residents, given the distance and orientation over which it would be seen. But, I think that the proximity of the new road to the small, and somewhat separate, south eastern part of the building would render such ameliorative measures less effective. I have considered the impact of the proposal with some care. In the end I find that it would be limited. I am concerned that the spine road surmounted by the acoustic wall would curtail the prospect from parts of the 2 ‘flats’ here and impart a confining effect to this part of the property. But, it seems to me that the very tall and dense hawthorn hedge (a good 4m in height) already has a rather similar effect. I agree with objectors that the outlook would be impaired, but not to the extent, in my opinion, that it would seriously harm residential amenities. [4.53, 6.79, 10.5, 22.1-22.5, 23.1]

24.80 The Derwenthorpe proposal would abut existing housing on 3 sides. A swathe of open space, ponds and ‘parkland’ would screen the scheme from the houses to the south, themselves benefiting from long back gardens. Landscaping and a distance of some 50m would separate the new dwellings from the nearest houses on Osbaldwick Village. Housing of a similar scale to that existing beyond the western boundary is envisaged, interspersed with open space in the vicinity of

the Sustrans cycleway and towards the south west corner adjacent to a ‘nursing home’. In the vicinity of Meadlands the current version of the ‘master plan’ indicates the presence of dwellings with fairly large rear gardens or areas of open space. The aim is to create an environmentally sustainable development without adversely impacting on neighbouring communities, so that the proposed dwellings would be designed to integrate with adjacent houses in terms of scale and size. I consider that the proposal would achieve that aim and I agree that the use of ‘design codes’ and the imposition of other conditions would provide adequate controls at the ‘reserved matters’ stage. [5.52-5.54, 6.80, 14.24-14.26, 16.14, 16.15, 22.6-22.10, 23.2]

Noise and air quality

24.81 Both schemes would provide scope to control construction noise in accordance with BS5228:1997 under the proffered section 106 Agreements and by suggested conditions. Both entail the submission of a ‘construction management plan’ and the establishment of some form of ‘liaison advisory committee’, as well as the imposition of conditions to limit the hours of construction and deliveries and to provide for the submission of an ‘environmental management scheme’ to minimise noise, dust and vibration. Such provisions should ensure that the construction periods would not inflict severe problems on local residents. [section 3, 4.54, 24.160 *et seq.*, annexes 1 and 2]

Germany Beck

24.82 At Germany Beck, however, it seems to me that the noise likely to be endured by residents of the Fordlands Road Retirement Home would be intrusive when construction works for the spine road would be nearby. The calculations (using BS5228:1997) show that at a façade 20m distant (though with a generator positioned 30m away) and taking account of an intervening barrier some 2.4m in height, an $L_{Aeq,12hr}=70dB(A)$ would be experienced on days when piling was being undertaken and an $L_{Aeq,12hr}=67.9dB(A)$ would occur on other days. I am afraid that I find the claim that such impacts would be ‘moderate’ as risible. Such levels (even allowing for the different time periods) would be over double those suggested by the WHO (55dB(A) over a 16 hour day) as required to prevent annoyance in ‘outside living areas’ and they would be substantially above background noise levels. Worse still, a small part of the Home (at the south eastern corner) would be closer to the spine road than the calculations assume (16m distant rather than 20m away). There, the noise experienced would be greater (I estimate by about 1dB(A)). On the other hand, the main elevation would be some 30m from the spine road, which I estimate would result, very roughly, in a 2dB(A) reduction in noise levels compared to the calculated figure. Even so, I consider that the noise would be disturbing and intrusive while it lasted. And, indeed, the temporary nature of the intrusion would seem to me to be its main mitigating characteristic. The suggestion is that such works might only last for some 3-4 weeks in the vicinity of the Home. Moreover, I appreciate that further mitigation could be achieved by carrying out the road construction in phases, by utilising taller hoardings and by controls over the timing and duration of the works. The suggested conditions and the Agreement provide scope for such controls. And, of course, the calculated noise emissions model a ‘worst case’ scenario. In practice such levels would only be experienced over relatively short periods. Nevertheless, the residents of the Home are elderly and infirm and, in my view, particularly vulnerable to the type of noise these construction works would entail. I have, therefore, recommended that works involving construction of the spine road should only take place for 4 hours each day while they are within 30m of the Home, unless it is agreed that other measures would achieve a similar level of protection. [4.55, 4.56, 6.81, 8.22-8.31, 10.7, 10.8, 13.7-13.11]

24.83 Elsewhere, construction works would be very much less intrusive. First, most residents would be much further from the spine road and piling would not be necessary away from Germany Beck. Second, most other construction works would be quieter and involve only house building, landscaping and the like. Third, the main area of house building would not impinge on the

Retirement Home, being beyond Germany Meadow and to the east of School Lane. [4.56, 6.81, 8.22-8.31, 10.7, 10.8, 13.7-13.11, 22.1-22.6, 23.1]

- 24.84 Residents at the Home would also be close to traffic on the spine road. The calculations show that, with an acoustic barrier beside the spine road carriageway, the WHO standards for ‘outside living areas’ and, with the windows closed, those internally recommended to facilitate conversation and prevent sleep disturbance, would be met. With windows open the internal noise levels would marginally fail to meet the 35dB(A) internal ‘daytime standard’. However, because the main elevation of the Home would be about 30m from the spine road rather than as modelled (in this case 22m distant), those standards would largely be met for most residents. The exception would be in relation to the 2 ‘flats’ in the south eastern part of the Home. Even there, however, the exceedences would be modest and such levels would only be experienced at peak hours. I agree that at other times traffic flows would be less and noise levels would be lower. In those circumstances, I consider that the noise of traffic on the spine road would not be sufficient to seriously disturb residents of the Home. [4.57, 6.81, 8.31, 10.7, 10.8]
- 24.85 Again, I consider that the impact of traffic noise would not be significant elsewhere. Existing dwellings would be much further from the spine road and peak hour flows would be much less at the far end than towards the A19 junction. I do not consider that the proposed new bus service would seriously impinge on residents in Low Moor Avenue and Tillmire Close; the frequency would be only just over 1 bus every 8 minutes. And, the additional traffic predicted on the A19 or Heslington Lane would constitute much less than the 25% deemed to be necessary before any significant impact would be discernable in relation to ‘environmental noise’. [4.58, 6.81, 8.31, 10.7, 10.8, 13.7-13.11, 22.1-22.5, 23.1]
- 24.86 For similar reasons, the scheme would not seriously impair air quality. In the context of the general improvements predicted, the marginal impact on annual mean concentrations in NO₂ would be too small to have any noticeable effect. The same conclusion would also apply in relation to PM₁₀ annual mean concentrations. Moreover, the risk of dust affecting air quality during construction could be adequately controlled by site management measures. [4.59, 4.60, 6.81, 13.7-13.11, 22.1-22.5, 23.1]

Derwenthorpe

- 24.87 I consider that the provisions to control and manage the construction processes would be sufficient to prevent severe noise problems seriously impinging on local residents. This would include the vexed question of appropriate routes for construction traffic. Having now walked the lanes and tracks to the east of the site, I seriously doubt the practicality of providing a temporary route from that direction. I agree that the configuration and character of both Meadlands and Temple Avenue would render those roads inappropriate for such purposes. The most natural route for construction traffic would be, to my mind, via Fifth Avenue, given its width, spacious verges and the fact that the houses there are set behind front gardens. And, in spite of its attractiveness, I think that some construction vehicles could traverse Osbaldwick Village or Osbaldwick Lane; both are bus routes. [5.57, 6.82, 14.35, 16.15, 22.6-22.10, 23.2]
- 24.88 The proposal would generate additional traffic, but the access arrangements would serve to divide it between 4 different neighbourhoods, thereby substantially reducing the potential impact on any one street. Even though flows might double during peak hours, the additional traffic would barely amount to one extra vehicle a minute (save for Fifth Avenue where it would amount to about 1.7). In my view, the quiet residential streets surrounding the scheme would remain as quiet residential streets. And indeed, the calculations undertaken demonstrate that even if changes in noise levels proved to be perceptible, the increased noise levels would still be below the ambient levels experienced during the daytime. [5.55, 5.56, 6.82, 16.14, 16.15, 22.6-22.10, 23.2]
- 24.89 The additional traffic would have some impact on air quality. But, given the general

improvements predicted, the increase in annual mean concentrations of NO₂ would be unnoticeable and the increase in annual mean concentrations of PM₁₀ would be too small to have any noticeable effect. The risk of dust affecting air quality during construction would be mitigated by the controls and site management measures allowed for by the suggested conditions and the terms of the Agreement. [5.58, 5.59, 6.82, 16.14, 16.15, 22.6-22.10, 23.2]

The impact of traffic

Access arrangements

Germany Beck

- 24.90 The allocation of housing at Germany Beck has always been associated with a single access from the A19. That was shown in the draft Selby District Local Plan and it is a requirement of the Development Brief. Extensive tests undertaken by the Council show that the access arrangements now proposed would result in the least impact on the highway network. Essentially a signal controlled 'T' junction would serve the spine road, which would operate as a cul-de-sac for private cars but as a through route for buses and emergency vehicles via Low Moor Avenue. It would provide access to the scheme, to the Fordlands Road estate and to the schools, so removing some traffic from Main Street. Contributions would support a ¼ hourly bus service across the site. The housing would be integrated into the footpath and cycle network and substantial financial contributions would help to improve those connections. In addition, the spine road and its junctions (with the A19 and with Fordlands Road) would be designed to withstand a 1:100 year flood, the carriageways being raised to 9.81m AOD; this would provide a 'dry' access to existing residents even during serious flood conditions. [section 3, 4.61-4.64, 6.83-6.87, 7.19-7.25, 10.9, 10.10, 13.1-13.11, 13.16-13.20, 22.1-22.5, 23.1]
- 24.91 Many objections have been made to the use of Low Moor Avenue as a bus route. However, I do not see that there is any obvious alternative. Fulford Gate is a narrow cul-de-sac accommodating school traffic: Mitchel's Lane is a badly maintained private road. In contrast, the carriageways from Low Moor Avenue and out on to Heslington Lane are about 5.5m wide and, over much of that distance, the dwellings stand behind wide grass verges. I think that those streets could accommodate 8 buses an hour without danger or detriment. The arrangements would result in the loss of an attractive tree, but it is not protected. [4.63, 6.87, 7.19-7.25, 13.1-13.11, 13.16-13.20, 22.1-22.5, 23.1]
- 24.92 I think that there are good reasons for adopting trip generation rates that reflect the travel patterns experienced in York. Figures derived from surveys of a long established and peripheral suburban estate would be unlikely to reflect the travel patterns of a new housing development, even one aiming to provide for a mixed community with a high proportion of affordable housing. Nor do I consider that 'standard rules of thumb' or simple comparators from the TRICS database would be applicable here. Not only would the scheme provide for a mixed community and include a high proportion of affordable housing, but also it entails a host of measures to reduce reliance on the private car. There is evidence that travel patterns in York have responded to such alternatives. No compelling evidence is adduced to demonstrate that such measures would be unsuccessful here. [4.61, 6.84, 6.98, 7.20, 10.9, 10.10, 13.1-13.11, 13.16-13.20, 22.1-22.5, 23.15]
- 24.93 Modelling of traffic flows on the A19, assuming both application proposals and the University expansion are implemented, demonstrates that saturation levels would increase (the effect of this is considered later). However, a crucial element of the access arrangements proposed would be the provision of a signal controlled 'bus gate', providing the sort of priority for buses in the A19 corridor that has been successfully implemented in 3 other locations. That facility would serve to improve the reliability of bus services and reduce journey times relative to car-borne trips during peak hours. In my view, that would enhance important components involved in making a modal choice, encouraging some people to switch from private to public transport. To my mind, that further justifies the trip generation rates adopted. As for the junction itself, tests reveal that it

would operate well without exacerbating existing congestion. The maximum saturation level would be no more than that predicted for the A19 itself and the maximum queue length would amount to only 4 or 5 cars. [4.63, 6.85, 6.97, 7.19-7.25, 10.9, 10.10, 13.1-13.11, 13.16-13.20, 22.1-22.5, 23.1]

Derwenthorpe

- 24.94 At Derwenthorpe the development would be served by existing residential roads, Fifth Avenue, Meadlands, Osbaldwick Village and Temple Avenue. All those roads serve existing dwellings. No evidence is adduced to demonstrate that they do not do so safely. The access arrangements proposed seek to divide the traffic likely to be generated by the scheme between those existing access roads. Each access would serve one of four different neighbourhoods separated by areas of green space and with its own separate and independent vehicular access. The widest (Fifth Avenue) would accommodate the largest neighbourhood (185 units); Meadlands and Temple Avenue would serve neighbourhoods of a similar size (125 units); and Osbaldwick Village would provide access to the least number of dwellings (105 units). Each access would be marked by a gateway feature. These are intended to serve as traffic calming features rather than road hazards. The concerns that they would impinge on existing streets are unfounded, in my view. Such features could easily be sited within the confines of the site and there is adequate scope for appropriate details to be approved later. Once in a neighbourhood, private cars would not be able to move through the site to other neighbourhoods; only pedestrians, cyclists, buses and emergency vehicles would be able to do so. [section 3, 5.60, 5.62, 5.64-5.66, 6.88-6.90, 14.28-14.34, 15.54, 15.58-15.63, 16.16-16.18, 22.6-22.10, 23.2]
- 24.95 Residents are concerned that such arrangements would double the traffic in quiet residential streets, so damaging the character and ambience of the place. I agree that such increases would be likely to occur. But, I do not agree that they would significantly alter these quiet residential roads. Using trip generation rates validated by survey to apply in the vicinity of Derwenthorpe, the additional traffic along Meadlands, for example, would amount to barely 69 vehicles during peak hours. I fully accept that considerations relating to the practical capacity of that road would be irrelevant to assessing the impact of that change. But, it seems to me that it is a matter of common sense that an increase of barely more than 1 car a minute during peak hours would not transform a quiet residential street into anything else. Indeed, even the maximum combined flow generated by existing and prospective residents during peak periods would barely amount to more than 2 vehicles per minute. Similar conclusions would apply to all the other access roads. That would include Fifth Avenue for, although the increase there would amount to almost 2 cars a minute, the carriageway is wider, the verges spacious and the dwellings set behind front gardens. In any case, the road would remain very quiet. [5.62-5.66, 6.89, 6.90, 6.93, 14.27-14.34, 15.56-15.63, 16.16-16.18, 22.6-22.10, 23.2]
- 24.96 Claims are made that higher trip generation rates should be used. I do not agree. The rates used are justified by surveys and local experience. Moreover, I think that they reflect the fact that the scheme (like the local area) would contain affordable housing. It would also involve several measures designed to reduce the incidence of car-borne journeys. For example, the project would be well served by public transport and integrated into the City-wide network of cycleways and footpaths; residents would also benefit from a car club and information about alternative means of travel. I agree with the applicants that the rates derived from the TRICS database, or from elsewhere, do not apply to comparable sites or schemes. In any case, no evidence is adduced to demonstrate that higher trip rates would result in any adverse impact. For similar reasons, I consider that the provision for car parking would be realistic. It would reflect extant car ownership rates in the vicinity as well as the character of the proposal and the measures to reduce car-borne travel, one of which would be a modest provision for car parking. [5.62-5.67, 6.89, 6.90, 6.93, 14.27-14.34, 15.56-15.63, 16.16-16.18, 22.6-22.10, 23.2]
- 24.97 The objections to the road layout seem to me to either misinterpret extant advice or to

misunderstand the nature of the proposals. So, although the roads in each neighbourhood would not normally form a circuit or have 2 access points for use by private cars, just such an arrangement would be available to all other forms of traffic, including emergency vehicles. It is to prevent difficulties in emergencies or during substantial repairs that is the main reason for the advice proffered. In my view the scheme would adhere to that guidance since, if circumstances so required, it would be possible to remove restrictions on internal vehicular links between neighbourhoods. Provision is made for any minor improvements required at existing junctions and alternative parking arrangements would be provided at Temple Avenue. I consider that the proposals would involve an ingenious device to satisfactorily limit the traffic impact of the scheme and to provide for the safe and convenient movement of vehicles. [5.62-5.67, 6.88-6.94, 14.27-14.34, 15.56-15.63, 16.16-16.18, 22.6-22.10, 23.2]

Measures to reduce car travel

24.98 Both schemes would incorporate a plethora of measures to reduce car travel. These are listed in the reported cases, which I do not repeat here. The measures relate to the location of the sites, the design of the schemes, to off-site improvements, to specific provisions and to the enhancement of bus services. [section 3]

24.99 Both sites are in sustainable locations close to footpaths and cycleways, bus routes, schools, local shops and community facilities. The layout of both schemes would be organised around a hierarchy of access arrangements incorporating a safe and convenient network of paths and cycle tracks. Both proposals would offer additional measures to improve the surrounding cycle and pedestrian links (by providing safe crossings, pedestrian signal phases or physical improvements) and to integrate the on-site provision with the surrounding networks. In that way the housing on the sites would benefit from City wide connections to the centre, to schools and to industrial estates by means other than the private car. Both schemes would employ specific measures to encourage the use of alternative travel modes to the private car. They would involve the introduction of a car club, which might reduce personal mileage, together with on-site parking spaces for 'car club' cars. At Germany Beck cycleways would be promoted: at Derwenthorpe vouchers would be available to purchase a bicycle or a bus pass and information packs about non car travel would be prepared. Both proposals would provide for community buildings at the centre of the schemes and at Germany Beck a small convenience store (200m²) would be built. And, in both cases subsidies would be offered to support a frequent bus service across the sites (on a ¼ hour or ½ hourly basis). At Germany Beck, the access arrangements and traffic signals would also provide for a 'bus gate', giving priority to buses on an important transport corridor. [section 2, section 3, 4.65, 4.66, 5.68, 5.69, 6.89, 6.95-6.99, 7.26-7.35, 7.42, 8.32, 10.9, 10.10, 13.1-13.11, 13.16-13.20, 14.38, 14.39, 15.64, 16.16-16.20, 22.1-22.5, 23.1, 22.6-22.10, 23.2]

24.100 Objectors suggest that such measures would not be successful or that they might entail the seeds of their own destruction. I do not agree. The philosophy of such provision is very simple. All the measures combine to offer safe, convenient and reliable alternatives to the private car. It is a matter of common sense that if journeys to local schools entail a 5 minute trip along a safe and pleasant path or cycleway instead of grinding up the congested A19 or undertaking a tortuous journey through surrounding suburbs, then there would be a good chance that non-car travel might prevail. Similarly, the 'bus gate' on the A19 would reduce delays and increase the reliability of buses on that important corridor, thereby enhancing the attractiveness of public transport relative to the private car. The proximity of the supported bus routes would have a similar effect. In my view, the bus subsidies proposed would be adequate to encourage bus use and to test the viability of the diversions intended. I consider that the measures proposed to reduce car travel would have important positive effects. [section 3, 4.65, 4.66, 5.68, 5.69, 6.89, 6.95-6.99, 6.106-6.111, 7.26-7.35, 7.42, 8.32, 10.9, 10.10, 13.1-13.11, 13.16-13.20, 14.38, 14.39, 15.64, 16.16-16.20, 22.1-22.5, 23.1, 22.6-22.10, 23.2]

24.101 If confirmation were needed it is only necessary to look at the success achieved by the long term, well established and coherent strategy pursued by the Council. The culmination of this approach

is currently set out in the latest Local Transport Plan. It is clear that the encouragement of non-car modes has led to walking, cycling and public transport forming an important component in the travel patterns of the City. Such modes account for almost 40% of the journeys to work, substantially higher than comparable figures for England and Wales. Moreover, there is evidence that persistent application of the strategy has resulted in a positive shift towards non-car modes and away from reliance on private transport. In peak hours not only do non car modes account for about half of all journeys to the City centre, but also the proportion using private cars to undertake such a journey has declined from about 43% to roughly 30% between 2000 and 2005. There could hardly be a clearer demonstration that the policies pursued in successive Local Transport Plans (and their predecessors) produce positive results. Given that both proposals are embedded in that strategy, I have every confidence that the measures employed would result in some success. [section 3, 4.65, 4.66, 5.68, 5.69, 6.89, 6.95-6.99, 6.106-6.111, 7.26-7.35, 7.42, 8.32, 10.9, 10.10, 13.1-13.11, 13.16-13.20, 14.38, 14.39, 15.64, 16.16-16.20, 22.1-22.5, 23.1, 22.6-22.10, 23.2]

Congestion and other problems

- 24.102 The evidence is that sections of the existing highway network are ‘full’ during peak hours, leading to congestion. Hence, the Local Transport Plan seeks to accommodate new development by removing private car journeys and providing alternative modes of travel. Nevertheless, increases in traffic are modelled as a result of both proposals. The main consequence of such increases would be ‘peak hour spreading’. The justification for that assertion is provided by the experience of daily variations in vehicle flows as weather conditions, say, alter the attractiveness of alternative travel modes. As traffic flow increase on wet days, for example, speed slows, queues lengthen and congestion increases. During peak hours the highway remains ‘fully saturated’ until such time as demand falls, so extending the period over which peak hour conditions apply. [4.67-4.69, 5.70-5.73, 6.100-6.105, 7.26-7.35, 7.42, 8.32, 10.9, 10.10, 13.1-13.11, 13.16-13.20, 14.40, 14.41, 15.65, 16.16-16.20, 22.1-22.5, 23.1, 22.6-22.10, 23.2]
- 24.103 As the A19 is operating at capacity during peak hours, the addition of the traffic from Germany Beck (taking account of the developments at Derwenthorpe and the University) would extend peak hour conditions slightly. It would not actually worsen conditions in those peak hours. It is also expected that the proposal would attract additional traffic through the junction between the A19 and the ring road (A64). The Highways Agency has indicated that certain improvements would be required to accommodate that increase; appropriate conditions are indicated. The same reasoning would apply at Derwenthorpe. The evidence is that, with the exception of the junctions at Tang Hall Lane and Hull Road (a main radial route) and at Osbaldwick Lane and Tang Hall Lane, all the junctions assessed in the TA would continue to operate well within their capacity if traffic from all 3 proposals were to be accommodated on the network. The schemes would serve to increase the duration of peak hour conditions at those 2 specific junctions. [4.67-4.69, 5.70-5.73, 6.100-6.105, 7.26-7.35, 7.42, 8.32, 10.9, 10.10, 13.1-13.11, 13.16-13.20, 14.40, 14.41, 15.65, 16.16-16.20, 22.1-22.5, 23.1, 22.6-22.10, 23.2]
- 24.104 At Tang Hall Lane and Hull Road (a main radial route) and at Osbaldwick Lane and Tang Hall Lane, the task would be to manage the network, essentially by controlling increases in queue lengths to reflect the network priorities of the City. So, as Hull Road is a key public transport corridor and links the City centre to the Grimston Bar Park and Ride, the priority would be to favour bus operations there by reducing capacity (and shortening ‘signal green time’) on Tang Hall Lane. Hence, the attractiveness of Tang Hall Lane is predicted to reduce (and queues increase), but conditions on Hull Road would be expected to continue much as now. As a consequence the junction between Osbaldwick Lane and Tang Hall Lane must not be improved, since to do so would run the risk of encouraging traffic to cut through Osbaldwick to reach Hull Road or, via Melrosegate, to reach other parts of the City. The aim would be to maintain the ‘status quo’ by maintaining the current ‘throttle’ on vehicle movement along Tang Hall Lane. To my mind, this illustrates how existing congestion, and the additional traffic flows generated by the schemes, could be managed to pursue the strategic aims of the City. It has worked in the past. I

see no reason why it should not work now. [5.70-5.73, 6.100-6.105, 7.26-7.35, 7.42, 8.32, 14.40, 14.41, 15.65, 16.16-16.20, 22.6-22.10, 23.2]

- 24.105 The Local Transport Plan indicates those roads where congestion currently occurs and how those patterns might change if anticipated developments materialise assuming either ‘nothing is done’ or the transport projects planned are implemented. It appears that currently the south east quadrant of the City might exhibit fewer sections of congested roadway than other sectors of the City; and, that would appear to remain the case once traffic from the anticipated new developments had entered the network and the anticipated schemes instigated. This is yet another reason why the 2 application sites (being in the south east quadrant) would represent good locations to accommodate new housing development. In contrast, congestion is likely to remain a problem in the north west and north east sectors due to the difficulties of increasing the capacity on the outer ring road there. That lack of capacity would also serve as a further obstacle to redeveloping the British Sugar factory site and to progressing York Central. As currently foreseen, the City would not have sufficient resources to carry out the necessary improvements to the roundabouts on the A1237 even by 2021. [4.67-4.69, 5.70-5.73, 6.100-6.111, 7.26-7.35, 7.42, 8.32, 10.9, 10.10, 13.1-13.11, 13.16-13.20, 14.40, 14.41, 15.65, 16.16-16.20, 22.1-22.5, 23.1, 22.6-22.10, 23.2]
- 24.106 Objectors have criticised the assumed annual traffic growth rate of 1% (used in the TIAs) as not reflecting the figures in the Local Transport Plan and suggested that the way in which congestion is managed could also increase journey times for buses, so reducing the attractiveness of bus travel. I think that there may be a discrepancy in the figures quoted, but I am satisfied that the annual growth rate actually identified (of 1.07% between 2003 and 2005) validates the assumptions made. And, although congestion can obviously affect some bus journeys, it seems to me that it is the relative attractiveness (and convenience) of the modal choices offered that is important. So, while management of the network priorities might cause some delay to service No.6, it would do so in order to reduce the attractiveness of Tang Hall Lane as a through route for cars and to provide priority for buses elsewhere. I think that it is much too simplistic to claim that delays at one junction would undermine modal choices in favour of public transport. [4.67-4.69, 5.73, 6.100-6.105, 7.26-7.35, 7.42, 8.32, 14.40, 14.41, 15.65]

Cumulative impacts

- 24.107 Modelling of the cumulative traffic impacts has demonstrated that there would be very little interaction between the traffic generated by the Germany Beck and Derwenthorpe schemes. Modelling of the cumulative traffic impact of the 2 housing proposals and the proposed expansion of the University indicates that the ‘shared’ network would benefit from the University proposals. The latter scheme would serve to remove trips from key parts of the network. And, at each stage of the University expansion, a package of transport measures is intended to be implemented before embarking on the next stage of that development. [4.68, 6.106-6.111, 7.21, 7.22, 13.21-13.26, 15.65, 16.19, 16.20, 22.1-22.5, 23.1, 22.6-22.10, 23.2]
- 24.108 That strategy for accommodating all new development, not just that from the application sites, is embodied in the Local Transport Plan and previous documents. The long-term policy to increase capacity by facilitating the use of non-car modes has not only achieved considerable success, but also warranted recognition from practitioners and Government. A core theme in the current Plan is the introduction of an ‘Overground’ bus based transport system. The intention is that no part of the City (inside the ‘ring road’) would be more than a 10 minute walk from the ‘Overground’. The improvements to the bus network and the enhanced controls provided as a result of these schemes would thus contribute to fundamental improvements integrated into a comprehensive and carefully coordinated strategy. [4.68, 6.106-6.111, 7.21, 7.22, 13.21-13.26, 15.65, 16.19, 16.20, 22.1-22.5, 23.1, 22.6-22.10, 23.2]

The impact on flooding

- 24.109 The advice in draft PPS25 is to use the latest floodplain maps produced by the Environment Agency. From those maps it is clear that at both application sites the areas identified for housing

would lie beyond the land shown as likely to be flooded with an annual probability of 1% or above. At Germany Beck the housing would fall within 'flood zone 1': at Derwenthorpe the housing area would mainly fall within 'flood zone 1' (little or no risk or now 'low probability' with a chance of flooding below 0.1%), though a small part of the scheme would be within 'flood zone 2' (low to medium risk or 'medium probability' with a chance of flooding between 0.1% and 1%). Flood zone 1 is indicated to be suitable for all forms of development: ordinary dwellings are indicated to be appropriate in flood zone 2. At Germany Beck, the proposed junction and sections of the spine road would be in the functional floodplain. [4.70, 5.74, 5.75, 6.112-6.114, 6.118-6.120, 7.36-7.38, 7.43, 10.11, 10.12, 13.27-13.35, 14.42, 14.43, 15.66-15.75, 16.21, 16.22, 17.4, 17.5, 21.1-21.15, 22.1-22.5, 23.1, 22.6-22.10, 23.2]

24.110 The few dwellings at Derwenthorpe that would be in flood zone 2 would form part of an innovative, carefully coordinated and coherent scheme to create a sustainable community on a sequentially preferable site. It is demonstrated below that the scheme would make a positive contribution to reducing flood risks. The proposal would thus meet the requirements of the 'exceptions test'. At Germany Beck the spine road would constitute 'essential infrastructure'. Such development could be permitted in flood zone 3b provided certain tests, including the 'exceptions test', are passed. As indicated below, the proposal would remain operational, provide more than adequate compensatory storage, not impede water flows and reduce flood risks elsewhere. And, as demonstrated above, the scheme would provide for a mixed sustainable development that would make a crucial contribution to the housing needs of the City on land for which no sequentially preferable site can be identified. Hence, this scheme too would satisfy the 'exceptions test'. [4.70-4.73, 5.74-5.80, 6.112-6.124, 7.36-7.38, 7.43, 10.11, 10.12, 13.27-13.35, 14.42, 14.43, 15.66-15.75, 16.21, 16.22, 17.4, 17.5, 21.1-21.15, 22.1-22.5, 23.1, 22.6-22.10, 23.2]

24.111 The advice in draft PPS25 is that the 'exceptions test' should be applied once the 'sequential test' has been undertaken. Neither scheme has been subjected to the sort of 'sequential test' now outlined in draft PPS25. However, the site selection process (undertaken in the context of the Local Plan) to identify greenfield sites suitable for housing sought to exclude land shown in flood zones 2 and 3 on the flood plain maps then extant. The latest floodplain maps produced by the Environment Agency tend to show that the application sites are less vulnerable to flooding than the previous versions. Moreover, Flood Risk Assessments have been submitted in relation to both schemes and initial objections raised by the Environment Agency have now been withdrawn, subject to the imposition of conditions or the terms of Agreements. Hence, for all practical purposes, I consider that the aims of the 'sequential test' are met here. [4.70-4.73, 5.74-5.80, 6.112-6.124, 7.36-7.38, 7.43, 10.11, 10.12, 13.27-13.35, 14.42, 14.43, 15.66-15.75, 16.21, 16.22, 17.4, 17.5, 21.1-21.15, 22.1-22.5, 23.1, 22.6-22.10, 23.2]

Germany Beck

24.112 At Germany Beck the junction and the spine road would be constructed in part of the flood plain, so that compensatory flood storage must be provided. In addition, the existing 'flood' regime must be accommodated. Waters in the Beck, which drains a catchment extending through Heslington and the University, can back up if water levels in the River Ouse are above the Beck outfall. Should river levels be high enough to over-top the banks, then water can flow eastwards, flooding Fulford Ings and thence into the Beck. Finally, the increased run-off from the new housing area must be catered for. Finished floor levels are required to be at 10.41m AOD; almost the whole of the housing area (save for a small area around Tunnel Drain mainly shown as parkland) would be at that level or above. [4.70-4.73, 6.113-6.117, 7.36-7.38, 10.11, 10.12, 13.27-13.35, 21.1-21.9, 22.1-22.5, 23.1]

24.113 The proposed junction, the spine road and part of Fordlands Road would be raised to 9.81m AOD, being the level required to prevent flooding allowing for a 1:100 year storm event with a 20% increase to accommodate climate change. The flood water estimated to be displaced by those road works, and including an allowance for water displaced from the housing area but ignoring the effects of the SUDS proposals, would amount to about 18700m³. The additional flood storage provided by the ponds, the new channel and re-contoured Nature Park would be about 21900m³,

so providing an additional storage capacity of some 3200m³ during the worst flood conditions. The ponds and the new channel would provide additional space to accommodate waters backing up in the Beck. New flood defences are proposed beside the A19 as well as contributions to raise a section of the carriageway. Those defences would provide additional protection and would contribute to the implementation of projects set out in the River Ouse Flood Risk Management Strategy. The management of surface water run-off from the new housing areas would be catered for by condition. But the scheme would incorporate various forms of SUDS, including balancing ponds, new areas of wetland, the installation of grey water recycling, rainwater harvesting and the like. [4.70-4.73, 6.113-6.117, 7.36-7.38, 10.11, 10.12, 13.27-13.35, 21.1-21.9, 22.1-22.5, 23.1]

24.114 Several improvements would accrue from the scheme. Quite apart from increased flood storage provision and the implementation of planned flood defences, it is proposed to install a pumped system of foul drainage. The latter would prevent the sort of surcharging of the sewerage system that has been evident in the past on the Fordlands estate. Some improvements to the Tunnel Drain outfall are also proposed in order to prevent surcharges there in flood conditions. Both measures would reduce the risk of effluent affecting the SSSI to the west of the A19 or the SINC on the application site. Otherwise the flood regime, crucial to the ecological value of the SINC and the SSSI would not be affected by the proposals. Moreover, the ponds and water channels would form an important element of the Nature Park, so adding to the ecological diversity of the area. I consider, therefore, that the proposal would serve to reduce flood risks and enhance the ecology of the area. [4.70-4.73, 6.113-6.117, 7.36-7.38, 10.11, 10.12, 13.27-13.35, 21.1-21.9, 22.1-22.5, 23.1]

24.115 Concerns are expressed that, due to the limited gradient across the site, there might be insufficient fall to enable the various forms of SUDS proposed to function effectively under all conditions. Gradients might be insufficient to prevent the accumulation of debris: there might also be insufficient headroom to enable storage devices to discharge into the Beck during flood conditions thereby 'locking' surface water within the site. The suggestion is that such problems are sufficiently awkward to warrant a clear demonstration that they can be solved before granting planning permission. [4.70-4.73, 6.113-6.117, 7.36-7.38, 10.11, 10.12, 13.27-13.35, 21.1-21.9, 22.1-22.5, 23.1]

24.116 I agree that the site is flat and that sections of it would fall at about 1:150. But there are also sections across which gradients would be more than 1:100, even in flood conditions. I do not think that all the surface water across the site would need to be drained in the same direction or in the same way. The use of different techniques, together with the distribution of balancing ponds and wetland areas, could I think, provide a sound basis for installing an efficient collection of SUDS techniques. I do not accept that a gradient of 1:150 would necessarily be insufficient to create a self-cleansing velocity; the flow and the diameter of the pipe would also have an effect. In any case, other systems could be employed, if necessary. I appreciate that the solution would require some ingenuity. But I do not agree that the skill required would be remarkable enough to insist that a solution be demonstrated now. [4.70-4.73, 6.113-6.117, 7.36-7.38, 10.11, 10.12, 13.27-13.35, 21.1-21.9, 22.1-22.5, 23.1]

24.117 I appreciate that some objectors are concerned that the assessment of flood risks and the drainage requirements from the site have not incorporated an allowance for possible tidal influences on the River Ouse. They point out that a coincidence of the high tide and the high point of the floods in 2000 was avoided by a matter of days and that the flows in the river appear, on occasions, to reflect tidal movements. However, I do not see how that could be so. The River Ouse Flood Risk Management Strategy describes the whole of the River Ouse up-stream of the Naburn Locks as non-tidal. And, indeed, that would be a natural consequence of the locks operating. I do not know whether the installation allows tidal flows to pass on occasions. But, if that is so, then that could be managed. The evidence does not convince me that the extensive studies of the river or the 'flood risk assessments' undertaken for this scheme should be altered. [4.70-4.73, 6.113-6.117, 7.36-7.38, 10.11, 10.12, 13.27-13.35, 21.1-21.9, 22.1-22.5, 23.1]

Derwenthorpe

- 24.118 At Derwenthorpe, no development would occur in the floodplain. Modelling indicates that the main flood risks would emanate from flows in Osbaldwick Beck during heavy rain storms and the poor drainage of the site. The requirement that finished floor levels should be at a minimum of 13.25m AOD, could be met everywhere; only a modest increase of 50mm above normal floor levels would be required in part of the south east neighbourhood. [5.74-5.80, 6.118-6.124, 7.43, 14.42, 14.43, 15.66-15.75, 16.21, 16.22, 17.4, 17.5, 21.10-21.15, 22.6-22.10, 23.2]
- 24.119 In those circumstances, the main task would be to prevent run-off from the development adversely affecting flows in the Beck and to cater for the poor drainage of the site. The proposal incorporates various SUDS techniques controlling run-off from the development by the provision of an attenuation pond with an operating storage capacity of some 7700m³. That would accommodate an extreme rainfall event (allowing for climate change) and limit peak discharges into the Beck to about 160-190l/s⁻¹, substantially less than the peak rates currently predicted under the modelled rainfall conditions of 300l/s⁻¹. The pond would accommodate some wetland habitat and biological treatment of the surface water from roads and parking areas. Additional ponds would be provided elsewhere on the site. The scheme would thus serve to reduce flood risks and enhance the biodiversity of the site. [5.74-5.80, 6.118-6.124, 7.43, 14.42, 14.43, 15.66-15.75, 16.21, 16.22, 17.4, 17.5, 21.10-21.15, 22.6-22.10, 23.2]
- 24.120 The intention is that the condition of the land around the periphery of the site would remain unaltered. The modelling has encompassed the failure of the Foss Barrier. I do not agree that the 'flood storage' pond would represent a serious hazard. A side slope of 1 in 6 would be shallow and the edges would be planted with 'barrier' plants that should discourage entry; in any case, the edges of the pond would be only 0.5m deep. I see no reason why the installation should be any more dangerous here than anywhere else. [5.74-5.80, 6.118-6.124, 7.43, 14.42, 14.43, 15.66-15.75, 16.21, 16.22, 17.4, 17.5, 21.10-21.15, 22.6-22.10, 23.2]

The impact on ecology and nature conservation

- 24.121 PPS9 sets out a hierarchy of protection for sites identified as holding some nature conservation interest. Internationally and nationally designated sites are to be accorded the most stringent protection. Sites of regional or local importance are to be protected by criteria-based policies against which the impact of development proposals should be judged. Protection may also be necessary for particular habitats or networks of habitats. And there is a hierarchy of protection for species (and sometimes habitats), ranging from specific legislative provisions, through to Biodiversity Action Plans and local policies. [5.81, 5.82, 6.125, 9.19, 13.27-13.35, 16.23, 18.1-18.4, 22.1-22.5, 23.1, 22.6-22.10, 23.2]
- 24.122 The policies set out in the City of York Local Plan reflect that guidance. Policy NE4a provides stringent protection to sites of international and national importance. Policy NE5a would prevent development adversely affecting local sites unless the nature conservation value of the site was to be found insufficient to outweigh the reasons for the development. If development were to be warranted, then policy NE5b would require the implementation of appropriate compensatory measures and site management. Policy NE6 provides protection for certain species, so reflecting the requirements of the Wildlife and Countryside Act 1981. And there are policies to protect or encourage various water bodies (policy NE2), habitats (policy NE7) and wildlife corridors (policy NE8). [5.83, 6.125, 9.19, 13.27-13.35, 16.23, 18.1-18.4, 22.1-22.5, 23.1, 22.6-22.10, 23.2]
- 24.123 Neither proposal would adversely affect any site of international or national importance. At Germany Beck, Fulford Ings SSSI (an important example of floodplain mire habitat) lies immediately to the west of the A19. However, as indicated above, the scheme would reduce the risk of effluent affecting the SSSI and otherwise leave the flood regime unchanged, so effectively enhancing the ecological value of the 'Ings'. At Derwenthorpe there is no SSSI within the site and the closest is some 3.5km distant; that would be too distant to be affected by the proposed

development. [section 2, 4.74, 6.126, 9.19, 13.27-13.35, 16.23, 18.1-18.4, 22.1-22.5, 23.1, 22.6-22.10, 23.2]

24.124 However, both schemes would invoke considerations derived from policy NE5a. Hence, the fundamental test is whether the impact on the nature conservation value identified would be sufficient to outweigh the reasons for either scheme. At Germany Beck, a beck-side meadow is designated as a SINC because of its wet grassland and flood meadow vegetation, although it is presently unmanaged and there are signs of deterioration. There are also SINC's associated with the Heslington and Tillmire SSSI some 400m to the east of the application site. At Derwenthorpe, no SINC is identified within the application site and the closest, about 2.5km distant, would not be affected by the scheme. However, objectors claim that the site is of SINC quality and, if properly applied, would meet the criteria for selection set out in the relevant 'guidelines'. [section 2, 4.74, 4.77, 5.83, 5.85, 6.127-6.129, 6.135, 9.19, 13.27-13.35, 16.23, 17.6-17.9, 18.9-18.24, 19.7-19.10, 22.1-22.5, 23.1, 22.6-22.10, 23.2]

Germany Beck

24.125 It is agreed that the arable fields to be developed exhibit low ecological value; that most of the hedgerows within the site are species-poor, save for the hedge beside Germany Beck and Germany Lane most of which is intended to remain; that the numbers of ground nesting birds are likely to be very low and the habitat marginal; that no water voles are known to be present; that the water quality of the Beck is low; and, that the wet grassland areas are much degraded. [section 2, 4.74-4.78, 6.129-6.133, 9.19, 10.13-10.15, 19.7, 22.1-22.5, 23.1]

24.126 I realise that some features would be lost. But few are of any particular value and those that are would be retained or enhanced. The scheme would involve much new planting within the site and on the southern boundary. The wet grasslands of the SINC would be improved and managed and the proposed Nature Park would be carefully designed to enhance ecological diversity and provide a variety of meadow, wetland and scrub habitats attractive to a variety of species, including water voles, harvest mice, kingfishers, bats and the like. Such measures would more than compensate for the loss of trees and farmland necessitated by the development. In my view, the need for this housing scheme and its contribution to the ecological and biological diversity of the area would outweigh the loss of the less interesting habitats within the application site. I consider that the aims of national guidance and the requirements of local policy would be satisfied. [section 3, 4.74-4.78, 6.129-6.133, 9.19, 10.13-10.15, 19.7, 22.1-22.5, 23.1]

24.127 I acknowledge that it would be possible to achieve greater biodiversity on this farmland. And, if I needed convincing, my visit to Rawcliffe Meadow did do just that. But the chance of undertaking an 'environmental stewardship scheme' here seems to me to be very remote. I agree with the applicants that the intensive farming regime currently practised would appear to be commensurate with the quality of the farmland and that that would almost certainly preclude the site from qualifying for a 'higher level scheme' or render it uneconomic to do so. [section 2, 4.74-4.78, 6.129-6.133, 9.19, 10.13-10.15, 19.7, 19.10, 22.1-22.5, 23.1]

Derwenthorpe

24.128 At Derwenthorpe a main area of dispute is whether the site exhibits sufficient nature conservation interest to qualify for SINC status. Of course, even if it did, it would still be necessary to test whether that value would be sufficient to outweigh any justification for the scheme. However, it is important to have some idea about what the inherent 'value' of the site might be. I acknowledge that selection as a SINC would be likely to involve some finely balanced decisions on occasion. So, the fact that some disagree with the decision not to designate the application site as a SINC does not necessarily mean that the body charged with actually making that decision has got it wrong. On the contrary, the site is not a SINC and, in the final balance, that fact must be taken into account. Moreover, English Nature offer no objection to the scheme, being satisfied with the mitigation and compensation measures proposed. And, the Council's professional 'countryside' officer accepts that, at best, even the grasslands on the site are of only 'borderline' SINC status. [5.83, 6.134-6.142, 16.23, 17.6-17.9, 18.9-18.24, 19.8-19.10, 22.6-22.10, 23.2]

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- 24.129 The quality of the grasslands forms an important, though not the only, element in the claim that the site merits SINC status. The issue has fostered surveys of the site on half a dozen separate occasions between 2002 and 2006. I appreciate that almost all of them have been undertaken and analysed by acknowledged experts. However, I think that the effort and enthusiasm of those who may not be so qualified can make an important contribution to nature conservation. Hence, the survey results warrant testing. [5.84-5.88, 6.134-6.142, 16.23, 17.6-17.9, 18.9-18.24, 19.8-19.10, 22.6-22.10, 23.2]
- 24.130 It seems to me that the key survey here is the last one undertaken in 2004. The date is important because any effects of neglect in the most recent years should be absent; I understand that some grazing or cutting had not long ceased by that time. And the methodology appears to be the most rigorous; a 'transect' entailing 39 quadrats was taken across the northern fields rather than performing a 'walkover' count across part of the site or within specified fields. The results demonstrate that the grasslands are relatively species-poor in comparison with the NVC communities potentially of interest on the site; the mean number of species per quadrat was 8.68 compared to 14 for NVC type MG1 (an unimproved neutral grassland) and 23 for NVC type MG5 (a lowland species-rich ancient semi-natural neutral grassland). That would indicate that the site would not satisfy selection guideline GR1, since NVC type MG5 would be unlikely to be present. And, the tentative suggestion that remnants of it might have been, is contradicted by subsequent analysis, in my view. Some confirmation can also be gleaned from the archaeological evidence that the grasslands are not 'ancient' but a 19th century creation following ploughing of the fields at earlier times. And, although nominally selection guideline GR4 might be met (requiring at least 0.25ha of ancient semi-natural neutral grassland containing at least 8 'listed' species), the 'guidelines' insist that SINC status should not be bestowed where the species recorded are low in numbers or restricted to small patches within the sward. That is exactly what the survey found. Not only were the areas of species-rich grassland limited (amounting to little more than 0.4ha), but also they were distributed as fragmentary patches amongst the semi-improved grassland. Hence, on the basis of the 'guidelines' in their current form, not even the grasslands in the northern fields would warrant SINC status. [5.90-5.93, 6.134-6.142, 16.23, 17.6-17.9, 18.9-18.24, 19.8-19.10, 22.6-22.10, 23.2]
- 24.131 I do not accept that the site would qualify under other criteria. I do not agree that it supports a mosaic of semi-natural habitats or exhibits a high structural diversity, for the reason given by the applicants. There is no evidence that great crested newts breed on the site. And, although I agree that water voles probably do make use of the Beck, the evidence that they are regularly resident is doubtful. [5.90-5.93, 6.134-6.142, 16.23, 17.6-17.9, 18.9-18.24, 19.8-19.10, 22.6-22.10, 23.2]
- 24.132 It is not surprising that areas of ancient species-rich grassland, or even moderately rich semi-improved grassland, are rarer in York than Yorkshire. But, even if the site did actually exhibit those types (which is doubtful), selection on the basis of such City-wide criteria would alter the current value bestowed by SINC status. The concept would be different and would have to be weighed differently in any balancing exercise. As yet, it is not clear what consideration is being given to the appropriate thresholds that might be applicable in 'Urban York'. The same applies to the suggestion that changes might eventually incorporate aspects of the recent Defra 'guidelines' relating to social and educational criteria for site selection. Nevertheless, an opportunity would exist to incorporate forms of interpretation and information in the proposed 'nature conservation management plan'. [5.90-5.93, 6.134-6.142, 16.23, 17.6-17.9, 18.9-18.24, 19.8-19.10, 22.6-22.10, 23.2]
- 24.133 I agree that, with appropriate cropping and management, very attractive meadowland could be created here, as the example at Rawcliffe Meadow demonstrates. And, unlike Germany Beck, the establishment of an 'environmental stewardship scheme' might be a realistic possibility. But, it seems to me that the decision to create an attractive wildlife meadow must depend on more than just the potential ability to do so. As a use of land, it would have to compete with other land uses and the relative needs of each inform the outcome. A created meadow, however attractive, would

not be inherently ‘natural’ and so would not necessarily exhibit all the important qualities sought even in a SINC. [5.90-5.93, 6.134-6.142, 16.23, 17.6-17.9, 18.9-18.24, 19.8-19.10, 22.6-22.10, 23.2]

24.134 The site is not a SINC. On the basis of the evidence presented and the current ‘guidelines in operation, I consider that it would not now merit designation as a SINC. Given the quality of the application scheme and the compelling requirement for such development to meet the housing needs of the City, I think that the scheme would be warranted. It only remains to ascertain whether the mitigation and compensatory measures proposed would be appropriate and proportionate to the losses caused by the proposal. [5.90-5.93, 6.134-6.142, 16.23, 17.6-17.9, 18.9-18.24, 19.8-19.10, 22.6-22.10, 23.2]

24.135 The proposal would result in the loss of some 8ha of ‘moderately rich’ semi-improved sward containing fragmentary patches of ‘species rich’ grassland. There would be no loss of wet grassland and the pond would be retained, providing for the great crested newts. The Beck, and its environs, would be enhanced, securing the most important flight corridor for bats. And, the additional areas of wetland would offer habitat to water voles. But, about half the hedges on the site would be lost or drastically altered, affecting the habitat for hedgerow birds in spite of the eventual burgeoning gardens on the site. And, the derelict area would be completely re-used, which might affect invertebrates, although the wet grassland is thought to offer the best habitat. [5.90-5.93, 6.134-6.142, 16.23, 17.6-17.9, 18.9-18.24, 19.8-19.10, 22.6-22.10, 23.2]

24.136 The scheme would include measures to enhance some of the nature conservation interest of the site and to mitigate or compensate for the loss of others. On the site itself, an area of wet grassland is to be preserved incorporating ponds designed to benefit great crested newts; parts of fields 6 and 7 are to be managed as meadowland and the ridge and furrow retained; there would be additional planting; bat roosting provision would be made; and, the proposed balancing pond would be set in a wetland habitat. Off-site measures would include the trans-location of the species-rich grassland in fields 5 and 6 to an additional area beside the Local Nature Reserve at New Earswick; the provision of compensatory habitats for birds at New Earswick; and the extension of the area for nature conservation at New Earswick. [section 3, 5.90-5.93, 6.134-6.142, 16.23, 17.6-17.9, 18.9-18.24, 19.8-19.10, 22.6-22.10, 23.2]

24.137 I consider that those mitigation and compensatory measures would be substantial. They would be secured by condition and by the terms of the Agreement. In my view, the scheme would satisfy the requirements of local policy and national advice.

The impact on archaeology

24.138 Guidance on archaeological issues is set out in PPG16. Archaeological deposits of national importance, whether scheduled or not, should be preserved in-situ: protection for remains of lesser importance must be weighed against other factors. Field evaluations may be necessary where development is planned and the results used to inform planning applications. Where an ES is required, as for both application sites, it must address how any adverse impact on the cultural heritage might be avoided, reduced or remedied. Policy HE10 of the City of York Local Plan gives effect to that advice. However, the archaeological importance of York led to a joint initiative with English Heritage to address problems associated with new development in such sensitive locations. An emerging draft SPD is expected to relate that guidance to sites beyond the historic core, such as the application sites. The non-statutory Register of Historic Battlefields, prepared by English Heritage, identifies 43 English battlefields. The intention is to provide protection and to promote understanding; tradition is not sufficient to warrant inclusion and a high standard of proof is required. [4.80, 4.81, 5.94, 5.95, 6.143-6.145, 11.4, 11.5, 12.1, 22.1-22.5, 23.1]

Germany Beck

24.139 The archaeological investigations at Germany Beck were devised in consultation with the Head of Excavations at York Archaeological Trust and the City Archaeologist. They are extensive. The

approach involves a desk-top study, a walkover survey, a geophysical survey, an earthworks survey, an archaeological trial trench evaluation and, recently, a survey using members of a local metal detecting club. Work began in 1995. An extensive evaluation of 16ha immediately to the south of Fulford School was undertaken in 1996 involving 64 separate trenches. A further 4 trenches were opened along the line of the spine road in 2001; more work was undertaken in the 'nature park' area in 2003; an Historic Landscape Appraisal was finally revised in 2005 and a metal detecting survey was undertaken in 2006 in accordance with guidelines proposed by the Battlefields Trust. All that work has been documented and has been available for public inspection in the City of York Sites and Monuments Record and, of course, as documents for this Inquiry. [4.82, 4.83, 6.146-6.149, 11.6-11.10, 13, 36-13.39, 22.1-22.5, 23.1]

- 24.140 All that effort, undertaken over more than a decade, has identified nothing that might be associated with the Battle of Fulford. Indeed no objects and no deposits dating from the 11th century have been identified in any phase of the archaeological evaluations. The field-walking survey identified flint artefacts and prehistoric pottery: the geophysical survey indicated a series of north-south linear features and possible enclosures. Both helped to locate the trial trenches. Those trenches adjacent to the A19 (5) revealed no archaeological features: those beside the allotments (4) revealed a possible medieval ditch; those adjacent to Germany Beck (7) contained peat deposits producing Roman pottery and a possible Mesolithic flint: those in the western part of the site (26) indicated ploughed-out medieval ridge and furrow, an early ring-ditch, a series of linear Romano-British features and some interesting finds, including a probable Early Bronze Age flint knife and an almost complete Huntcliff jar. Indeed, pottery and flint finds here suggest occupation of this part of the site from Neolithic times through the Iron Age into the mid to late second century AD. That contrasts with the eastern part of the site; here the trenches (15) produced only some Iron Age pottery and some flint flakes. The trenches on the line of the spine road (4) revealed nothing but modern artefacts. The trenches in the 'nature park' to the south of the Beck (7) produced evidence of silt deposits below the 9m contour, suggesting material derived from the scouring of dykes or from flood deposits. The recent metal detecting survey identified 405 artefacts dating from the 18th to the 20th centuries, but nothing that might be associated with an 11th century battle. [4.82, 4.83, 6.146-6.149, 11.6-11.10, 12.4-12.13, 13.36-13.39, 22.1-22.5, 23.1]
- 24.141 Objectors claim that part of the application site, essentially that part towards Fulford Bridge and astride Germany Beck, forms the main theatre over which the Battle of Fulford raged and that the defeated Saxons would have fled north and north eastwards (perhaps across the main part of the site) to regain the safety of York. There is a stirring account to this effect. The Battle of Fulford was fought on Wednesday 20th September 1066. I have no doubt that it was a very significant event. Had the Earls of Mercia and Northumbria not been defeated by Harald Hadrada's Viking army and Tostig's supporters, King Harold might not have had to complete his march from the south to York. Or, had the earls waited for Harold's army to arrive, then (as the Battlefield Trust suggest) the subsequent Battle of Stamford Bridge (fought on the 25th September 1066) might have been a less costly victory and the return march to Hastings undertaken by a more intact force and, perhaps, at a more convenient pace; the Battle of Hastings was fought on the 14th October 1066. [4.83-4.91, 6.150-6.156, 11.6-11.10, 12.4-12.13, 13.36-13.39, 22.1-22.5, 23.1]
- 24.142 I fully accept that 11th century battle sites are difficult to locate and rarely reveal anything much to see on the ground. I can appreciate that much of the detritus (axes, swords, chain-mail and the like) would have been too valuable to leave and that bodies might have been removed for Christian burial. Certainly, by way of comparison, nothing very much has been found at the Battle of Hastings site. But, very fairly, the Battlefields Trust acknowledges that neither that, nor indeed hardly any other battlefield site, has been subjected to the sort of extensive archaeological exploration evident here. There is no adopted archaeological methodology for identifying battlefield sites. Hence the careful application of tried and tested archaeological practices might

represents the best ‘first step’ available. I have no doubt that the series of investigations undertaken here represent a thoroughly professional example of just such an approach; the finds unearthed together with the careful cataloguing and recording undertaken demonstrates the point. Hence, I consider the claim that the Battle of Fulford raged over the application site and the absence of any 11th century artefact, let alone one connected with a battle, something of a puzzle. Objectors respond to that puzzle by claiming support from:

- interpretations of historical sources,
- the application of more (or new) methods of archaeological investigation, and
- the application of Burne’s principle of ‘inherent military probability’ to the historic landscape here. [4.83-4.91, 6.150-6.156, 11.6-11.13, 12.4-12.15, 13.36-13.39, 22.1-22.5, 23.1]

24.143 Unlike the Battle of Hastings, which to my knowledge is the subject of half a dozen almost contemporary historical accounts (from 5 independent sources), the only ‘almost’ contemporary account of the Battle of Fulford is provided by the Anglo-Saxon Chronicles; it is simply recorded that the battle was fought near York. Florence of Worcester, an English chronicler writing in the early 12th century, records that a battle was fought ‘on the northern bank of the river Ouse, near York’; the alleged battlefield site would be more naturally described as on the eastern bank. The first mention of Fulford as a location for the battle is by Symeon of Durham in a manuscript dated to about a century after the battle but believed to have been written after 1129, which is at least 63 years after the event. It is not impossible that that account involved testaments from those alive at the time of the battle, though such people would have been very very old in medieval England. In any case, the mere mention of Fulford does not accurately locate the site of the battle; it could be at Water Fulford, or Gate Fulford or Fulford or somewhere in the vicinity. The basis for some current accounts of the battle appears as part of the *Heimskringla*, a cycle of 16 sagas about the Norwegian kings attributed to Snorri Sturlason and thought to have been written between 1230 and 1241. These are sagas; they are neither history nor chronicles. Comparisons with other English sources indicate substantial inaccuracies in relation to events in 1066. In my view, the historical accounts provide almost no support for locating the battle at the application site. [4.83-4.91, 6.150-6.156, 11.6-11.13, 12.4-12.15, 13.36-13.39, 22.1-22.5, 23.1]

24.144 The claim that additional archaeological techniques should be applied or that different areas warrant investigation seems to me to be made without any proper consideration of what has actually been uncovered by the work done so far. It is particularly disappointing that the criticism from the Battlefields Trust still seems to be directed at the earliest parts of the investigation ignoring much that has been done since 2003. The same applies to the intended investigations involving soil and geophysical surveys, metal detecting, pollen analysis and exploration of the peat layer. Most of those tasks have informed aspects of the work already undertaken. Of course, the suggestion that work should be done outside the application site (beside the cemetery or the River Ouse) is not a matter for this Inquiry. However, I am concerned that the allusion to finds, including a furnace and a ‘billet hoard’, and to forthcoming reports, seems to be something of an illusion. No catalogue or record or report or plan of any ‘find’ could be produced for the Inquiry. The general area in which the furnace and the ‘billet hoard’ were said to have been found could be ‘pointed to’. But, that proved to be the extent of any identification possible, in spite of requests and in spite of some 5 years involvement with the site. There would be no point in undertaking the suggested dendro-chronology or radio carbon dating or any other analysis, unless the results were to be properly reported. [4.83-4.91, 6.150-6.156, 11.6-11.13, 12.4-12.15, 13.36-13.39, 22.1-22.5, 23.1]

24.145 The final ‘pillar of objection’ is that Burne’s principle of ‘inherent military probability’ has not been applied to the interpretation of the historic landscape at Fulford. That is true. But the claim that the principle demonstrates that the application site is the one strong candidate for the location of the battle seems to me to be just an assertion. There is no attempt, as far as I can discern, to apply the principle to the information provided by the ‘historic landscape assessment’ actually available and to come up with an analysis of why the application site might be the best candidate

for the location of the battle. I do not see that that would have to be an especially taxing exercise. Some criticism of the ‘historic landscape assessment’ lingers, but that seems to me to be derived from previous reports. The failure to undertake such an analysis raises doubts in my mind that the results would contribute conclusively to the task of locating the battle. [4.83-4.91, 6.150-6.156, 11.6-11.13, 12.4-12.15, 13.36-13.39, 22.1-22.5, 23.1]

24.146 That failure is all the more surprising because the ‘historic landscape assessment’ has been undertaken in accordance with the suggestions put forward by the Battlefields Trust. The assessment demonstrates that the modern landscape is greatly changed from that of 1066; swampy areas have been transformed into large arable fields; houses, the cemetery, and a recreation ground have been constructed; and, whatever watercourse might have existed in 1066, it is clear that Germany Beck is now substantially canalised, was described as a New Dyke in 14th century documentation and as a ‘sewer’ or drain in an 18th century Enclosure Award and might have been named after a 14th century landowner (German de Brettgate). Such evidence raises doubts about the depiction of the battle proffered by the objectors. It also throws up other locations that might serve as a site described by some as a place between the river and a watercourse with a marsh beyond. And, if the course of the River Ouse has altered over the centuries (and the 2 boreholes sunk for other purposes in Fulford Ings are not sufficient to demonstrate the contrary), then further scenarios are possible. [4.83-4.91, 6.150-6.156, 11.6-11.13, 12.4-12.15, 13.36-13.39, 22.1-22.5, 23.1]

24.147 Taking all those matters into account, I consider that there is no archaeological evidence to show that the application site contains the location of the Battle of Fulford. Moreover, on the basis of the evidence adduced, I am doubtful that it is even likely that the battle was fought here. I agree with English Heritage that the available evidence is insufficient to allow the inclusion of the site on the Register of Battlefields. The site cannot, therefore, benefit from the protection that such a designation would bestow.

24.148 How, then, should the archaeological remains found on the site be treated? Records demonstrate the existence of an extensive pattern of agriculture and associated settlement at York in the late Iron Age and Romano-British periods. Most of the latter features identified at Germany Beck are poorly preserved and the medieval ridge and furrow has been practically destroyed by modern ploughing. However, the finds from both periods have the potential to contribute to understanding of the late prehistoric landscape in the Vale of York and of the transitions that might have occurred in Roman times. The sequence of peat deposits beside Germany Beck might also reveal palaeo-environmental evidence. The finds would thus be regionally important. This would warrant some further archaeological investigation and a watching brief on development at the site. The conditions and the terms of the Agreement provide suitable safeguards. Clearly, the remains recovered to date are not of such quality or significance as to warrant preservation in situ. [section 3, 4.83-4.91, 6.150-6.156, 11.6-11.13, 12.4-12.15, 13.36-13.39, 22.1-22.5, 23.1]

Derwenthorpe

24.149 The archaeological investigations at Derwenthorpe were also devised in consultation with the Head of Excavations at York Archaeological Trust and the City Archaeologist. They involve a desk-top study, a walkover survey, a geophysical survey, an earthworks survey, an archaeological trial trench evaluation (involving 22 trenches and 15 geotechnical test pits) and, finally, a survey using members of a local metal detecting club. Work began in 1999. The geophysical and earthwork surveys, together with excavations of the trial trenches, were undertaken in 2002. Subsequently the metal detection activity was organised. [5.96, 5.97, 6.157]

24.150 The desk-top and field-walking surveys identified that Roman roads ran some 500m to both the south and north east of the site; that Osbaldwick is recorded in the Domesday Book; that degraded ridge and furrow remains visible across 8 of the 9 fields; and, that the ‘enclosure’ of the fields probably took place in two phases around 1650 and, by Act of Parliament, in 1772. The curvilinear form of the hedges beside Metcalfe Lane and along the northern boundary suggests

that these are from the earlier period: the straight alignment of the internal hedgerows indicates a later enclosure. The geophysical survey showed that ridge and furrow had extended across the whole site and that minor ‘ditched features’, pipes and some dumped material existed close to Osbaldwick Beck. The earthworks survey identified the dimensions of the ridge and furrow. The trial trench evaluation unearthed some possible Roman (2nd or 3rd century) field boundaries or enclosures probably used for drainage or stock enclosure; small post-holes (possibly also Roman) were found; and an enclosure gully that might be associated with toft or croft, pre-dating the ridge and furrow, might indicate occupation in the 10th or 11th century. The excavations also revealed attempts at land drainage from the 18th to the 20th century and modern features, such as culverts, pits, post-holes, ponds, a horse burial, gullies and a sewer trench. The metal detecting survey unearthed artefacts illustrating the use of the site during the 19th and 20th centuries; it also suggested that the topsoil had been formed during this time period (which would support the view that the grassland is not ancient). [5.96, 5.97, 6.157]

24.151 There are no Scheduled Ancient Monuments on the site or close to it. Nor does the site lie within York’s Area of Archaeological Importance; indeed, it would be about 1km distant. The degraded ridge and furrow is not unique in York and there are also much better examples elsewhere, including Hobmoor Stray, Shipton Road and at Grimston Deserted Medieval Village where the feature relates to a settlement. Some of the more pronounced example of ridge and furrow are to be incorporated into open spaces in the scheme. Although most of the hedges on the site would be ‘important’ under the Hedgerow Regulations, most of the older peripheral hedges are to remain. The internal hedges are later and are far from unique in York. They are not ‘garths’ or associated with properties, but later enclosures of agricultural land used by the whole village. The enclosure would have occurred far too late for the fields to be ‘medieval grazing enclosures’. And, of course, that distinguishes the site from that at Wheldrake, which was associated with a ‘garth’. The possible finds dating from the 2nd or 3rd centuries appear to be associated with some low key agricultural activity and exhibit little that would further archaeological understanding. The finds associated with the 10th or 11th century toft or croft would be preserved in situ within the landscaped buffer in the south east part of the development. [5.96-5.102, 6.157, 6.158]

24.152 None of those archaeological features could be described as being of national importance. Indeed, I agree with the applicants that their limited quality and relatively common occurrence would warrant only local interest. The ridge and furrow has been fully recorded and a watching brief is to be maintained to record any features exposed during construction. Such measures would be secured by condition and by the terms of the Agreement. The remains recovered to date are not of such quality or significance as to warrant preservation in situ. [section 3, 5.96-5.102, 6.157, 6.158]

Overall conclusion

24.153 I find that little can be gleaned from the Development Plan, so that it becomes important to test just how relevant the policies, proposals or reasoning of previous documents remain. For all the reasons outlined above, I consider that the allocation of the application sites for housing in the latest version of the City of York Local Plan remains relevant. I find that permission for these schemes now would not be prejudicial to emerging plans or foreseeable policies. Moreover, delaying development would be likely to lead to a shortfall in the provision of housing and jeopardise at least one of the proposals; that would have damaging consequences for the housing market in York and the strategic aims set out in the emerging RSS. In addition, both schemes would make an important contribution to providing a wide range of houses, including family houses, thereby helping to ‘balance’ the type of dwellings recently built within the City; that would foster sustainability in relation to the local employment and housing markets. Moreover, the schemes would also make a crucial contribution to the provision of affordable housing, providing the maximum level consistent with viability; I consider that the arrangements in place would secure the affordable housing proffered. There are, therefore, cogent strategic reasons to

grant permission for both developments.

- 24.154 The evidence demonstrates that no obvious sequentially preferable site can be found and that both application sites are in 'sustainable' locations. I consider that both schemes would make efficient use of land and incorporate attractive swathes of open space that would create a verdant urban environment. More importantly, both proposals could exhibit a quality of, and an approach to, sustainable building that seems to me to be pioneering for large scale residential development. And, the Derwenthorpe proposal would represent an exciting new approach to the provision of social housing, designed to integrate the physical and social fabric and provide a model for schemes elsewhere. In my view, the detailed aspects of the schemes also warrant very strong support.
- 24.155 I think that the reasons for preventing proposals that offer such compelling benefits on both a strategic and at a detailed scale should be particularly cogent.
- 24.156 I find no reason for refusal on Green Belt grounds. In the circumstances that pertain I find that neither application site warrants Green Belt status or justifies treatment as if it were Green Belt. Neither would contribute significantly to the special purpose of preserving the setting and special character of the City and both schemes would result in particularly appropriate Green Belt boundaries. 'Very special circumstances' would justify the small bit of Green Belt land that might now warrant Green Belt status occupied by the new road at Germany Beck and, were my conclusions on the Green Belt status of the main sites not to be accepted, would justify the overall development of both sites. I see no reason to disagree with the assessment of English Heritage that the housing proposed would not adversely affect the character or appearance of either Conservation Area.
- 24.157 I do not consider that the traffic generated by either scheme should be a cause for concern. The access arrangements would be adequate to accommodate the traffic safely without seriously exacerbating existing levels of congestion. I think that the measures proposed to reduce car travel would have important positive effects, especially as they would be embedded in, and contribute to, the carefully coordinated strategy operating in York. Similarly, the schemes would alleviate rather than exacerbate flood risks and both proposals would contribute to the remaining biodiversity of each site. Neither scheme would adversely affect any site of international or national importance for nature conservation. The scheme at Germany Beck would enhance the SINC at Germany Meadow and set it in an attractive and ecologically diverse 'nature park'. Neither site contains a Scheduled Ancient Monuments nor do they lie within York's Area of Archaeological Importance. None of the archaeological features identified could be described as being of national importance and there is no cogent archaeological evidence to show that the Germany Beck site contains the location of the Battle of Fulford. In any case, both proposals would incorporate appropriate mitigation.
- 24.158 Adjacent residents would lose their attractive outlooks across verdant meadows or an expanse of arable land and view, instead, the new residential neighbourhoods. However, it seems to me that both proposals aim to create environmentally sustainable developments without adversely impacting on neighbouring communities; the proposed dwellings are to conform to 'design guidance' or 'design codes' intended to achieve integration with adjacent houses in terms of scale and size. In most critical locations the imposition of conditions should provide adequate controls at the 'reserved matters' stage. Hence, although I can sympathise with residents' losing attractive views, I consider that the proposals would not seriously impair the prospect that they might reasonably expect to enjoy.
- 24.159 Nevertheless, both schemes would entail some drawbacks. At Germany Beck the loss of trees beside the A19, the scale of the new junction at the entrance to the Fulford Conservation Area and

the impact of the spine road, including its construction, on the residents of the Fordlands Road Care Home all constitute defects of the proposal. I think that the loss of trees would eventually be more than compensated for by the landscaping, planting and ecological diversity of the 'nature park'. The impact of the new junction on the Conservation Area would be limited (for the reasons explained) and the worst effects of the spine road would impinge on only a small part of the Care Home. The effects of the construction works on the Care Home would be more serious, but they would be transitory and I suggest a condition that would limit their daily duration for the temporary period over which they would occur. In the end I have come to the view that such defects would not be sufficient to warrant preventing a quality development that would meet identified needs and contribute to strategic aims.

24.160 The main drawback at Derwenthorpe would be the loss of the meadows and hedgerows. On the basis of the evidence presented the site would not merit designation as a SINC now. Nevertheless, it is still of some nature conservation interest and I have no doubt that ecologically interesting meadowland could be created there. But, if that might represent a 'lost opportunity', then I am in no doubt that preventing the Derwenthorpe scheme would represent a far greater loss. The relative needs of competing land uses must inform the decision. In my view, the need to preserve meadows that are, at best, of only local ecological interest would not be sufficient to prevent a pioneering scheme of such quality that would meet identified needs, contribute to strategic aims and provide a test for a new approach to the provision and management of affordable housing.

Conditions and the Agreements

24.161 The conditions are largely agreed and set out in the 2 annexes; disagreements are indicated. The conditions discussed at the Inquiry are listed in documents 7 and 8; their main effects are set out in section 3 and in the following paragraphs.

24.162 It should be clear from the conditions listed and from the section 106 Agreements that both schemes still involve a great deal of preparatory work and site investigation. In my view, the scale of what remains to be done would warrant at least the expiration of five years in which to submit reserved matters.

24.163 In both cases the actual number of dwellings proposed involves a degree of flexibility. The application is made for 'approximately 700 dwellings' in relation to Germany Beck while at Derwenthorpe 'residential development of some 540 homes' is applied for; and, at the latter a 10% tolerance in the number of dwellings to be built into each neighbourhood has been agreed with the Highway Authority. The Council now seek to limit each scheme to precisely 700 or 540 dwellings respectively. I do not find any constraint to the development of either site, including the level of traffic generation, so crucial as to warrant such precise control. In my view, the precise number of dwellings finally accommodated on either site should be controlled by the requirements and constraints arising from the detailed implementation of the design guidance and design codes employed. And, of course, any unacceptable consequences can be prevented by the Council at the detailed stage.

Germany Beck

24.164 The limited height of the proposed dwellings in the areas adjacent to Tillmire Close, Low Moor Avenue and adjacent to School Lane is to protect the amenity of existing residents and to ensure that the built form of the scheme would be compatible with the bungalows there (condition 27). The same principles are applied to ensuring a 30m distance between the existing dwellings and buildings within the new development. That distance would protect the southern elevation of Osborne House and the agricultural access there. The garden itself would provide a reasonable protection for the remaining elevations and, although the northern boundary is relatively close, the

outlook from that elevation is limited (condition 28).

- 24.165 I have altered one or two highway conditions to make it slightly clearer that the slip roads relate to the junction between the A19 and the A64; the drawings embody improvements agreed with the Highways Agency (condition 31).
- 24.166 The 'bus gate' proposed at the eastern end of the spine road would be in the vicinity of Low Moor Avenue. The relevant condition is amended to encompass the remote possibility that an access on to Mitchel's Lane might be achieved. Hence, the location for the 'bus gate' now encompasses any eastern access for buses to the site (condition 33).
- 24.167 The agreed conditions designed to protect aspects of the environment do not include the measures entailed in the noise assessment of the construction work. This assumed, for example, the erection of an acoustic barrier between dwellings and construction activities in certain circumstances. The condition now recommended is intended to provide a mechanism to secure that, or any other measure, assessed to be necessary (condition 15). It is to provide specific control in addition to the environmental management scheme (for minimising the creation of noise, vibration and dust during the site preparation and construction phases of the development) provided for under another condition (condition 20). It is possible that the former could be part of the latter. But, because I think that there are circumstances where construction noise could be intrusive, I think that separate control is warranted. That is especially so for the occupants of the Fordlands Road Care Home. There I think that additional limitations would be required; I suggest that all works involving the construction of the spine road and within 30m of the Fordlands Road Care Home should be limited to no more than 4 hours on any one day (condition 18). That is somewhat arbitrary. But it is an attempt to balance the severe noise of such works with a degree of protection for a vulnerable group of people, bearing in mind that the assessments are made on a worst case basis and that the noise would be temporary.
- 24.168 Similar points relate to the protection of the Fordlands Road Care Home from the noise of traffic on the proposed spine road. Again, the assessments envisaged the construction of an acoustic wall beside the carriageway. A condition is intended to provide for that measure unless a better scheme can be devised (condition 16).
- 24.169 Finally, I have added a requirement, in relation to the 'nature park', to include a scheme detailing the methods of management and measures to monitor the flood regime in relation to the Germany Meadow SINC (condition 10). The potential improvement of this meadow formed an important part of the proposals.
- 24.170 I do not agree that it would be necessary to impose a condition requiring development to be carried out in complete accordance with the plans 'as originally submitted and later amended by the revised drawings'. Although such conditions are now common, I think that so much still needs to be worked out in detail that such a condition would serve little purpose now. It might be appropriate when more details are fixed. I think that adequate protection for the hedges on the site would be provided by condition 5. And, the suggestion that roofing materials adjacent to the Conservation Area should be natural seems to me to ignore the influence of the intervening development. I think that the choice of materials should be controlled. But, in the circumstances, I consider that control at the detailed stage should be adequate. The same applies to the scheme requiring details of how the development might conform to the Ecohomes Excellent rating as set out in the 2006 standard. Some of the details¹ set out by the Green Party could well be part of a scheme. But the standard is designed to be flexible and the suggested condition would provide for appropriate control to be exercised in the context of detailed designs.

¹ Document 21

Derwenthorpe

- 24.171 I have included a reference to the Lifetime Homes standards in condition 2. Although the design documents refer to these standards, they form an important part of the philosophy behind the scheme and their contribution to the 'sustainability' of the dwellings would warrant explicit recognition.
- 24.172 The condition protecting trees and hedging on the site prevents burning of materials within 3m of the crown spread of any tree. BS5837:1991 indicates that flames within 5m of any part of a tree could be damaging and recommends that large fires should be at least 20m away. I would expect large fires to be controlled by the Environmental Management Scheme (condition 13), but I have altered condition 4 to prevent the burning of materials within 10m of the crown spread.
- 24.173 Concerns expressed by residents suggest that the 'entrance feature' at Meadlands might interfere with an existing driveway and cause disturbance as vehicles 'bump' over the raised platform close to dwellings. I have amended condition 27 to provide the flexibility to allow these arrangements to be reconsidered.
- 24.174 I have added a condition to protect the site from spills of oil and chemicals (condition 15).
- 24.175 Condition 32, which prevents development taking place until the obligations provided for in the section 106 Agreement have been entered into, is imposed because the Council owns most of the land and cannot enter into such an Agreement as the freehold owner. The condition would ensure that the planning obligations are sufficiently binding and enforceable before the development proceeds.
- 24.176 I am not convinced that a stage 1 road safety audit would be required prior to constructing the internal highway layout and all off-site works associated with each phase of the development; nor do I think that a full 3-stage road safety audit should be undertaken at the completion of each phase. This is not required at Germany Beck. In my view, sufficient control would be provided in the approval of appropriate plans. Similarly, there would be little point in imposing conditions that replicate the requirements of a Defra Licence for works involving the great crested newts. The suggestion that garages should be prevented from being erected, or hard surfaces provided, other than 'as expressly authorised by this planning permission' seems to me to be premature. A condition is suggested because the Council wish to prevent hard surfacing and the use of front gardens for car parking. But, although designs may emerge that would require such control that is not yet certain. Whether or not it is, should be determined in the context of the detailed plans.

25. Recommendations

- 25.1 I recommend that both applications be allowed and that planning permissions be granted subject to conditions. The conditions discussed and agreed at the Inquiry are set out in the annexes 1 and 2 at the end of this report, subject to the amendments indicated above.

David Cullingford

APPEARANCES

THOSE IN FAVOUR OF THE SCHEMES

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49 Meadlands, York, YO31 0NR

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Cllr Jonathon Morley Solicitor

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DOCUMENTS

Document	1	Lists of persons present at the Inquiry.
Document	2	List of persons speaking at the evening meeting held at Stray Road Community Centre 29 June 2006
Document	3	List of persons attending the evening meeting held at Fulford 20 July 2006
Document	4	List of persons speaking at the evening meeting held at Fulford 20 July 2006
Document	5	Section 106 Agreement; Germany Beck, 1 December 2006
Document	6	Section 106 Agreement; Derwenthorpe, 4 October 2006
Document	7	Suggested conditions; Germany Beck, 20 July 2006 (ID254)
Document	8	Suggested conditions; Derwenthorpe, 21 July 2006 (ID255)
Document	9	Environmental Statement; supplement, May 2006
Document	10	Letters (approximately 340) received after the call-in
Document	11	Schedule of letters (alphabetical order)
Document	12	Site visit suggestions
Document	13	List of persons present at the Pre-Inquiry Meeting
Document	14	Correspondence relating to submission of proofs
Document	15	Rule 6 Statements
Document	16	Environment Agency; position statements
Document	17	Written submissions; York Environment Forum
Document	18	English Heritage; position statements
Document	19	Written submissions; David Gamston
Document	20	Inspector's tables; housing supply and requirements
Document	21	Some suggested conditions from the Green Party

STATEMENTS OF COMMON GROUND, JOINT STATEMENTS AND PROOFS OF EVIDENCE

1. STATEMENTS OF COMMON GROUND

Number	Title	Author
SCG/GB/1	Statement of Common Ground; Germany Beck ~ Planning	Michael Courcier
SCG/GB/2	Statement of Common Ground; Germany Beck ~ Transport	Peter Evely & Bryan Hall
SCG/ML/1	Statement of Common Ground; Derwenthorpe ~ Planning	Jennifer Hubbard
SCG/ML/2	Statement of Common Ground; Derwenthorpe ~ Transport	Peter Evely & Andrew Morton
SCG/GEN/2	Statement of Common Ground; Cumulative Transport Issues	Peter Evely, Bryan Hall & Andrew Morton

2. JOINT STATEMENTS

Number	Title	Author
JS1	Planning Policy	CYC, Persimmon Homes, Joseph Rowntree
JS2	Green belt	CYC, Persimmon Homes, Joseph Rowntree
JS3	General Housing Provision	CYC, Persimmon Homes, Joseph Rowntree
JS4	Housing Mix and Affordability	CYC, Persimmon Homes, Joseph Rowntree
JS5	The Approach to Site Selection	CYC, Persimmon Homes, Joseph Rowntree

3. PROOFS OF EVIDENCE ~ PERSIMMON HOMES & HOGG BUILDERS

Number	Title	Author
PH/MRC/1	Planning Issues and Policy ~ Proof	Michael Courcier
PH/MRC/1.1	Planning Issues and Policy ~ Appendices	Michael Courcier
PH/MRC/2	Planning Issues and Policy ~ Summary (ID54)	Michael Courcier
PH/DP/1	Financial Appraisal of Affordable Housing Provision ~ Proof	David Parker
PH/DP/1.1	Financial Appraisal of Affordable Housing Provision ~ Appendices	David Parker
PH/PJR/1	Landscape and Urban Design ~ Proof	Pauline Randall
PH/PJR/1.2	Landscape and Urban Design ~ Rebuttal Proof (ID9)	Pauline Randall
PH/PJR/1.3	Landscape and Urban Design ~ Supplementary Proof (ID140)	Pauline Randall
PH/PJR/1.1	Landscape and Urban Design ~ Appendices	Pauline Randall
PH/PJR/1.1	Landscape and Urban Design ~ Appendices as amended 13 June 2006 (ID142)	Pauline Randall
	See also related documents ID10, ID11, ID141, ID181, ID219, ID229	
ID209	EcoHomes 2006 Predictive Rating Summary and covering letter	Fiona Thomson
PH/BGH/1	Highways and Transport ~ Proof	Bryan Hall
PH/BGH/1.1-1.20	Highways and Transport ~ Appendices	Bryan Hall
	See also related document ID138	
PH/RG/1	Ecology, Biodiversity and Nature Conservation ~ Proof	Dr Ray Gemmell
PH/RG/1.1	Ecology, Biodiversity and Nature Conservation ~ Appendices 1	Dr Ray Gemmell
PH/RG/1.2	Ecology, Biodiversity and Nature Conservation ~ Appendices 2	Dr Ray Gemmell
PH/RG/1.3	Ecology, Biodiversity and Nature Conservation ~ Summary	Dr Ray Gemmell
PH/RG/1.4	Ecology, Biodiversity and Nature Conservation ~ Supplementary (ID217)	Dr Ray Gemmell
PH/PW/1	Archaeological Issues ~ Proof	Paula Ware
PH/PW/1.1(I-XX)	Archaeological Issues ~ Appendices	Paula Ware
PH/DKM/1.00	Hydrology, Drainage and Flood Risk ~ Proof as amended 13 June 2006	Derek Masters
PH/DKM/1.01-1.10	Hydrology, Drainage and Flood Risk ~ Appendices 1-11	Derek Masters
PH/DKM/1.11-1.22	Hydrology, Drainage and Flood Risk ~ Appendices 11-22	Derek Masters
	See also related documents ID139, ID181, ID221	
PH/RC/1	Environmental Noise and Vibration ~ Proof	Richard Cope
PH/RC/1.1	Environmental Noise and Vibration ~ Appendices	Richard Cope
PH/RC/1.2a	Environmental Noise and Vibration ~ Supplementary proof (ID258)	Richard Cope
PH/PC/1.1	Air Quality ~ Proof	Paul Colclough

PH/PC/1.2	Air Quality ~ Figures and Tables	Paul Colclough
PH/PC/1.3	Air Quality ~ Appendices	Paul Colclough

4. PROOFS OF EVIDENCE ~ JOSEPH ROWNTREE HOUSING TRUST

Number	Title	Author
JRHT/JH	Planning Policy, the Green Belt, Housing, Housing Mix and Affordability, the Sequential Test and Prematurity ~ Proof	Jennifer Hubbard
JRHT/JH/1	Planning Policy, the Green Belt, Housing, Housing Mix and Affordability, the Sequential Test and Prematurity ~ Appendices	Jennifer Hubbard
JRHT/RSB	Introduction to the Trust and the Foundation ~ Proof	Lord Richard Best
JRHT/NI	The Scheme, the Vision and the Ethos of JRHT ~ Proof and Appendices 1-11	Nigel Ingram
JRHT/NI/1	The Scheme and the EcoHomes Assessment ~ Supplementary Proof and tables (ID78)	Nigel Ingram
JRHT/NI/4.3	Masterplanning a new community (ID132)	Nigel Ingram
	See also related documents ID149, ID204	
JRHT/MWS	Viability and Affordable Housing ~ Proof	Michael Sturge
JRHT/MWS/1	Viability and the 'toolkit' ~ Supplementary proof	Michael Sturge
JRHT/CA	Energy Efficiency and Sustainability ~ Proof and Appendices	Craig Anders
JRHT/CA	Energy Efficiency and Sustainability ~ Summary Proof	Craig Anders
JRHT/CR	Design ~ Proof	Chris Rudolf
JRHT/CR/1	Design ~ Appendices 1- 10	Chris Rudolf
JRHT/CR/2	Design ~ Summary	Chris Rudolf
JRHT/FF	Landscape and Environmental Issues ~ Proof	Frank Fawcett
JRHT/FF/1	Landscape and Environmental Issues ~ Appendices	Frank Fawcett
JRHT/FF/2	Landscape and Environmental Issues ~ Plans and Photos	Frank Fawcett
JRHT/AWM	Highways and Transport ~ Proof and Appendices	Andrew Morton
JRHT/AWM/2	Highways and Transport ~ Rebuttal Proof (ID35)	Andrew Morton
JRHT/RNH	Biodiversity and Nature Conservation ~ Summary Proof	Dr Richard Humphries
JRHT/RNH	Biodiversity and Nature Conservation ~ Proof & Appendices	Dr Richard Humphries
JRHT/RNH/1	Biodiversity and Nature Conservation ~ Supplementary Data (ID40)	Dr Richard Humphries
JRHT/RNH/2	Biodiversity and Nature Conservation ~ Rebuttal 1 (ID41)	Dr Richard Humphries
JRHT/RNH/3	Biodiversity and Nature Conservation ~ Rebuttal 2	Dr Richard Humphries
JRHT/RNH/4	Biodiversity and Nature Conservation ~ Rebuttal 3 (ID143)	Dr Richard Humphries
	See also related documents ID65, ID66	
JRHT/NM	Archaeology ~ Proof	Neil Macnab
JRHT/NM/1	Archaeology ~ Summary	Neil Macnab
JRHT/NM	Flooding and Drainage Issues ~ Proof	Richard Annable
JRHT/NM/1	Flooding and Drainage Issues ~ Appendices	Richard Annable
JRHT/NM/2	Flooding and Drainage Issues ~ Supplementary Proof (ID17b)	Richard Annable
	See also related documents ID73, ID133	
JRHT/IMH	Noise ~ Proof & Appendices	Ian Harley
JRHT/IMH/1	Noise ~ Summary	Ian Harley
JRHT/GAP	Air Quality ~ Proof	Graham Parry
JRHT/GAP/1	Air Quality ~ Appendices	Graham Parry
JRHT/GAP/Sum	Air Quality ~ Summary	Graham Parry

5. PROOFS OF EVIDENCE ~ CITY OF YORK COUNCIL

Number	Title	Author
Y1	General Planning Issues ~ Proof	Patrick Sutor
Y2	General & Detailed Planning Issues; Derwenthorpe ~ Proof	Patrick Sutor

Y3	General & Detailed Planning Issues; Germany Beck ~ Proof	Patrick Sutor
Y4	Planning Issues ~ Appendices 1-12	Patrick Sutor
Y5	Housing Needs, Mix & Affordability ~ Proof	Dr Richard Fordham
Y6	Housing Needs, Mix & Affordability ~ Appendices	Dr Richard Fordham
Y7	Cumulative Traffic Impact ~ Proof	Peter Evely
Y7A	Traffic Issues Raised ~ Proof (ID72)	Peter Evely
Y7	Cumulative Traffic Impact ~ Proof	Peter Evely
Y8	Traffic Impact; Derwenthorpe ~ Proof	Peter Evely
Y9	Traffic Impact; Germany Beck ~ Proof	Peter Evely
Y10	Drainage and Flood Risk ~ Proof	Michael Tavener
Y11	Archaeology ~ Proof	John Oxley
Y12	Archaeology ~ Appendices	John Oxley
Y13	Biodiversity and Nature Conservation ~ Proof	Bob Missin

6. PROOFS OF EVIDENCE ~ YORK GREEN PARTY

Number	Title	Author
GP1	Housing Requirements & Housing Needs; Both Sites ~ Proof	Denise Craghill
ID34	Financial Appraisals ~ Supplementary Proof	Denise Craghill
GP3	Germany Beck; Design, Layout & Conservation Area ~ Proof	Denise Craghill
ID183	Germany Beck; Design, Layout & Conservation Area ~ Updated Proof	Denise Craghill
GP2	Germany Beck; Travel and Traffic ~ Proof	Cllr Andy D'Aghorne, Cllr Mark Hill & Jonathon Tyler
ID198	Germany Beck; Traffic Levels, Congestion & Air Quality ~ Supplementary Proof	Cllr Andy D'Aghorne, Cllr Mark Hill & Jonathon Tyler
ID133	Germany Beck; Flooding ~ Proof	Denise Craghill
ID74	Derwenthorpe; Design, Layout & Conservation Area ~ Proof	Denise Craghill
GP4	Derwenthorpe; Flooding ~ Proof	Denise Craghill
ID257	Closing submissions	Denise Craghill

7. PROOFS OF EVIDENCE ~ FULFORD PARISH COUNCIL and the Grimston Bar Development Group

Number	Title	Author
FPC-GBDG/GEW/1	Green Belt, Prematurity and Amenity ~ Proof	George E Wright
FPC-GBDG/GEW/1.1	Green Belt, Prematurity and Amenity ~ Appendices	George E Wright
FPC/GEW/2	The Conservation Area, the Junction, Flooding, Ecology, Housing, Highways and the Care Home ~ Proof	George E Wright
FPC-GBDG/GEW/3	Green Belt, Prematurity and Amenity ~ Supplementary Proof (ID6)	George E Wright
FPC/GEW/4	The Conservation Area and its Setting, Highways and Other Matters ~ Supplementary Proof except Green Belt (ID7)	George E Wright
FPC-GBDG/GEW/5	Green Belt, Prematurity and Amenity ~ Second Supplementary Proof (ID165)	George E Wright
FPC-GBDG/GEW/5.1	Green Belt, Prematurity and Amenity ~ Appendices and Maps to Second Supplementary Proof (ID165)	George E Wright
FPC/GEW/6	Affordable Housing and Sale Prices ~ Second Supplementary Proof excluding Green Belt (ID166)	George E Wright
ID272	Closing submissions	George E Wright
	See also related documents ID220, ID241	
FPC GBDG	= The case for the Fulford Parish Council = The case for the Grimston Bar Development Group	

8. PROOFS OF EVIDENCE ~ KARIN DE VRIES

Number	Title	Author
ID163	Green Belt, Fulford and Conservation ~ Summary Proof	Karin de Vries
ID163	Green Belt, Fulford and Conservation ~ Proof & Appendices	Karin de Vries
ID218	Green Belt, Fulford and Boundaries ~ Supplementary Proof & Appendices	Karin de Vries
KV/1	Conditions and Mitigation in Relation to Osborne House	Karin de Vries & Rob Aitken
ID281	Hedgerows ~ Supplementary Proof & Appendices	Karin de Vries
ID271	Closing submissions	Karin de Vries

9. PROOFS OF EVIDENCE ~ FULFORD FRIENDS ~ MARY URMSTON

Number	Title	Author
ID157	The Impact of the New Road on Fulford, the Care Home, Conservation, Countryside and Wildlife ~ Summary Proof	Mary Urmston
ID157	The Impact of the New Road on Fulford, the Care Home, Conservation, Countryside and Wildlife ~ Proof & Appendices	Mary Urmston
ID200	Germany Beck; Photos	Mary Urmston
ID229	Germany Beck; Response to Mrs Randall's comments on ID200	Mary Urmston
ID277	Closing submissions	Mary Urmston

10. PROOFS OF EVIDENCE ~ THE BATTLEFIELDS TRUST

Number	Title	Author
BT/MR/1	Battlefield Archaeology at Fulford ~ Proof	Michael Raynor
CD138	Fulford Battlefield: An assessment of the implications of the current planning application, Battlefields Trust (2003)	Dr Glenn Foard

11. PROOFS OF EVIDENCE ~ THE FULFORD BATTLEFIELD SOCIETY

Number	Title	Author
FBS/1	Outline of the Search for the Battlefield at Fulford ~ Proof	Chas Jones
FBS/2	Rule 6 Statement	Chas Jones
ID232	Outstanding investigations planned	Chas Jones
ID234	Extract; The Forgotten Battle of 1066: Fulford, Chapter 6	Chas Jones
ID237	Extract; A Palaeo-environmental reconstruction of late Holocene changes at Fulford Ings, York	Susannah Gill
ID259	Closing submissions	Chas Jones
ID260	Updated list of outstanding investigations planned	Chas Jones
ID261	Notes on investigations thought to have been agreed with the applicants in 2002	Chas Jones
FBS/3	Letters in support of preserving the battlefield site	Various
FBS/4	List of documents and CD	Chas Jones

12. PROOFS OF EVIDENCE ~ OTHER CASES RELATING TO GERMANY BECK

Number	Title	Author
ID158	Guidance from the Fulford Village Design Statement	Cllr Stephen Kenwright
FVDS/2	Questionnaire findings	Cllr Stephen Kenwright
FVDS/2	Residents questionnaire and 'young peoples' questionnaire	Cllr Stephen Kenwright
ID240	Quotes from the Comment Wall at the Fulford Show	Cllr Stephen Kenwright
ID162	Statement relating to the impact on residents of Low Moor Avenue	Judi Legg
ID102	Letter from Judi and Peter Legg regarding the Germany Beck	Judi and Peter Legg

	development	
ID205	Photographs submitted by Judi Legg	Judi Legg
ID150	Statement and figures relating to the amenity of residents in School Lane, including listed residents	John Hutton
ID33	Letter and signatures submitted by John Hutton regarding School Lane residents	John Hutton
ID185	Fulford Consultation Group ~ Summary Proof	Peter Barton
ID159	Statement of Fulford Consultation Group dated 13/05/06 regarding Germany Beck development	Peter Barton
ID208	Photograph and flooding information	Mr Mellor
FCG/1	Flood management possibilities at Fulford Ings	Peter Barton
FCG/2	Sewer levels	Peter Barton
FCG/3	Statement Fulford Consultation Group including notes of meetings and consultations	Peter Barton
ID184	Statement from Heslington parish Council	Richard Frost
ID156	Objections	Cllr Keith Aspden
ID90	Objections	Cllr Keith Aspden
ID155	Statement and diagram dated 07/07/06 regarding drainage at Germany Beck	Andrew Vevers
ID224	Email on drainage and personal background 19/07/06	Andrew Vevers
ID268	Letter and statement on archaeology regarding Germany Beck	Keith Mulhearn

13. PROOFS OF EVIDENCE ~ OSBALDWICK PARISH COUNCIL

Number	Title	Author
OPC/SA	Planning ~ Summary Proof	Sue Ansbro
OPC/SA	Planning ~ Proof & Appendices	Sue Ansbro
OPC/GWB/3	Highways ~ Summary Proof	Geoffrey Bowman
OPC/GWB/1	Highways ~ Proof	Geoffrey Bowman
OPC/GWB/2	Highways ~ Appendices (1-8)	Geoffrey Bowman
OPC/WM	Local concerns ~ Proof	Wendy Maddox
ID45	References relating to proof	Wendy Maddox
ID3	Local concerns ~ Summary Proof	Wendy Maddox
ID4	Osballdwick Parish Council Appearances at Public Inquiry	
ID68	Osballdwick Road Widths – Measurements	Osballdwick Parish Council
ID69	TRICS Sites used in Trip Calculations	Geoffrey Bowman
ID86	Extract from the Yorkshire Evening Press dated 27/04/04 regarding traffic issues in York	submitted by Osballdwick Parish Council
ID87	Traffic monitoring figures	submitted by Osballdwick Parish Council
ID164	Closing submissions	Martin Carter

14. PROOFS OF EVIDENCE ~ ADRIAN WILSON

Number	Title	Author
AW/1	Planning, housing, sustainability, Green Belt, traffic, drainage and nature conservation ~ Proof & Appendices (A-P)	Adrian Wilson
ID20	Rebuttal Proof of Evidence of	Adrian Wilson
ID21	Plan of scheme submitted in the context of objections to the Southern Ryedale Local Plan	Adrian Wilson
ID55	Response to Adrian Wilson's Freedom of Information request to GOYH regarding proposed development on land to the west of Metcalfe Lane	Adrian Wilson

ID76	Letter explaining that Mr F Wilson is not related	Adrian Wilson
ID137	Letter dated 04/07/06 regarding the existence of water voles and issues relating to Mr Ingram's Proof of Evidence	Adrian Wilson
ID144	Letter dated 13/01/05 regarding Metcalfe Lane development	Adrian Wilson

15. PROOFS OF EVIDENCE ~ MEADLANDS AREA RESIDENTS ASSOCIATION

Number	Title	Author
MARA1	Outline of objections ~ Proof	Mr D Spaven
MARA2	Outline of objections ~ Proof	Tom Hughes
MARA3	Aims and survey	MARA
MARA4	Notes of consultation meeting by Ian Atkinson, JRF project manager	MARA
	See also related documents ID27, ID28, ID132	

16. PROOFS OF EVIDENCE ~ MARK WARTERS

Number	Title	Author
ID84	Statement and Appendices ~ Proof	Mark Warters
ID85	Photographs of typical modern gardens	Mark Warters
ID202	Request for information about Murton Way	Mark Warters
ID203	Objection to extinguishment of Osbaldwick public footpath No.6; Murton Way	Mark Warters
ID203	Objection to extinguishment of Osbaldwick public footpath No.6; Murton Way	Mark Warters
ID266	Photographs of Osbaldwick Beck beside Murton Way and the planning permission (with plans) for the Murton Way development	Mark Warters
ID265	Ombudsman's report relating to drainage issues at Towthorpe Road, Haxby and the Council's response	Mark Warters

18. PROOFS OF EVIDENCE ~ YORKSHIRE WILDLIFE TRUST

Number	Title	Author
YWT1	Nature Conservation Issues ~ Summary proof, Proof and Appendices (1-13)	Robert Masheder
YWT2	Response to Dr Humphrey's rebuttal evidence ~ Supplementary Proof and Appendices (1-5)	Robert Masheder
YWT3	Bat and Botanical Records ~ Supplementary Proof and Appendices (ID123)	Robert Masheder
ID176	Email setting out English Nature's position in relation to the Derwenthorpe scheme	Robert Masheder
YWT4	Closing submissions (ID210)	Robert Masheder

19. PROOFS OF EVIDENCE ~ YORKSHIRE NATURAL ENVIRONMENT TRUST

Number	Title	Author
YNET1	Nature Conservation, Sustainability and Planning ~ Summary Proof	Barry Potter
YNET2	Nature Conservation, Sustainability and Planning ~ Proof	Barry Potter
YNET3	Nature Conservation, Sustainability and Planning ~ Appendices (1-6)	Barry Potter
YNET4	Recovery of neglected ancient meadows ~ Proof	Michael Phythian
YNET5	A 'green wedge' for Osbaldwick ~ map	Barry Potter
YNET3.7	A 'green wedge' for Osbaldwick ~ photographs (ID15)	Barry Potter
ID66	Response to Dr Humphrey's rebuttal evidence ~ Supplementary Proof and Appendices	Barry Potter

ID67	Hydrology and Biodiversity ~ Supplementary Proof	Barry Potter
YNET7	Naturalistic open space at Dringhouses	Barry Potter
YNET8	Example of severed green corridor at Acomb Wood	Barry Potter
	Closing submissions (email)	Barry Potter

20. PROOFS OF EVIDENCE ~ JONATHON MORLEY

Number	Title	Author
JM1	Planning history and open space ~ Proof (ID64)	Jonathon Morley
JM2	Planning history and open space ~ Appendices	Jonathon Morley

CORE DOCUMENTS

- CD/001 *City of York Local Plan incorporating 4th set of changes (April 2005)*
- CD/002 *City of York Local Development Scheme (2005)*
- CD/003 *City of York Council (First) Draft Local Development Framework (Jan/Feb 2006)*
- CD/004 *CYC Local Transport Plan (2001 - 2006)*
- CD/005 *CYC Local Transport Plan (2006 - 2011)*
- CD/006 *CYC Highway Design Guide*
CYC Consultation Draft - Supplementary Planning Guidance: Open Space in New
- CD/007 *Developments - A Guide for Developers (June 2005)*
- CD/008 *CYC Affordable Housing Advice Note (Jul 2005)*
- CD/009 *North Yorkshire County Structure Plan (1995)*
- CD/010 *Draft York Green Belt Local Plan Inspector's Report (extracts)*
- CD/011 *York Green Belt Local Plan (post-Inquiry Modifications) (1995/96)*
- CD/012 *Deposit Draft Local Plan 1998 - Proposals Map*
- CD/013 *Draft Local Plan 2005 - Proposals Map*
- CD/014 *Regional Spatial Strategy for Yorkshire and the Humber to 2016 (Dec 2004)*
Emerging Regional Spatial Strategy - The Yorkshire and Humber Plan to 2021 (Dec
- CD/015 *2005)*
- CD/016 *PPS1: Delivering Sustainable Development*
- CD/017 *PPG2: Green Belts*
- CD/018 *PPS 3 draft*
- CD/019 *PPG3: Housing*
- CD/020 *PPS7: Sustainable Development in Rural Areas*
- CD/021 *PPS6: Town Centres*
- CD/022 *PPS9: Nature Conservation*
- CD/023 *PPS12: Local Development*
- CD/024 *PPG13: Transport*
- CD/025 *PPG15: Planning and the Historic Environment*
- CD/026 *PPG16: Archaeology and Planning*
- CD/027 *PPG17: Planning for Open Space, Sport and Recreation*
- CD/028 *PPS23: Planning and Pollution Control*
- CD/029 *PPG24: Planning and Noise*
- CD/030 *PPG25: Planning and Flood Risk*
- CD/030a *PPS 25 Draft*
Secretary of State's decision letter and Planning Inspector's report on Monk's Cross
- CD/031 *Development, ref APP/C2741/V/04/1171229*
- CD/032 *Appeal Decisions*
 - a) 01/02553/OUT - *Do it all/Dunhelm Millshop, Stirling Road*
 - b) 97/01513/OUT - *Challis/Northminster*
 - c) 01/033066/FUL & 02/01290/FUL - *Main Street Knapton*
 - d) 03/01641/FUL - *Stirling Road/Wigginton Road Junction*
 - e) 3/66/763A/OA - *Hopgrove*
 - f) 3/92/66A/OA - *New Earswick*
 - g) 3/66/1/170F/OA & 7/04/2939A/PA - *Malton Road/New Lane Huntington*
 - h) 6/138/34/A/OA & 7/07/5854A/PA - *Superstore rear of Challis/Wyevale*
 - i) 03/1705 - *CD Brammall, Huntington*

	<i>j) 04/317/FUL - Portakabins at Elvington Airfield</i>
	<i>k) 03/2829 - Monks Cross North (not an appeal decision)</i>
	<i>l) 3/104/141AA/PA & 3/121/67C/PA - Manor Lane, Rawcliffe</i>
	<i>m) 3/92/66C/OA - New Earswick, Care Retirement Community</i>
	<i>n) 3/131/225A/FA - Princess Avenue, Strensall</i>
	<i>o) 01/01880/OUT - Willow Court Farm</i>
	<i>p) APP/5343/A82/10198 - Erection of CastleCare Homecentre</i>
	<i>q) APP/F2740/A/88/92582/P3 & APP/F2740/A/89/113288/P3 - Residential Development</i>
	<i>r) APP/F2740/A/94/245376 - Residential Development, Public Open Space & Woodland Planting</i>
	<i>s) APP/C2741/A/00/1044904 - Formation of additional car parking</i>
	<i>t) APP/C2741/A/03/1116987 - Erection of 2 and 3 storey premier office development with associated access and car parking</i>
CD/033	<i>Alternative Housing Site Locations</i>
	<i>Proposals for Introducing a Code for Sustainable Homes - Consultation Paper (Dec 2005)</i>
CD/034	<i>In the Mix: A Review of mixed income, mixed tenure and mixed communities (Mar 2006)</i>
CD/035	<i>Securing the Future: Delivering UK Sustainable Development Strategy</i>
CD/036	<i>Sustainable Communities: Building for the Future (ODPM 2003)</i>
CD/037	<i>2005 Monitoring Report</i>
CD/038	<i>ODPM Press release on Housing Numbers</i>
CD/039	<i>Can work - Can't Buy: Local measures of the ability of working households to become homeowners (2003)</i>
CD/040	<i>Better Places to Live</i>
CD/041	<i>Conservation Area Practice. English Heritage (Oct 1995)</i>
CD/042	<i>Conservation Area Appraisals. English Heritage (Mar 1997)</i>
CD/043	<i>Guidance on the Management of Conservation Areas. English Heritage (Aug 2005)</i>
CD/044	<i>Guidance on Conservation Area Appraisals. English Heritage, Aug 2005</i>
CD/045	<i>Listed Buildings - list descriptions and location plans for buildings in vicinity of application sites</i>
CD/046	<i>Greater York Study, NYCC, 1991</i>
CD/047	<i>ECUS - Landscape Study</i>
CD/048	<i>Guidelines to Traffic Impact Assessment, Institution of Highways and Transportation (1994)</i>
CD/049	<i>Guidelines for the preparation of Transport Impact Assessments and Green Transport Plans, CYC</i>
CD/050	<i>Places, Streets and Movement</i>
CD/051	<i>Making a Difference: A Blueprint for Action for Sport and Active Leisure in York (2005)</i>
CD/052	<i>Sewers for Adoption</i>
CD/053	<i>Making a Difference: The City Sport and Active Leisure Strategy (Jun 2005)</i>
CD/054	<i>DUPLICATE OF CD/052</i>
CD/055	<i>Minutes of Leisure EMAP 13th June 2005</i>
CD/056	<i>Playing Pitch Module - East York Pitch Analysis</i>
CD/057	<i>Playing Pitch Module - South York Pitch Analysis</i>
CD/058	<i>Burnholme School Community Use Agreement</i>
CD/059	<i>JBA Report - Flood Risk & Drainage Issues - Addendum Report (Hydraulic Modelling Supplement) September 2004</i>

CD/060 *JBA Report - Technical Paper Covering Further Flooding & Drainage Studies May 2006*
 CD/061 *Outline Planning Application Germany Beck*
 CD/062 *City of York Council Development Brief: Germany Beck*
 CD/063 *Fulford Conservation Area - plan and description from draft Local Plan (April 2005)*
 CD/064 *Government Office Call in Letter: Germany Beck*
 CD/065 *Committee Report and Minutes Germany Beck*
 CD/066 *Selby District-wide draft Local Plan 1995*
 CD/067 *Minutes of Green Belt Consultation Group Meetings*
 CD/068 *NO LONGER REQUIRED*
 CD/069 *Report by Consultation Group to Fulford Ward Meeting*
 CD/070 *Revised Historic Landscape Appraisal 2005*
 CD/071 *Archaeological Evaluation Trenches 1-64 (1996)*
 CD/072 *Archaeological Evaluation Trenches 65 - 69 (2002)*
 CD/073 *Geophysical Survey Areas A - H (1996)*
 CD/074 *Land to the North of Germany Beck, Fulford, Desktop Study (1996)*
 CD/075 *On Line Ponds Trenches 70 - 77 (2003)*
 CD/076 *Planning Application Metcalfe Lane (File 1)*
 CD/077 *Environmental Statement Volume 1*
 CD/078 *Environmental Statement Volume 2, Chapters 6-8*
 CD/079 *Environmental Statement Volume 2, Chapters 9-11*
 CD/079a *Supplementary Information*
 CD/080 *Revised Environmental Statement (Part) and Further Supplementary Information*
 CD/081 *City of York Council Development Brief: Derwenthorpe
Osbalwick Conservation Area - plan and description from draft Local Plan (April 2005)*
 CD/082 *Government Office Call in Letter: Derwenthorpe*
 CD/083 *Committee Report and Minutes Derwenthorpe*
 CD/084 *Draft Southern Ryedale Local Plan Inspector's Report (extracts)*
 CD/085 *Southern Ryedale Local Plan (post-Inquiry Modifications) (1995/96)*
 CD/086 *Major Sites - Air Quality Assessment (May 2005) (ref
CS/AQ/AGGX0383/RM/2317/Version3)*
 CD/087 *Calculation of Road Traffic Noise - Department of Transport/Welsh Office/HMSO (1998)*
 CD/088 *Mineral Planning Guidance 11*
 CD/089 *BS5228: Noise Control on construction and Open Sites (1997)*
 CD/090 *Green Belts in North Yorkshire: a Discussion Paper (March 1981)*
 CD/091 *Green Belts in North Yorkshire: Progress Report (May 1983)*
 CD/092 *Germany Beck Highway Study - Final Report - MVA (Jan 1988)*
 CD/093 *Fulford Road Corridor Study - Final Report- Colin Buchanan & Partners (Sept 1999)*
 CD/094 *Fulford Road Corridor Study - Final Report- Colin Buchanan & Partners (Dec 2000)*
 CD/095 *Cumulative Traffic Impact Assessment of Key Developments in the South/East of York - Faber Maunsell (Oct 2004)*
 CD/096 *Transportation Assessment - JSM Tramtrax Ltd (Jul 2003)*
 CD/097 *Transportation Assessment - JSM Tramtrax Ltd (Jan 2004)*
 CD/098 *Planning for Bio-Diversity and Geological Conservation: A Guide to Good Practice, ODPM (2006)*
 CD/099

CD/100	<i>Derwenthorpe - A UK Demonstration of Sustainable Development in New Housing, C Baines (2004)</i>
CD/101	<i>A New Community for York - Metcalfe Lane, Osbaldwick - Masterplanning Competition, Brief for Shortlisted Teams</i>
CD/102	<i>Masterplan Report - New Osbaldwick - A Natural Community - PRP Architects (Jan 2000)</i>
CD/103	<i>By Design - Urban Design in the Planning System: Towards Better Practice (DTLR/CABE 2000)</i>
CD/104	<i>Safer Places - The Planning System and Crime Prevention (ODPM/Home Office 2004)</i>
CD/105	<i>Planning and Access for Disabled People: A Good Practice Guide (ODPM 2003)</i>
CD/106	<i>Home Zones, a Planning and Design Handbook (M Biddulph, JRF, 2001)</i>
CD/107	<i>Home Zone Design Guidelines (Institute of Highways Incorporated Engineers, 2002)</i>
CD/108	<i>Supporting Statement</i>
CD/109	<i>Design Statement</i>
CD/110	<i>Environmental Statement</i>
CD/111	<i>Supplement to Environmental Statement</i>
CD/112	<i>Development Principles Report</i>
CD/113	<i>Statement of Community Involvement</i>
CD/114	<i>Transport Assessment DUPLICATION OF CD/097</i>
CD/115	<i>Revised Historic Landscape Report (2005)</i>
CD/116	<i>On Line Ponds Report (2005)</i>
CD/117	<i>Sustainable Development Issues Report (Mar 2005)</i>
CD/118	<i>Statement on Very Special Circumstances plus supplement (12/11/05)</i>
CD/119	<i>Plans of A64 Junction Improvement</i>
CD/120	<i>Flood Risk Assessment</i>
CD/121	<i>Update on Statement of Community Involvement</i>
CD/122	<i>Response to the Concerns of English Nature</i>
CD/123	<i>Response to the Concerns of City of York Countryside Officer</i>
CD/124	<i>Revised Transport Assessment DUPLICATION OF CD/098</i>
CD/125	<i>Assessment of plant and invertebrate microfossils from a sequence of peat deposits by Germany Beck, Fulford, York</i>
CD/126	<i>Ancient Monuments and Archaeological Areas Act (1979)</i>
CD/127	<i>Conservation Policies for York: Archaeology</i>
CD/128	<i>Institute of Field Archaeologists Standard and Guidance for archaeological field evaluation</i>
CD/129	<i>Geophysical Survey, Germany Beck, Fulford, West Yorkshire Archaeological Services (2003)</i>
CD/130	<i>Deposit York Green Belt Local Plan</i>
CD/130a	<i>Consultation Draft York Green Belt Local Plan (Dec 1990)</i>
CD/130b	<i>Consultation Draft York Green Belt Local Plan (Feb 1991)</i>
CD/131	<i>City of York Local Plan 1st set of changes</i>
CD/132	<i>City of York Local Plan 2nd set of changes</i>
CD/133	<i>City of York Local Plan 3rd set of changes</i>
CD/134	<i>Regional Planning Guidance 12</i>
CD/135	<i>Green Belt Appraisal</i>
CD/136	<i>DETR Good Practice Note: Planning to Deliver - the Managed Release of Housing Sites</i>
CD/137	<i>Supplementary Planning Guidance: Education</i>
CD/138	<i>Fulford Battlefield: An assessment of the implications of the current planning</i>

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- application, Battlefields Trust (2003)*
- CD/139 *Inspectors Report in City of York Local Plan Inquiry (1999)*
- CD/140 *Report to Planning Committee on Consultations on the Development Brief*
- CD/141 *Minutes from Germany Beck Consultation Group*
- CD/142 *Germany Beck Consultation Group Ward Minutes*
- CD/143 *Germany Beck Annual Report*
- CD/144 *CYC Planning Committee Report Germany Beck 2000*
- CD/145 *CYC Planning Committee Report Germany Beck 2001*
- CD/146 *Supplementary Planning Guidance: Open Spaces in New Developments - a Guide for Developers*
- CD/147 *Metcalf Lane, Osbaldwick, York: Report on Archaeological Desk Top Study. Field Report 89, York Archaeological Trust (1999)*
- CD/148 *Archaeology and Greenfield Site Development: Opportunities for Community Participation. The Archaeological Journal, Vol 161 (2004)*
- CD/149 *Design Guide for Development of a New Community (2003)*
- CD/150 *Design Codes for Development of a New Community (2003)*
- CD/151 *Updated Traffic Impact Assessment & Appendices (2006)*
- CD/152 *York Housing Markets Assessment (Apr 2006)*
- CD/153 *Design Manual for Roads and Bridges, Volume 11*
- CD/153a *CYC representations to RSS*
- CD/154 *Persimmon Homes representations to RSS*
- CD/155 *EcoHomes Standard: EcoHomes Guidance 2006*
- CD/156 *Amended Development Principles Report 2006*
- CD/157 *Report to the Green Belt Working Group (1st June 2004)*
- CD/158 *Objections to Germany Beck Site*
- CD/159 *Objections to Metcalfe Lane site*
- CD/160 *Fordham Research Summary Results of Inspector's Decision*
- CD/161 *York Green Belt Review; future use of sites in urban areas, October 2001*
- CD162 *Suggested Alternative Sites; 3rd set of Changes to City of York Local Plan*
- CD163 *Housing Needs Survey, August 2002*

INQUIRY DOCUMENTS

13/06/06	ID/001	York City Vision and Community Strategy 2004 - 2024
13/06/06	ID/002	E-mail from Cllr Janet Hopton dated 07/06/06 – Objection to Germany Beck
13/06/06	ID/003	Summary Proof of Evidence Wendy Maddocks, Osbaldwick Parish Council
13/03/06	ID/004	Osbaldwick Parish Council Appearances at Public Inquiry
13/06/06	ID/005	Opening Statement on behalf of Persimmon Homes and Hogg Builders
13/06/06	ID/006	FPC-GBDG/GEW/3 Supplementary Proof of Evidence George Wright Green Belt and related prematurity and amenity issues
13/06/06	ID/007	FPC/GEW/4 Supplementary Proof of Evidence George Wright
13/06/06	ID/008	Letter dated 11/06/06 from residents of School Lane
13/06/06	ID/009	PH/PJR/1.2 Rebuttal Proof of Evidence Pauline Randall on Green Belt issues
13/06/06	ID/010	PH/PJR/1A Amendments to Proof of Evidence Pauline Randall
13/06/06	ID/011	PH/PJR/1.1A Amendments to Appendix 1 Proof of Evidence Pauline Randall
14/06/06	ID/012	Regional Spatial Strategy for Yorkshire and Humber Annual Monitoring Report 2005 dated February 2006
14/06/06	ID/013	Explanation of targets used and City of York Council Residual Housing Requirements
14/06/06	ID/014	Terry's Draft Development Brief for Consultation October 2005 - Extracts
14/06/06	ID/015	York Natural Environment Trust Appendix YNET 7 Osbaldwick Meadows Wedge - Photographs
14/06/06	ID/016	Inquiry Programme Draft Issue 1 14/06/06
14/06/06	ID/017	Draft – Potential Housing Sites as proposed by Adrian Wilson
14/06/06	ID/017a	JRHT/MWS/1 Supplementary Statement Michael Sturge
14/06/06	ID/017b	JRHT/RJA/2 Supplementary Proof – Flooding and Drainage Issues
15/06/06	ID/018	CYC Planning Brief York Central March 2004
15/06/06	ID/019	Alternative Housing Sites at the Third Set of Changes to the Local Plan including sites identified in Mr Adrian Wilson's Proof of Evidence
15/06/06	ID/020	Rebuttal Proof of Evidence of Mr Adrian Wilson
15/06/06	ID/021	Plan submitted by Mr Adrian Wilson for Metcalfe Lane from Southern Ryedale Plan
15/06/06	ID/022	Letter regarding amended proposals for Germany Beck development from Mr & Mrs Richardson received 12 June 2006
15/06/06	ID/023	Letter dated 10 June 2006 regarding amended proposals for Germany Beck development from Mrs Pepper
16/06/06	ID/024	Housing Requirements – Mix – Summary Sheet
16/06/06	ID/025	Housing Requirement – Dwelling Size (No. of bedrooms) Summary Sheet
16/06/06	ID/026	Application for City of York Council Housing Register
16/06/06	ID/027	The Four Masterplans for the land west of Metcalfe Lane Osbaldwick – A new community for York

16/06/06	ID/028	Osbalwick Fields – a new community for York report January 2000
20/06/06	ID/029	Letter dated 11 June 2006 from RM Murphy regarding planned development Germany Beck
20/06/06	ID/030	Letter dated 8 June 2006 from Mr & Mrs Foster regarding Germany Beck development
20/06/06	ID/031	Letter dated 10 June 2006 from Mr & Mrs Sanderson relating to proposals for Germany Beck
20/06/06	ID/032	Extract from Local Government Ombudsman document Disposal of Land Guidance on good practice 5 relating to the disposal of land for less than the best obtainable price
20/06/06	ID/033	Letter submitted from John Hutton regarding School Lane residents
20/06/06	ID/034	Financial appraisal – information submitted by Denise Craghill York Green Party 20/06/06
20/06/06	ID/035	JRHT/AWM/2 Rebuttal of Rule 6 Parties Proofs of Evidence (Osbalwick Parish Council and Adrian Wilson)
20/06/06`	ID/036	Southern Ryedale Local Plan -Report on Objections to the Plan (including Summary of Objections and Statements of Support on the Deposited Plan)
20/06/06	ID/037	York Green Belt Local Plan - Report on Objections to the Plan (including Maps)
20/06/06	ID/038	Photographs showing views of the Minster from the Metcalfe Lane area
20/06/06	ID/039	Map of Metcalfe Lane site showing the location of the Minster in relation to the site
20/06/06	ID/040	JRHT/RNH Proof of Evidence – Supplementary Information
20/06/06	ID/041	JRHT/RNH Rebuttal of Evidence – Biodiversity (Nature Conservation)
21/06/06	ID/042	Objection to Germany Beck from Patrick Papst by e-mail dated 18/05/06
21/06/06	ID/043	Report to Planning Committee 27/06/06 - Revised Development Brief for the Terry's Factory Site
21/06/06	ID/044	Development Brief – Terry's June 2006
22/06/06	ID/045	References : Proof of Evidence by Wendy Maddocks Osbalwick Parish Council
22/06/06	ID/046	Letter from resident of 9 Heathmoor Drive dated 18/06/06 regarding Germany Beck
22/06/06	ID/047	Letter from MA Easton dated 19/06/06 regarding Germany Beck
22/06/06	ID/048	Letter from Mr A Lethbridge dated 19/06/06 regarding Germany Beck
22/06/06	ID/049	Letter from J & J Skelton regarding Germany Beck
22/06/06	ID/050	Letter from Mr & Mrs White dated 19/06/06 regarding Germany Beck
22/06/06	ID/051	E-mail from Anthony & Gillian Baldwin dated 21/06/06 regarding Germany Beck
22/06/06	ID/052	City of York Local Plan Third Set of Changes February 2003
22/06/06	ID/053	City of York Local Plan Urban Capacity Study and the Future Use of Sites in Urban Areas February 2003
22/06/06	ID/054	Summary Proof of Evidence Michael R Courcier
27/06/06	ID/055	Response to Adrian Wilson's Freedom of Information request to GOYH regarding proposed development on land to the west of

		Metcalfe Lane
27/06/06	ID/056	Allocated Housing Sites table
27/06/06	ID/057	Notes entitled Sue Ansbro XXAM
27/06/06	ID/058	Extract from LTP2 – City Travel Model
27/06/06	ID/059	Email from Pat Sutor dated 22/06/06 regarding Query on Environment Agency's Position Statement for Germany Beck
27/06/06	ID/060	PPG 9 – Nature Conservation
27/06/06	ID/061	Sites of Importance for Nature Conservation in North Yorkshire – Guidelines for Site Selection
27/06/06	ID/062	Local Sites – Guidance on their Identification, Selection and Management
27/06/06	ID/063	Inquiry Programme Issue 2 – 23/06/06
28/06/06	ID/064	Proof of Evidence of Jonathan Peter Morley Councillor for Osbaldwick Ward
28/06/06	ID/065	YWT 2 Rebuttal of Evidence presented by Dr RN Humphries (Biodiversity – Nature Conservation)
28/06/06	ID/066	Proof of Evidence – Response of YNET to rebuttal of evidence by Dr RN Humphries for Joseph Rowntree Housing Trust – Barry Potter
28/06/06	ID/067	Supplementary Proof of Evidence – Hydrology in relation to Biodiversity – Barry Potter
28/06/06	ID/068	Osbaldwick Road Widths – Measurements taken by Osbaldwick Parish Council
28/06/06	ID/069	TRICS Sites used in Trip Calculations submitted by Osbaldwick Parish Council
28/06/06	ID/070	Letter from Mr & Mrs B Overend received 23 June 2006 regarding proposed bus routes for the Germany Beck development
28/06/06	ID/071	Letter from Lord Faulkner of Worcester dated 23 June 2006 regarding proposed development at Germany Beck
28/06/06	ID/072	Sustainable Development : Derwenthorpe Project – report from Professor Chris Baines on environmental aspects of the development
28/06/06	ID/072a	Y7A Additional Information arising from matters raised during the Inquiry to 23 June 2006 – Peter Evely
28/06/06	ID/073	July 2006 Flood Zone Map published by the Environment Agency
28/06/06	ID/073a	Map and details of New Lane Huntington site
28/06/03	ID/074	York Green Party - Metcalfe Lane – Design, Layout and Conservation – Proof of Evidence
28/06/06	ID/075	A low carbon roadmap to 2050 submitted by the Green Party
28/06/06	ID/076	Letter from Adrian Wilson dated 26 June 2006 to Mr David Cullingford, Planning Inspector
28/06/06	ID/077	Meadlands Area Residents Association – Statement by Mr Tom Hughes on transport and related issues on behalf of residents
28/06/06	ID/078	JRHT/NI/1 Supplementary Statement from Nigel Ingram Joseph Rowntree Housing Trust
29/06/06	ID/079	City of York Local Development Framework Core Strategy Issues and Options June 2006
29/06/06	ID/080	Volume 5 Section 1 Part 3 Design Manual for Roads and Bridges February 1999
29/06/06	ID/081	Letter from Yorkshire Wildlife Trust dated 30 October 2003 in

		response to being consulted on Metcalfe Lane housing proposal
29/06/06	ID/082	Letter from Yorkshire Wildlife Trust dated 23 December 2003 regarding Metcalfe Lane - Invertebrate survey
29/06/06	ID/083	Letter from Yorkshire Wildlife Trust dated 29 June 2004 regarding Metcalfe Lane – Further information submitted in addition to Environmental Statement
29/06/06	ID/084	Proof of Evidence of Mr Mark Warters
29/06/06	ID/085	Photographs of JRHT dwellings on Geldof Road and Victoria Way submitted by Mr Warters
29/08/06	ID/086	Extract from the Yorkshire Evening Press dated 27/04/04 regarding traffic issues in York submitted by Osbaldwick Parish Council
29/06/06	ID/087	Traffic monitoring figures submitted by Osbaldwick Parish Council
30/06/06	ID/088	Appearances for City of York Council
30/06/06	ID/089	Inquiry Programme Issue 3 – 29/06/06
30/06/06	ID/090	Cllr K Aspden Version Of Evidence dated 29/06/06
30/06/06	ID/091	Report of the Policy & Resource Committee 25/04/00 Agenda Item 8 Developing Land at Metcalfe Lane Osbaldwick
30/06/06	ID/092	October 2004 issue of Acomb Your Ward
30/06/06	ID/093	City of York Draft Local Plan – review of allocated development sites : ecology issues
30/06/06	ID/094	Letter from Elizabeth Richardson dated 24 June 2006 regarding the Germany Beck development
30/06/06	ID/095	Letter from Janet E Storey dated 19/06/06 regarding the Germany Beck development
30/06/06	ID/096	Letter from Mr & Mrs Jackson dated 26/06/06 regarding the Germany Beck development
30/06/06	ID/097	Letter from Mr F Illingworth dated 22/06/06 regarding the Germany Beck development
30/06/06	ID/098	Letter from Mrs V Illingworth dated 22/06/06 regarding the Germany Beck development
30/06/06	ID/099	Letter from Mr & Mrs B Manson regarding the Germany Beck development
30/06/06	ID/100	Letter from Mr & Mrs DJ Pinkney dated 18/06/06 regarding the Germany Beck development
30/06/06	ID/101	Letter from Christopher & Elsie Stephenson regarding the Germany Beck development
30/06/06	ID/102	Letter from Judi and Peter Legg regarding the Germany Beck development
30/06/06	ID/103	Letter from Alan Atkinson dated 19/06/06 regarding the Germany Beck development
30/06/06	ID/104	Letter from Mr & Mrs White dated 19/06/06 regarding the Germany Beck development
30/06/06	ID/105	Letter from Mrs S Hewitson regarding the Germany Beck development
30/06/06	ID/106	Letter from Myrtle & Graham Houghton dated 19/06/06 regarding the Germany Beck development
30/06/06	ID/107	Letter from A Leaf regarding the Germany Beck development
30/06/06	ID/108	Letter from Mrs WV Buckle dated 17/06/06 regarding the Germany Beck development
30/06/06	ID/109	Letter from Miss AM White dated 19/06/06 regarding the Germany

		Beck development
30/06/06	ID/110	Letter from Mrs Irene Douglas dated 18/06/06 regarding the Germany Beck development
30/06/06	ID/111	Letter from Mrs Phyllis Smeaton dated 22/06/06 regarding the Germany Beck development
30/06/06	ID/112	Letter from Mr G Burgess dated 20/06/06 regarding the Germany Beck development
30/06/06	ID/113	Letter from Anne Appleton regarding the Germany Beck development
30/06/06	ID/114	Letter from Mrs P Atkinson dated 20/06/06 regarding the Germany Beck development
30/06/06	ID/115	Letter from G & J Charlson dated 23/06/06 regarding the Germany Beck development
30/06/06	ID/116	Letter from Clive & Lois Brookes dated 19/06/06 regarding the Germany Beck development
30/06/06	ID/117	Letter from Mrs Joyce Rushby dated 20/06/06 regarding the Germany Beck development
30/06/06	ID/118	Letter from Barbara, Trevor & Graham Asbury dated 15/06/06 regarding the Germany Beck development
30/06/06	ID/119	Letter from 20 Heathmoor Drive dated 19/06/06 regarding the Germany Beck development
04/07/06	ID/120	Extracts from Unaffordable Housing Fables and Myths – Evans and Hartwich June 2005
04/07/06	ID/121	Extract from the Yorkshire Evening Press of three letters regarding Metcalfe Lane
04/07/06	ID/122	Essay by Alison Sinclair : Early House Planning at New Earswick published in York Historian Issue 21 2004
04/07/06	ID/123	YWT 3 Supplementary Proof of Evidence Robert Masheder
04/07/06	ID/124	Letter from Mr & Mrs Teasdale dated 23.06.06 regarding the Germany Beck development
04/07/06	ID/125	Letter from English Nature dated 30.06.06 regarding Germany Beck development
05/07/06	ID/126	Osaldwick Development - Report to the Selection Panel 31 January 2000
05/07/06	ID/127	Extracts from “Meeting Part M and designing Lifetime Homes” Joseph Rowntree Foundation 1999
05/07/06	ID/128	Map of New Osaldwick Proposed Site showing trial pits and levels
05/07/06	ID/129	Diagram showing XS1 – 100m – 140m from Metcalfe Lane
05/07/06	ID/130	Diagram showing XS2 – Along western boundary
05/07/06	ID/131	Certificate of Charter Client Status for the Joseph Rowntree Housing Trust
05/07/06	ID/132	JRHT/NI/4.3 Masterplanning a new community – Designs for a town extension in York. Joseph Rowntree Foundation 2001
05/07/06	ID/133	York Green Party Proof of Evidence : Metcalfe Lane : Flooding
05/07/06	ID/134	Report to Planning & Transport (East area) Sub Committee 10 November 2005. Public Rights of Way – Highways Act 1980 Section 118, Public Path Extinguishment Order, Osaldwick Public Footpath No 6, Osaldwick, York
05/07/06	ID/135	Photographs of Monkton Road area taken 04/07/06
05/07/06	ID/136	Photographs of New Earswick taken 04/07/06

05/07/06	ID/137	Letter from Adrian Wilson dated 04/07/06 regarding the existence of water voles and issues relating to Mr Ingram's Proof of Evidence
06/07/06	ID/138	Bryan G Hall Transport plans – A19 and Fordlands Road
06/07/06	ID/139	JSM Plans of Proposed Flood Defences for A19
06/07/06	ID/140	Supplementary Proof of Evidence by Pauline Randall – PH/PJR/1.3
06/07/06	ID/141	Amendments to Proof of Evidence by Pauline Randall – PH/PJR/1A
06/07/06	ID/142	Amended Appendix 1 to Proof of Evidence by Pauline Randall - PH/PJR/1.1
06/07/06	ID/143	Rebuttal Evidence No. 3 – Dr R N Humphries – JRHT/RNH
06/07/06	ID/144	Letter to Mr Adrian Wilson dated 13/01/05 regarding Metcalfe Lane development
06/07/06	ID/145	Photographic submission
06/07/06	ID/146	Email from Bob Missin dated 05/07/06 regarding Hedge Investigation
06/07/06	ID/147	Additional Information to Proof of Evidence submitted by Mike Tavener
06/07/06	ID/148	British Sugar Announcement – Joint note from the Council, Persimmon Homes and Joseph Rowntree Housing Trust dated 06/07/06
06/07/06	ID/149	JRHT/NI/2 Supplementary Statement Nigel Ingram July 2006
06/07/06	ID/150	Objection and evidence submitted by John Hutton on behalf of residents of School Lane, Fulford
06/07/06	ID/151	Article from the Yorkshire Evening Press 05/07/06 regarding the closure of British Sugar
06/07/06	ID/152	Overhead or Underground? National Grid's approach
06/07/06	ID/153	Appendix 4A – Affordable Housing Mix extract
06/07/06	ID/154	Creating and sustaining mixed income communities – a good practice guide (A copy to be held in the library only)
11/07/06	ID/155	Statement dated 07/07/06 submitted by Andrew Vevers regarding Germany Beck development
11/07/06	ID/156	Statement dated 10/07/06 submitted by Cllr Keith Aspden regarding Germany Beck development
11/07/06	ID/157	Statement submitted by Mary Urmston regarding Germany Beck development
11/07/06	ID/158	Statement dated 29/01/06 submitted by Fulford Village Design Statement group regarding Germany Beck development
11/07/06	ID/159	Statement dated 13/05/06 submitted by Cllr Peter Barton regarding Germany Beck development
11/07/06	ID/160	Letters submitted by Mr H W Mellor as statement regarding Germany Beck development
11/07/06	ID/161	Inquiry Programme Issue 4 10/07/06
11/07/06	ID/162	Statement submitted by Judi Legg regarding the Germany Beck proposals
11/07/06	ID/163	Statement submitted by Karin de Vries regarding Germany Beck development
11/07/06	ID/164	Closing submissions of Osbaldwick Parish Council - Martin Carter 06/07/06
11/07/06	ID/165	FPC-GBDG/GEW/5 Second supplementary proof of George Wright – Green Belt and related prematurity and related issues
11/07/06	ID/166	FPC-GBDG/GEW/6 Se supplementary proof George Wright –

		except Green Belt issues
11/07/06	ID/167	Letter from Christine Dinsdale dated 05/07/06 regarding the Germany Beck Development
11/07/06	ID/168	Letter from JD Thorn dated 30/06/06 regarding the Germany Beck development
11/07/06	ID/169	Letter from Leslie McCormack dated 01/07/06 regarding the Germany Beck development
11/07/06	ID/170	Letter from Ruth Pragnell dated 29/06/06 regarding the Germany Beck development
11/06/07	ID/171	Letter from Dorothy M Kay dated 26/06/06 regarding the Germany Beck development
11/06/07	ID/172	Letter from Doris Fewster dated 01/07/06 regarding the Germany Beck development
11/07/06	ID/173	Letter from Dorothy Coleman dated 29/06/06 regarding the Germany Beck development
11/07/06	ID/174	Letter from Dr Latilla Woodburn dated 02/07/06 regarding the Germany Beck development
11/07/06	ID/175	Letter from Yorkshire Water dated 30/06/06 regarding the Germany Beck development
11/07/06	ID/176	E-mail dated 05/07/06 from English Nature to Robert Masheder, Yorkshire Wildlife Trust regarding the Metcalfe Lane proposals
11/07/06	ID/177	Letter from Barbara, Trevor & Graham Asbury dated 04/07/06 regarding Germany Beck development
11/07/06	ID/178	Letter from James Cargill dated 30/06/06 regarding Germany Beck development
11/07/06	ID/179	Letter from Headteacher of Fulford School to Michael Courcier dated 09/05/06 regarding Germany Beck development
11/07/06	ID/180	Letter from Vicky Japes, CYC, to Michael Courcier dated 17/05/06 regarding Germany Beck development
11/07/06	ID/181	Outline landscape assessment of potential flood defence works along the A19
11/07/06	ID/182	Extract from Proof of Evidence PH/DKM/1.00
12/07/06	ID/183	Submission by York Green Party Proof of Evidence with additions – Germany Beck : Design, Layout and Conservation Areas
12/07/06	ID/184	Evidence from Heslington Parish Council
12/07/06	ID/185	Proof of Evidence Summary submitted by Cllr Peter Barton Fulford Parish Council
12/07/06	ID/186	Photographs submitted by Cllr Peter Barton showing the effect of Germany Beck – water backing up the Beck – 6 Cherrywood Crescent
12/07/06	ID/187	Plan of Springfield, Fulford, York, dated 1931
12/07/06	ID/188	Extracts from Guidelines for Providing for Journeys on Foot published by the Institution of Highways and Transportation 2000
12/07/06	ID/189	Extract from the City of York Local Plan Proposals Map Deposit Draft September 1995
12/07/06	ID/190	Letter from English Heritage dated 10/07/06 regarding the additional and supplementary information in respect of Germany Beck
12/07/06	ID/191	Letter from Dr & Mrs Allen dated 07/07/06 regarding the Germany Beck development
12/07/06	ID/192	E-mail from the Environment Agency dated 12/07/06 regarding

		proposed flood defences on Selby Road (A19) – Germany Beck
12/07/06	ID/193	Letter from Mr SK Barr dated 10/07/06 regarding the Germany Beck development
12/07/06	ID/194	Letter from Alan Smith dated 06/07/06 regarding the Germany Beck development
12/07/06	ID/195	Letter from Emma Taylor dated 01/07/06 regarding the Germany Beck development
12/07/06	ID/196	Letter from Miss JM Birch dated 06/07/06 regarding the Germany Beck development
12/07/06	ID/197	Letter from J Wood dated 05/07/06 regarding the Germany Beck development
13/07/06	ID/198	York Green Party – Supplementary Proof – Travel and Traffic Germany Beck
13/07/06	ID/199	Extract from Travelling to School : a good practice guide - More walking and cycling (Dfes/DfT)
13/07/09	ID/200	Photographs submitted by Mary Urmston, Fulford Friends
13/07/06	ID/201	Extract from Holgate Your Ward July 2006 – York Central on track submitted by John Greenway, MP
13/07/06	ID/202	Letter from Mr Warters dated 09/07/06 regarding George Wimpey development at Murton Way, Osbaldwick
13/07/06	ID/203	Letter from Mr Warters dated 09/07/06 regarding Public Rights of Way – Public Path Extinguishment Order, Osbaldwick Public Footpath Number 6, Osbaldwick, York
13/07/06	ID/204	JRHT/NI/3 Supplementary Statement Undergrounding of Pylon Lines July 2006
13/07/06	ID/205	Photographs submitted by Judi Legg
13/07/06	ID/206	Photographs submitted by Mr Mellor showing traffic issues (A copy to be held in the Library only)
13/07/06	ID/207	Photographs submitted by Mr Mellor showing flooding
14/07/06	ID/208	Photograph and flooding information submitted by Cllr Barton
14/07/06	ID/209	EcoHomes 2006 Predictive Rating Summary – Germany Beck site - and covering letter dated 11/07/06
14/07/06	ID/210	YWT 4 - Closing statement submitted by Robert Masheder Yorkshire Wildlife Trust – Metcalfe Lane
14/07/06	ID/211	Letter from Mr Jarratt dated 25/06/06 regarding the Germany Beck development
16/07/06	ID/212	Photographs relating to Metcalfe Lane site submitted by Mr Warters (A copy to be held in the Library only)
16/07/06	ID/213	Recent correspondence with Environment Agency relating to proposed works to A19 by City of York
16/07/06	ID/214	Recent Internal Drainage Board Correspondence relating to maintenance of Watercourse
16/07/06	ID/215	E-mail submitted by Phill Monk dated 15/07/06 regarding the Germany Beck development
16/07/06	ID/216	E-mail submitted by Paul Derbyshire from Corey Derbyshire dated 16/07/06 regarding the Germany Beck development
16/07/06	ID/217	Supplementary Proof of Evidence of Dr Raymond Gemmell PH/RG/1.4
18/07/06	ID/218	Response Statement from Karin de Vries

18/07/06	ID/219	Description of the effects of the Proposals on photographic views submitted by Mary Urmston – Statement by Pauline Randall
18/07/06	ID/220	Map - Rebuttal evidence in response to George Wright Corrected Viewpoint 8
18/07/06	ID/221	Plans – Amended flood route and amended flood areas
19/07/06	ID/222	Extract from British Plant Communities Volume 1 - Chapter W10
19/07/06	ID/223	Environmental Assessment Supplement 2, Volumes 1 & 2, including Updated Development Principles Report
19/07/06	ID/224	Email from Andrew Vevers dated 19 th July 2006 regarding Germany Beck development
19/07/06	ID/225	Email from Linda Chilton dated 19 th July 2006 regarding Germany Beck development
19/07/06	ID/226	Email from Louise Butcher dated 18 th July 2006 regarding Germany Beck development
19/07/06	ID/227	Email from Darren Sugden dated 18 th July 2006 regarding Germany Beck development
19/07/06	ID/228	Further comment on the effects of the proposals on the Green Wedge penetrating the City of York
19/07/06	ID/229	Germany Beck photos – Mary Urmston response to Mrs Randall's comments
19/07/06	ID/230	Letter from Rollits solicitors to Planning Inspector dated 18/07/06 regarding the request from Tom Hughes for copies of meeting notes from May 2004 to date
19/07/06	ID/231	JRHT/RJA/3 Embankment along southern edge of balancing pond - responding to supplementary statement by Robert Masheder
20/07/06	ID/232	Statement from Chas Jones & Michael Rayner regarding outstanding investigations that have been planned
20/07/06	ID/233	Map and Figures for Hedge Survey
20/07/06	ID/234	Extract from "The Forgotten Battle of 1066:Fulford" Chapter 6
20/07/06	ID/235	Information relating to Battle of Fulford surveys
20/07/06	ID/236	Email dated 27 th January 2003 regarding Battle of Fulford survey
20/07/06	ID/237	Extract from "A Palaeo-environmental reconstruction of late Holocene changes at Fulford Ings, York"
20/07/06	ID/238	Webpage "3D view of battle"
20/07/06	ID/239	Correspondence between Chas Jones & Michael Courcier
20/07/06	ID/240	Quotes from the Comment Wall, Fulford Show 2005
20/07/06	ID/241	Letter from Ian Hessay dated 18 th July 2006 regarding Second Supplemental Proof of Evidence from George Wright
20/07/06	ID/242	City of York LDF – Current Position
20/07/06	ID/243	Metcalfe Lane S106 Agreement and Summary of S106
20/07/06	ID/244	Metcalfe Lane Suggested Conditions
20/07/06	ID/245	Germany Beck S106 Agreement
20/07/06	ID/246	Germany Beck Amended Conditions
20/07/06	ID/247	Email from Rachel Baker dated 20 th July 2006 regarding Germany Beck development
20/07/06	ID/248	Letter from Michael Wilson dated 19 th July 2006 regarding Germany Beck development
20/07/06	ID/249	Letter from Irene Wilkinson dated 19 th July 2006 regarding Germany Beck development
20/07/06	ID/250	Letter from Nancy Wilson dated 19 th July 2006 regarding Germany

		Beck development
20/07/06	ID/251	Letter from Mr & Mrs Foster dated 14 th July 2006 regarding Germany Beck development
20/07/06	ID/252	Letter from B Hayes dated 16 th July 2006 regarding Germany Beck development
20/07/06	ID/253	Letter from Helen Webster dated 20/07/06 regarding the Germany Beck development
21/07/06	ID/254	Agreed Conditions: Germany Beck
21/07/06	ID/255	Revised Suggested Conditions: Metcalfe Lane
21/07/06	ID/256	York Natural Environment Trust Closing Statement
21/07/06	ID/257	York Green Party Closing Statement
21/07/06	ID/258	PH/RC/1.2a Supplementary Evidence – Noise & Vibration
21/07/06	ID/259	Fulford Battlefield Society Closing Statement
21/07/06	ID/260	Revised version ID/232
21/07/06	ID/261	Letter from Chas Jones & notes of meeting
21/07/06	ID/262	Email from Mark Saunders dated 21 st July 2006 regarding Germany Beck development
21/07/06	ID/263	Letters from Mrs V Swaby & Miss F Swaby dated 21 st July 2006 & 16 th June 2006
21/07/06	ID/264	Letter from Mr Warters dated 9 th July regarding George Wimpey development & reply from City of York Council dated 13 th July 2006
21/07/06	ID/265	Committee Report dated 1 st February 2006 regarding Ombudsman Complaint: Drainage Issues, Towthorpe Road, Haxby
21/07/06	ID/266	Photographs of Murton Way, Wimpey Site
21/07/06	ID/267	Comparative Costs – David Parker's Viability Appraisal
21/07/06	ID/268	Letter & statement from Mr K Mulhearn regarding Germany Beck development
24/07/06	ID/269	Letter from W Wilson dated 18 th July 2006 regarding Germany Beck development
24/07/06	ID/270	Email from Stephen Bruce dated 21 st July 2006 regarding Germany Beck development
24/07/06	ID/271	Karin de Vries Closing Statement
24/07/06	ID/272	George Wright Closing Statement FPC/GEW/7
24/07/06	ID/273	Map of Fulford 1880 – 1891 (Copy to be held in Library only)
24/07/06	ID/274	Aerial photographs of Fulford (Copy to be held in Library only)
24/07/06	ID/275	E-mail dated 24/07/06 from City of York Council regarding capacity of St Oswalds Primary School
24/07/06	ID/276	David Forsdick Closing Statement for City of York Council
24/07/06	ID/277	Mary Urmston Closing Statement
24/07/06	ID/278	E-mail from Laurie MacLeod dated 20/07/06 regarding the Germany Beck development
24/07/06	ID/279	Persimmon Homes & Hogg Builders Closing Statement
24/07/06	ID/280	Joseph Rowntree Closing Statement
24/07/06	ID/281	Karin de Vries Response regarding hedgerow to the east of Osborne House
24/07/06	ID/282	Letter from Mr Alan Smith dated 23/07/06 regarding the Germany Beck development
24/07/06	ID/283	Amended Section 106 agreement submitted by Persimmon - Germany Beck

PLANS

- Plans A Plans submitted with the scheme for Germany Beck
1. Location plan; 1:5000
 2. Site plan
 3. Master plan
- Plans B Plans submitted with the scheme for Derwenthorpe
1. Location plan
 2. Application site plan
 3. Green space structure plan
 4. Neighbourhood quarters plan
- Plans C Off-site road-works plans SK11-SK21
- Plans D Trial pit locations ~ Osbaldwick
- Plans E Diagram of bore holes

PHOTOGRAPHS

- Photos 1 Flooding in 2000 at Germany Beck ~ Christine Dinsdale
- Photos 2 Aerial photo; Fulford Village and its setting
- Photos 3 Aerial photo; Fulford Village focussing on the proposed junction

ANNEX 1: SUGGESTED CONDITIONS; Germany Beck

Reserved matters

- 1) Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the expiration of five years beginning with the date of this permission and the development hereby permitted shall be begun either before:
 - a) the expiration of five years from the date of this permission; or
 - b) the expiration of two years from the date of approval of the last of the reserved matters to be approved;which ever is the later.
- 2) Prior to the commencement of building works within each phase of development as specified in Condition No.4, approval of the details of the siting, design and external appearance of the buildings and landscaping of the area when that phase (hereafter called “the reserved matters”) shall be obtained from the local planning authority in writing. The development shown on the plans and particulars of these reserved matters shall be carried out as approved.
- 3) The application for the approval of reserved matters submitted in accordance with Condition No.2 shall generally conform with the information and details set out in the Updated Development Principles Report (as amended on 13 June 2006), particularly with regard to:
 - a) the alignment of the main distributor road;
 - b) the location of main footpaths and cycle routes;
 - c) the provision of vehicular access to Fulford School from the south;
 - d) the location and general extent of the housing areas;
 - e) the general mix of housing types and sizes;
 - f) the location of shops and community facilities;
 - g) the location of greenways and greenspaces;
 - h) the area of the protected archaeological zone;
 - i) the general location and configuration of the Germany Beck Nature Park.
- 4) The development shall be carried out in accordance with the phasing arrangements set out in the Updated Development Principles Report (as amended on 13 June 2006). In particular, the road required to provide the bus route between the A19 and Low Moor Avenue shall be constructed and ready for vehicular use before the commencement of building works on Development Phase 4 as shown by the Updated Development Principles Report (as amended).
- 5) The details to be submitted for the approval of the Local Planning Authority under Condition No.2 shall include:
 - a) A plan and schedule of all existing trees and hedging on the site. Such plan shall show the spread of each tree. It will also identify those trees and hedging to be retained, those to be felled or removed and hedging to be reduced in size. Trees and hedging to be retained shall be protected during the development of the site by the following measures, unless otherwise agreed in writing with the Local Planning Authority:-
 - i. A chestnut paling or similar fence shall be erected at a distance of not less than 4.5 metres from the trunk of any tree and 2 metres from any hedge.
 - ii. No construction activity (including the erection of site huts) shall take place within the crown spread of the trees or within the fenced area around hedges.
 - iii. No materials (including fuel or spoil) shall be stored within the crown spread of the trees or the fenced area around hedges.
 - iv. No burning of materials shall take place within three metres of the crown spread of any tree or the fenced area around hedges.
 - v. No services shall be routed under the crown spread of any tree or within the fenced area around hedges.

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- b) A detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs.
 - c) Details of earthworks in connection with the formation of all landscaped areas. These details shall include the level and contours to be formed and the relationship of the proposed earthworks to the surrounding landform.
 - d) Details of existing and proposed ground levels and finished floor levels for each dwelling.
 - e) Details of the position, design and materials of all means of enclosure.
 - f) Details of surface materials for all roads, footpaths and hard landscaped areas.
 - g) Written justification of the design approach taken.
 - h) A scheme showing the details of how the development will conform to the Ecohomes Excellent rating as set out in the 2006 standard.
 - i) A lighting scheme for cycle routes, public footpaths and public areas.

Completion of Landscaping Works

- 6) Any earthworks approved pursuant to Condition No.5(c) shall be carried out as approved prior to any dwelling being occupied in the relevant phase. The landscaping scheme approved pursuant to Condition No.5(b) shall be implemented within a period of 6 months of the completion of the relevant phase. Any trees or hedges which within a period of five years from the completion of the phase die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.
- 7) The number of dwelling on the site shall be approximately 700.

Open Space

- 8) The details referred to in condition 2 above shall include the provision of not less than 1.15ha of outdoor space for sports, not less than 1.13ha of equipped children's play space and not less than 1.45ha of amenity space. The distribution of the equipped play space and amenity space shall be as shown on the Updated Development Principles Report (13 June 2006) and reserved matters applications shall include the details of the layout of each equipped play space and amenity area and shall include a timescale for their implementation.
- 9) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscaping areas, other than the Germany Beck Nature Park and privately owned domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the occupation of the first dwellings within each phase of the development. The landscape management plan shall be carried out as approved.

The Germany Beck Nature Park

- 10) Prior to the commencement of development of the site a detailed scheme for the Germany Beck Nature Park shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall comply generally with the details set out in the Updated Development Principles Report (as amended). Amongst other matters it shall provide appropriate provision for car parking and cycle storage, and for the use of locally sourced plant stock where available. It should also detail methods of management and measures to monitor the flood regime in relation to the Germany Meadow SINC. The scheme shall be carried out in accordance with the phasing arrangements set out in the Updated Development Principles Report (as amended).
- 11) Prior to commencement of development, a management plan for the Germany Beck Nature Park shall be submitted to and approved in writing by the Local Planning Authority. The

management plan will be based on English Nature's published guidance on the preparation of management plans for nature conservation. The management plan will also include:

- a) The establishment of a monitoring programme to establish hydrological patterns.
- b) The establishment of an annual vegetation monitoring programme.
- c) The development of a programme of wildlife and nature conservation enhancement.
- d) A scheme detailing the methods of management and measures to monitor the flood regime in relation to the Germany Meadow SINC

Archaeology

- 12) No development shall commence on the site until a scheme of archaeological work has been submitted to and approved in writing by the local planning authority. This scheme shall include provision for:
 - a) A pre-development metal detecting survey of the site.
 - b) The archaeological excavation of a sample of the peat deposits adjacent to Germany Beck, to include a paleo-ecological investigation.
 - c) Archaeological supervision of the construction of the access road and A19 junction combined with the archaeological excavation of revealed archaeological features and deposits.
 - d) Archaeological supervision of all soil removal for structures and internal roads combined with the archaeological excavation.
 - e) Archaeological supervision of all soil removal for the creation of the on-line ponds combined with the archaeological excavation of revealed archaeological features and deposits.
 - f) A programme of access for the community to the archaeological excavations.
 - g) A programme of archaeological analysis, publication and subsequent deposition of the archive with a registered museum of the material from the evaluations, excavations and watching briefs.

The scheme shall be carried out as approved.

- 13) No built development or road construction shall take place within the area shown as an archaeological zone by the Updated Development Principles Report (as amended).
- 14) Prior to the occupation of the first dwelling the applicant shall submit details of and a programme for the implementation of an interpretative trail detailing the possible course of the Battle of Fulford, such details and programme to be agreed in writing by the Local planning Authority and to be implemented within the timescale agreed.

Environmental Protection

- 15) Construction work shall not begin until a scheme for protecting the dwellings in School Lane, Tillmire Close and Low Moor Avenue and the occupants of the Fordlands Road Care Home from noise from the construction works has been submitted to and approved in writing by the local planning authority; works which form part of the scheme in relation to a particular phase of the development shall be completed before any part of that phase of construction commences.
- 16) Construction work shall not begin until a scheme for protecting the occupants of the Fordlands Road Care Home from the noise of traffic on the proposed spine road has been submitted to and approved in writing by the local planning authority. Unless the Local planning Authority give consent to any variation, those works shall include provision for a 1.8m acoustic screen to be erected beside the northern carriageway of the spine road, of a design and length to be approved by the Local Planning Authority. No dwelling shall be constructed on the site until the approved works have been completed.

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- 17) All construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:
Monday to Friday 08:00 to 18:00
Saturday 09:00 to 13:00, and
Not at all on Sundays and Bank Holidays
- 18) Unless the local planning authority give consent to any variation, all works involving the construction of the spine road and within 30m from the Fordlands Road Care Home shall be limited to no more than 4 hours on any one day and within the times permitted by condition 17, above.
- 19) A site investigation shall be undertaken in accordance with BS10175: investigation of potentially contaminated land: code of practice. The results of the investigation shall be submitted to and approved by the local planning authority in writing prior to any development commencing on site. A risk based remedial strategy shall be developed based on the findings of the site investigation. The remedial strategy shall be submitted to and approved by the local planning authority in writing. The approved strategy shall be fully implemented prior to any development commencing on site. Any contamination detected during site works that has not been considered within the remedial strategy shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development of the site.
- 20) Prior to commencement of the development, an environmental management scheme for minimising the creation of noise, vibration and dust during the site preparation and construction phases of the development shall be submitted to and approved in writing by the local planning authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the local planning authority.
- 21) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Flooding and Drainage

- 22) Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.
- 23) Save for any works of decontamination, flood storage or ground preparation, no development shall take place until details of the proposed means of disposal of foul or surface water drainage (which shall be by separate systems) - including details of any balancing works and off-site works and timescales for implementation in relation to the occupation of dwellings within the site - have been submitted to and approved by the Local Planning Authority. All drainage works shall be carried out in accordance with the details and timescales as approved. The details required by this condition shall include the following:
- i. Details of the proposed strategic drainage system including the siting, design, capacity, constructional details and materials of balancing ponds and other water retention features and details of any outfalls to Germany Beck and proposals for controlling the

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- rate of discharge from the strategic drainage system to Germany Beck and for the management of the balancing ponds during and after completion of the development.
- ii. The parameters to be adopted for the design of the detailed drainage system for each of the housing areas defined in the Updated Development Principles Report (as amended) and for the areas of structural open space, such parameters to include details of the design storm to be accommodated prior to surcharging the system, minimum pipe gradients and the identification of opportunities for Sustainable Urban Drainage Systems (SUDS).
 - iii. Proposals for the phasing of the construction of the strategic drainage systems which shall be related to the phased development of the housing areas and the laying out of the structural open space areas.
 - iv. Proposals for the sequential adoption and/or maintenance of the strategic and detailed drainage schemes related to the occupation of dwellings and other buildings within the development.
 - v. The provision of oil interceptors for surface water drainage.
- 24) Unless otherwise agreed in writing by the Local Planning Authority, no building shall be occupied or brought into use until it has been permanently connected to the approved foul drainage system.
 - 25) The development shall not be commenced until a scheme for the provision and implementation of compensatory flood storage works has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in full before the commencement of any development other than the approved access road into the site.
 - 26) There shall be no storage of any materials, including soil, within that part of the site below the 9.81m AOD contour, which is liable to flood.

Design and Layout

- 27) The proposed dwellings in the areas adjacent to Tillmire Close and Low Moor Avenue on the northern boundary of the site and adjacent to School Lane on its western boundary shall be designed so that the eaves height does not exceed single storey level or in any case 3 metres.
- 28) Unless otherwise agreed in writing by the Local Planning Authority, no structure on the northern boundary of the site shall be within 30 metres of the southern elevation of the dwellings in Tillmire Court and Low Moor Avenue; no structure on the western boundary of the site shall be within 30 metres of the eastern elevation of the dwellings in School Lane; and, no structure shall be within 30m of the southern elevation of Osborne House at No 7 School Lane.
- 29) The application for reserved matters for Development of Phase 3 shall include the provision of a ground floor retail unit of some 200 square metres together with an associated car and cycle parking facility. The retail unit shall be constructed and made available for use prior to the completion of phase 3. The premises shall thereafter be used for the sale of food and convenience goods only and for no other purpose (including any other purpose in Class A) of the Schedule of the Town and Country Planning(Use Classes) Order 1987 or any subsequent re-enactment thereof except with the prior written consent of the Local Planning Authority.
- 30) Before or concurrently with the first application for the approval of reserved matters, a Statement of Crime Prevention measures to be included within the design of the development, which may relate to the whole site and to each phase of the development, shall be submitted for the approval of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Highways

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- 31) No part of the development hereby permitted shall be commenced until the full design and construction details of the following have been submitted to and approved in writing by the Local Planning Authority:
- i. How the scheme interfaces with the existing highway alignment; carriageway markings and lane destinations;
 - ii. Full details of slip road improvements at the junction between the A19 and A64;
 - iii. Full signing and lighting details;
 - iv. Confirmation of full compliance with current Department Standards (DMRB) and policies (or approved relaxations or departures from standards).

These details shall be in general accordance with the following drawings relating to the junction between the A19 and the A64:-

A19/A64 West Slip Road Improvements (1/2) – drawing No. 2066/40B dated 12/8/04

A19/A64 West Slip Road Improvements (2/2) – drawing No. 2066/41B dated 12/8/04

A19/A64 Interchange Southern Roundabout Improvements – drawing No. 2066/43 dated June 2004.

The approved works shall be carried out in full no later than the occupation of the 350th dwelling on the site or 3 years after the commencement of the first dwelling on the site whichever is the earlier.

- 32) The junction with the A19 and the length of access road shown on the Bryan G Hall Drawing 05/401/TR/009A shall be fully constructed prior to any other works commencing on the site except in respect of flood storage measures. No part of its carriageway shall be lower than 9.81 metres Above Ordnance Datum level.
- 33) No road connection shall be made to Low Moor Avenue, or any other eastern access to the site, until a bus gate has been erected and brought into use to prevent private motor vehicles entering or leaving the site by means of this route. The design of the bus gate shall comply with a scheme which shall be submitted to and approved in writing by the local planning authority before it is erected on site.
- 34) Construction traffic associated with the development shall only access the site from the newly constructed junction with the A19 referred to in Condition 32 other than in respect of works to form the approved flood storage works.

Measures to reduce car travel

- 35) Prior to the commencement of the development a scheme showing the number, location and distribution of car parking spaces for use in connection with a car sharing club or car club, together with the phased provision of those spaces in accordance with the phased development of the site, shall be agreed in writing with the Local Planning Authority; the spaces shall be provided prior to the occupation of any dwelling within the relevant phase of development on the site, and shall be kept solely for such use thereafter.

Materials

- 36) Samples of each external material (including roofs) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on each development phase. These samples shall illustrate the colour, texture and bonding of brickwork, the mortar treatment to be used, the colour and texture of render, and the roofing materials.

ANNEX 2: SUGGESTED CONDITIONS; Derwenthorpe

Reserved matters

- 1) Application for approval of all reserved matters shall be made to the Local Planning Authority not later than the expiration of five years beginning with the date of this permission and the development hereby permitted shall be begun not later than the expiration of two years from the date of final approval of the reserved matters or in the case of approval on different dates the final approval of the last reserved matter to be approved.
- 2) Prior to the commencement of building works on any phase of the development, reserved matters applications for that phase with fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority:
 - a) siting;
 - b) design;
 - c) external appearance;
 - d) landscaping

Such reserved matters applications shall comply with the Lifetime Homes standards and the general design principles set out in the Design Code and Design Guide documents submitted on 1 August 2003 as part of the application submission as amended by the Illustrative Masterplan dated July 2004. The development of each phase shall be carried out in accordance with the approved details.

- 3) Prior to or concurrently with the first reserved matters application, a scheme detailing the sequential phasing of all aspects of the development shall be submitted to and agreed in writing with the Local Planning Authority, and the development shall be carried out in accordance with the agreed phasing.
- 4) The detailed drawings to be submitted for the approval of the Local Planning Authority under Condition 2 shall include:
 - a) A plan and schedule of all existing trees and hedging on the site. Such plan shall show the spread of each tree. It will also identify those trees and hedging to be retained, those to be felled or removed and hedging to be reduced in size. Trees and hedging to be retained shall be protected during the development of the site by the following measures unless otherwise agreed in writing with the Local Planning Authority:-
 - i. A chestnut paling or similar fence not less than 1.2 metres high shall be erected at a distance of not less than 4.5 metres from any trunk;
 - ii. No development (including the erection of site huts) shall take place within the crown spread of the trees;
 - iii. No materials (including fuel or spoil) shall be stored within the crown spread of the trees;
 - iv. No burning of materials shall take place within 10 metres of the crown spread of any tree;
 - v. No services shall be routed under the crown spread of any tree without the express written permission of the Local Planning Authority.
 - b) A detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs.
 - c) Details of earthworks in connection with the formation of all landscaped areas. These details shall include the proposed grading and mounding of the land within each phase of the development including the level and contours to be formed and the relationship of the proposed earthworks to the surrounding landform.
 - d) Details of existing and proposed ground levels and finished floor levels for each dwelling.

- e) Details of the position, design and materials of all means of enclosure.
- f) Details of the design and materials of roads, footpaths, street lighting and hard landscaped areas.
- g) Samples of the external materials.

Each phase of the development shall be carried out in accordance with the approved details and no trees or hedging within the site shall be removed or reduced in size in advance of the approval of such details.

- 5) Prior to, or concurrently with, the first application for the approval of reserved matters, details of a lighting scheme for the new car park for the Osbaldwick Village Hall shall be submitted for the approval of the Local Planning Authority. The approved scheme shall be implemented before the occupation of the penultimate dwelling in the Osbaldwick Neighbourhood.

Completion of Landscaping Works

- 6) The landscaping scheme approved pursuant to condition 4(b) shall be implemented within a period of 6 months of the completion of the relevant phase. Any trees or plants which within a period five years from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.
- 7) The earthworks approved pursuant to condition 4(c) shall be carried out as approved prior to any dwelling being occupied in the relevant phase.

Design and Layout

- 8) The site shall be developed in accordance with the revised Application Site Plan, Drawing No. A1418/2.3/04A dated July 2004 and on the basis of the four residential areas identified on that plan, each served by its own vehicular access and the strategic landscaping structure within the site as generally indicated on the Illustrative Green Space Structure Plan Drg No. A/1418/2.3/03A dated July 2004. The number of units within each quadrant shall be as outlined in the Supporting Statement and Introduction to the Environmental Statement and as set out below, with a 10% tolerance either way unless otherwise agreed in writing by the Local Planning Authority.

Neighbourhood A	accessed from Fifth Avenue	185 dwellings
Neighbourhood B	accessed from Meadlands	125 dwellings
Neighbourhood C	accessed from Temple Avenue	125 dwellings
Neighbourhood D	accessed from Osbaldwick Village	105 dwellings

- 9) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended no means of enclosure shall be placed along the northern and western boundaries of the site without the prior written approval of the Local Planning Authority.
- 10) Before or concurrently with the first application for the approval of reserved matters, a Statement of Crime Prevention measures to be included within the design of the development, which may relate to the whole site or to each phase of the development, shall be submitted for the approval of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Archaeology

- 11) 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.

- 12) All construction works associated with the carrying out of the development, including ancillary operations such as deliveries to and despatch from the site, shall be confined to the following hours, unless otherwise agreed in writing by the Local Planning Authority:
Monday to Friday 08.00 to 18.00
Saturday 09.00 to 13.00, and
Not at all on Sundays and Bank Holidays
- 13) Prior to commencement of the development, an Environmental Management Scheme for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.
- 14) A risk-based remediation strategy in respect of contaminated land shall be developed based on the findings of the site investigation work in the Environmental Statement and also the reports submitted by Waterman Environmental. No development shall commence until such remediation strategy, which shall include a timetable for remediation works in relation to each phase of the development, has been submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be fully implemented in accordance with the details and timetable as approved. The strategy shall include the following matters:
 - i. A validation report shall be submitted to and approved in writing by the Local Planning Authority, detailing sample locations and contaminant concentrations prior to commencement of the development.
 - ii. Any contamination detected during site works that has not been considered within the remediation strategy shall be reported to the Local Planning Authority. Any remediation for this contamination shall be agreed with the Local Planning Authority and fully implemented prior to any further development of the part of the site affected.
 - iii. 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. The method shall be agreed in writing by the Local Planning Authority prior to commencement of the development. The agreed method shall be fully implemented in relation to each phase of the development and verified prior to completion of the relevant phase.
 - iv. A scheme to prevent the introduction of preferential pathways through foundation design and construction shall be submitted to, and approved in writing by the Local Planning Authority prior to the commencement of works on site. 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.
- 15) Any facilities of the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Flooding and Drainage

- 16) Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within 3 metres either side of the centre lines of the sewers that cross the site.
- 17) Other than the access road into the site from Osbaldwick Village and the informal footpath to be provided adjacent to the northern bank of Osbaldwick Beck, no buildings or structures, including gates, walls, fences and trees, shall be constructed or planted within 9 metres of the top of the bank of Osbaldwick Beck and the ground levels shall not be raised within this area without the prior written agreement of the Local Planning Authority.
- 18) 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 in writing by the Local Planning Authority before development commences.
- 19) Save for works of decontamination or ground preparation works, no development shall take place until details of the proposed means of disposal of foul and surface water (which shall comprise separate systems), including details of any balancing works and off-site works and timescales for implementation in relation to the occupation of dwellings within the site, have been submitted to and approved in writing by the Local Planning Authority. All drainage works shall be carried out in accordance with the details and timescales as approved. The details required by this condition shall include the following:
 - i. Details of the proposed strategic drainage system including the siting, design, capacity, constructional details and materials of any balancing ponds and swales and details of any outfalls to Osbaldwick Beck, proposals for controlling the rate of discharge from the strategic drainage system to Osbaldwick Beck and for the management of the balancing ponds during and after completion of the development.
 - ii. The parameters to be adopted for the design of the detailed drainage scheme for each of the four residential neighbourhoods comprised within the development and for the areas of structural open space (such parameters to extend to details of the design storm to be accommodated prior to surcharging the system, minimum pipe gradients and the identification of opportunities for Sustainable Urban Drainage Systems (SUDS)).
 - iii. Proposals for the phasing of the construction of the strategic drainage system which shall be related to the phased development of the four residential neighbourhoods and the laying out of the structural open space areas.
 - iv. Proposals for the sequential adoption and/or maintenance of the strategic and detailed drainage schemes related to the occupation of dwellings within the development.
 - v. In respect of any works affecting the banks of Osbaldwick Beck, the submitted details shall include a report prepared by an appropriately qualified ecologist of the incidence of water vole burrows within the lengths of bank affected by the proposed works. If such burrows are present, the details shall also include a Management Plan for the retention, protection and/or management of the burrows during and after construction of the works (or appropriate mitigation) and the works to the banks shall not be carried out prior to the Council's written approval of the Management Plan.
- 20) Unless otherwise agreed in writing by the Local Planning Authority, no building shall be occupied or brought into use until such building has been permanently connected to the approved foul drainage system.

- 21) No dwelling shall be occupied until the road(s) and footway(s) from which access to such dwelling is gained have been constructed to at least base course level. Road and footway wearing courses and street lighting shall be provided in each phase of the development within three months of the date of commencement on the construction of the penultimate dwelling in that phase.
- 22) The development shall not be begun in any phase of the development until the junction between the internal access road serving that phase and any adjacent highway providing access to that phase has been constructed in accordance with details which have been approved in writing by the Local Planning Authority.
- 23) Prior to the commencement of development of each phase, details of new signage within that phase and within the adjacent public highway shall be submitted for the approval of the Local Planning Authority. The signage shall be sited and designed to identify footpaths and cycleways providing access to local facilities as identified in the Access and Links Study. No dwelling shall be occupied on any phase of the development until the signage has been provided for that phase in accordance with the approved details.
- 24) No dwelling within Neighbourhood D (Osaldwick Village, as indicated on the application Drawing No.A1418/2.3/04A) shall be occupied until the following off-site highway improvement works have been completed in accordance with the drawing numbers below as identified in the Access and Links Study:
 - i. New controlled pedestrian crossing near junction with Osaldwick Lane and Tang Hall Lane (Drg. No. SK11)
 - ii. New and improved footway provision from site access to Metcalfe Lane (Drg. No. SK15)
 - iii. New footpath to Village Hall and thereafter footpath improvement southwards to Osaldwick Lane (Drg. No.SK15)
 - iv. Crossing point in Osaldwick Lane close to junction with Osaldwick Village including refuge, tactile paving and safety railings (Drg. No. SK16)
- 25) No dwelling within Neighbourhood C (Temple Avenue, as indicated on the application Drawing No. A1418/2.3/04A) shall be occupied until the following off-site highway improvement works have been completed in accordance with the drawing numbers below as identified in the Access and Links Study:
 - i. Minor pedestrian improvement at the Tang Hall Lane/Temple Avenue junction including tactile paving and kerbing (Drg. No. SK12)
 - ii. Safety enhancement measures to the 20mph zone at the junction of Tang Hall Lane with Lang Avenue including re-surfacing, white lines, kerbing and bollards (Drg. No. SK13)
 - iii. A new one way system to be created linking Temple Avenue via Ingleborough Avenue to Lang Avenue including road calming measures and increased roadside parking within existing highway verges (as indicated in Drg. Nos. SK18, SK19 and SK109 - SK111). These details shall include a gateway feature to be created at the Temple Avenue/Lang Avenue connection with improved pedestrian provision and subtle speed restraints using reduced width, changes in surface treatment and wider verges and shall provide for the one-way system to be set back on Lang Avenue with “No Entry” signs at the rear of the Co-op and a reduced width of carriageway.
- 26) No dwelling within Neighbourhood A (Fifth Avenue, as indicated on the application Drawing No.A1418/2.3/04A) shall be occupied until the following off-site highway improvement works have been completed in accordance with the drawing numbers below as identified in the Access and Links Study:

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- i. New raised table/plateau at the junction of Tang Hall Lane with Fifth Avenue (Drg. No SK14)
 - ii. Lighting improvement scheme for the Bad Bargain Lane/College Link (Drg. No. SK 21)
- 27) No dwelling within Neighbourhood B (Meadlands, as indicated on the application Drawing No. A1418/2.3/04A) shall be occupied until the following off-site highway improvement works have been completed in accordance with the drawing numbers below as identified on the Access and Links Study;
- i. Bring minor road Give-Way markings forward and adjust kerbing for footway widening at both junctions of Meadlands with Bad Bargain Lane (Drg. No. SK17)
 - ii. Design an entrance feature in accordance with a scheme to be submitted to, and approved in writing by, the Local Planning Authority.
- 28) Prior to commencement of the development, a scheme for works to the Sustrans route between Metcalf Lane and Tang Hall Lane to improve surface condition, available width, lighting and safety (all in accordance with Drg No. SK20) shall be submitted for the written approval of the Local Planning Authority. The scheme shall also include interim measures for the making good, protection and maintenance of the Sustrans route during construction of the development. All works shall be carried out in accordance with the approved scheme. The permanent improvement works shall be completed by no later than 6 months following completion of the development.
- 29) A temporary access for emergency vehicles shall be created to serve each phase of the development, in addition to the permanent access serving that phase, before any dwelling within that phase is occupied and shall remain in place until a permanent alternative access is provided.

Measures to reduce car travel

- 30) Other than dwellings within Neighbourhood D (Osbalwick Village) identified on Drg. No A1418/2.304A no dwelling within the development shall be occupied until a road suitable for use by public service vehicles has been provided between Osbalwick Village and Fifth Avenue.
- 31) Prior to the commencement of the development the location within the first phase of the development of 6 car parking spaces for use in connection with a car sharing club or car club shall be agreed in writing with the Local Planning Authority and the spaces shall be provided prior to the occupation of any dwelling within the development. Thereafter, alternative locations may be agreed in writing with the Local Planning Authority provided at all times not less than 6 such spaces shall be retained within the site, solely for this use.

Legal

- 32) No development shall take place until the obligations provided for in an Agreement dated 4 October 2006 and made between the Local Planning Authority and the Joseph Rowntree Housing Trust pursuant to Section 106 of the Town and Country Planning Act 1990 have been entered into so as to bind the freehold interest in the site as defined in that Agreement.

ANNEX 3: Answers to the call-in issues

- A) Whether the developments are in accordance with the current and emerging Development Plan for the area, having particular regard to the adopted and deposited draft Structure Plans and the provisions of the Regional Planning Guidance and the recently published draft revised Regional Planning Guidance (Regional Spatial Strategy);

Little can be gleaned from the Development Plan as it currently stands, but the schemes would accord with the guidance that can be derived and the housing requirements in the approved and emerging RSS [24.5]. Policies, proposals and reasoning supporting the allocation of the application sites for housing still remains relevant [24.6-24.10].

- B) the extent to which the proposals are consistent with the policies in PPS1: Delivering Sustainable Development and The Planning System General Principles with particular regard to:
- i. protection and enhancement of the environment and the advice in paragraphs 17 and 18 of PPS1;

The schemes would not harm the Conservation Areas [24.73-24.76], important sites for nature conservation [24.120-24.136] or important archaeological remains [24.137-24.151]; extensive areas of open space and 'natural areas' would be provided [24.58].

- ii. advice on prematurity in paragraphs 17 and 18 of the General Principles, having regard to the progress towards adoption of the York Local Plan or Local Development Framework;

The schemes would not be prejudicial to emerging plans or foreseeable policies [24.11-24.18].

- iii. whether the schemes would secure a high quality of design and their effects on the character of the area, having regard to the advice in paragraphs 33-39 of PPS1;

In both schemes 'design guidance' or 'design codes' are to be employed to ensure a high quality of design. Every property would achieve an 'EcoHomes' rating of 'excellent' or 'very good' and all would be designed to a 'lifetime' standard. The use of 'home zones' and 'perimeter blocks' integrated with footpaths, cycleways and open space would provide a clear structure to the layouts and offer safe and easy movement between neighbourhoods as well as into the surrounding areas and facilities, so fostering natural surveillance [24.58].

- C) the extent to which the schemes are consistent with Government policies in PPG2: Green Belts with particular regard to:
- i. whether the proposed developments are inappropriate development in the Green Belt by reference to the guidance in paragraphs 3.1-3.4 and any relevant Development Plan policies and, if they are inappropriate, whether 'very special circumstances' exist which clearly outweigh the harm to the Green Belt caused by reason of such inappropriateness and any other harm;

Neither application site should now be regarded as within the Green Belt, save for a small part of the Germany Beck site [24.62-24.69]. The development of that Green Belt land would constitute 'very special circumstances', as recognised in PPG2 [24.70]

- ii. whether the proposed developments would conflict with the fundamental aim of Green Belt policy to prevent urban sprawl;

Neither site would be needed to fulfil that Green Belt purpose [24.71]

- iii. the extent to which the schemes would be consistent with the purposes of including land within the Green Belt;

Both sites were carefully assessed during the Inquiry into objections to the York Green Belt Local Plan and neither site was found to contribute to the special purpose of the York Green Belt to preserve the setting and special character of the City [24.71].

- iv. whether the schemes would harm the visual amenities of the Green Belt by reason of siting, materials or design;

Both schemes include substantial landscaping to create or reinforce a strong sylvan edge to the urban area [24.72]. Neither application site should now be regarded as within the Green Belt [24.70].

- D) the extent to which either scheme would conflict with national policy on residential development as set out in PPG3: Housing, with particular regard to:

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- i. whether adequate sequential tests have been properly applied and whether there is a need to release either of these ‘greenfield’ sites for the purpose of providing housing in York;

Extensive assessments have demonstrated that there is no obvious sequentially preferable site that could be substituted for either location as a means of meeting the housing requirements in terms of numbers, mix of dwellings and affordable units [24.53-24.56]. A substantial shortfall in providing sufficient housing to meet current requirements would accrue without development on ‘greenfield’ land, such as the application sites [24.22-24.37].

- ii. the accessibility of jobs, shops and other services from the sites by modes of transport other than the private car, and the potential for improving such accessibility;

Both sites would be ‘urban extensions’ [24.53] and they would be in ‘sustainable’ locations close to frequent bus services to the City centre and to local facilities and services such as post offices, shops, primary and secondary school and community facilities [24.57]. At Germany Beck a local shop would be provided to supplement the local facilities [24.59]. Both schemes would incorporate further measures to support public transport and to encourage travel by means other than the private car [24.59].

- iii. whether and how the proposed developments would secure an appropriate mix of dwelling size, type and affordability, taking account of any needs assessment by the Council;

Qualitatively, the schemes would make an important contribution to providing a wide range of houses, including family houses. That would help to ‘balance’ the type of dwellings recently built within the City. In the long run such ‘balance’ would be important to foster sustainability in relation to the employment and housing markets in York, and for the population of the City [24.43]. The schemes would make a crucial contribution to the provision of affordable housing in York and provide the maximum level consistent with achieving reasonably viable developments [24.52]. There is no reason to doubt that the arrangements in place would not secure the affordable housing proffered [24.52]. At Germany Beck and Derwenthorpe suitable section 106 Agreements are in place [24.50 and 24.51].

- iv. whether the proposed developments would make the ‘best use of land’ taking into account density, layout, design and the level of parking provision, having regard to the advice in paragraphs 54-62;

The average net density at Germany Beck would be roughly 40dph: the average net density at Derwenthorpe would be about 39dph [24.60].

- v. whether the developments would represent good design having regard to the landscape of the locality;

Both schemes exhibit considerable quality involving ‘design guidance’ or ‘design codes’ to ensure a high quality of design. Extensive areas of open space and ‘natural areas’ are to be provided; off-site facilities are to be created or enhanced at local schools [24.58].

- E) the extent to which the development at Germany Beck is consistent with Government policies and principles in PPS6: Planning for Town Centres, particularly:

- i. whether there is a need for additional local shops and services and the advice in paragraphs 2.55–2.59, and

At Germany Beck a local shop would be provided to supplement the local facilities [24.59]. This is because Fulford Village would be some distance between Main Street and the eastern part of the site. The shop would be limited to 200m² and positioned towards the centre of the site [condition 29 and the ‘master plan’]. In my view, that would limit provision to local needs.

- ii. whether it has been demonstrated that an adequate, flexible and sequential approach has been applied in selecting the location and scale of the proposed retail development, taking into account the scale and format of the scheme, car parking provision and the scope for disaggregation and the advice in paragraphs 2.41 and 3.13–3.19;

In my view, the scale of provision would limit the outlet to one serving local needs. The central position proposed would be the logical one to serve the new development without impinging greatly on the existing local shops.

- F) (E) the extent to which the schemes are consistent with Government policies in PPS7: Sustainable Development in Rural Areas, with particular regard to:

- i. key principles on siting, location, accessibility and design (paragraphs 1(i)-(vi));

See above

- ii. ensuring that the quality and character of the wider countryside is protected and, where possible, enhanced (paragraph 15);

Both schemes would incorporate substantial amounts of open space. In my view, the landscaping and open space incorporated into both schemes reflect the landscape and ecological features of the respective sites. Nature Parks or 'natural areas' are designed to enhance a SINC or to incorporate some important hedgerows, ponds for newts or the remnants of 'ridge and furrow' agriculture [24.61]. Both schemes would include substantial landscaping to create or reinforce a strong sylvan edge to the urban area. And, in both cases the boundaries that would result from the schemes would reflect the advice in PPG2 to create secure boundaries following clearly defined features, such as streams, tree belts or woodland edges [24.72].

- iii. recognizing the importance of the countryside around urban areas to those who live and work there and also in providing the nearest and most accessible countryside to urban residents; securing environmental improvements and maximizing the beneficial uses of this land whilst reducing potential conflicts between neighbouring land uses (paragraph 26);

The integrated footpaths, cycleways and open spaces would provide a clear structure to the layouts and offer safe and easy movement between neighbourhoods as well as into the surrounding areas (including the countryside) and facilities, so fostering natural surveillance [24.58]. Both proposals would offer additional measures to improve the surrounding cycle and pedestrian links (by providing safe crossings, pedestrian signal phases or physical improvements) and to integrate the on-site provision with the surrounding networks. In that way the housing on the sites would benefit from City wide connections to the centre, to schools and to industrial estates by means other than the private car [24.98].

- G) (F) the extent to which the schemes would conflict with the national planning policy on biodiversity and geological conservation as set out in PPS9, in particular:

- i. the extent to which the schemes are likely to have an impact on the biodiversity and geology;

See 24.120-24.136.

- ii. whether or not there is likely to be any impact on a European protected species listed in the Habitats Directive;

No European protected species listed in the Habitats Directive is identified except, at Derwenthorpe, the great crested newt. The relevant habitat would be improved. .

- iii. whether there is likely to be any impact on a species protected under the Wildlife and Countryside Act 1981 or any other legislation, and

At Germany Beck the arable fields exhibit low ecological value and that most of the hedgerows within the site are species-poor, save for the hedge beside Germany Beck and Germany Lane most of which is intended to remain. The numbers of ground nesting birds are likely to be very low and the habitat marginal. No water voles are known to be present [24.124]. In my view, the scale of provision would limit the outlet to one serving local needs. The central position proposed would be the logical one to serve the new development without impinging greatly on the existing local shops. At Derwenthorpe the proposal would result in the loss of some 8ha of 'moderately rich' semi-improved sward containing fragmentary patches of 'species rich' grassland. There would be no loss of wet grassland and the pond would be retained, providing for the great crested newts. The additional areas of wetland would offer habitat to water voles. About half the hedges on the site would be lost or drastically altered, affecting the habitat for hedgerow birds. And, the derelict area would be completely re-used, which might affect invertebrates, although the wet grassland is thought to offer the best habitat [24.134]

- iv. whether or not there is likely to be any impact on any site of national, regional or local biodiversity or geological interest;

Neither proposal would adversely affect any site of international or national importance [24.122]. At Germany Beck the wet grasslands of the SINC would be improved and managed and the proposed Nature Park would be carefully designed to enhance ecological diversity and provide a variety of meadow, wetland and scrub habitats attractive to a variety of species, including water voles, harvest mice, kingfishers, bats and the like [24.125]. The site at Derwenthorpe is not a SINC. On the basis of the evidence presented and the current 'guidelines in operation, I consider that it would not now merit designation as a SINC [24.133].

- H) (G) the extent to which the proposed developments would conflict with national planning policy on Transport as set out in PPG 13, in particular:

- i. on the need to locate development in a way which helps to promote more sustainable transport choices,

Both sites would be ‘urban extensions’ [24.53] and they would be in ‘sustainable’ locations close to frequent bus services to the City centre and to local facilities and services such as post offices, shops, primary and secondary school and community facilities [24.57]. At Germany Beck a local shop would be provided to supplement the local facilities [24.59]. Both schemes would incorporate further measures to support public transport and to encourage travel by means other than the private car [24.59].

promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling, and

See 24.97-24.100.

reduce the need to travel, especially by car;

See 24.97-24.100.

- ii. whether the proposals comply with local car parking standards and the advice in paragraphs 52-56 of PPG13;

The car parking provision is limited. In relation to Derwenthorpe I consider that the provision for car parking would be realistic [24.96].

- I) (*H*) the extent to which the schemes are consistent with advice in PPG15: Planning and the Historic Environment, in particular:

- i. the desirability of preserving or enhancing the character or appearance of conservation areas;

I see no reason to disagree with the assessment of English Heritage that the housing proposed would not adversely affect the character or appearance of the Conservation Areas [24.74 and 24.76].

- J) (*I*) the extent to which the proposed developments are consistent with advice in PPG16: Archaeology and Planning with particular regard to:

- ii. the adequacy of any assessment and field evaluation to determine the character and extent of the archaeological remains and the options for minimising or avoiding damage;

The archaeological investigations at Germany Beck and Derwenthorpe were devised in consultation with the Head of Excavations at York Archaeological Trust and the City Archaeologist. They are both extensive, the former being particularly so [24.138 and 24.148].

- iii. having regard to the assessment and field evaluation, whether the physical preservation in situ of archaeological remains is justified, taking into account the presumption in favour of the physical preservation of nationally important archaeological remains and their settings; and

There is no archaeological evidence to show that the Germany Beck site contains the location of the Battle of Fulford [24.146]; the finds would thus be regionally important. This would warrant some further archaeological investigation and a watching brief on development at the site. The conditions and the terms of the Agreement provide suitable safeguards [24.147]. None of the archaeological features identified at Derwenthorpe could be described as being of national importance; indeed, their limited quality and relatively common occurrence would warrant only local interest [24.151].

- iv. where the physical preservation in situ of archaeological remains is not considered justified in the circumstances of the case and development resulting in the destruction of the archaeological remains should proceed, whether appropriate and satisfactory provision can be made for the excavation and recording of the remains;

See above 24.147, above .

- K) (*J*) the extent to which the proposed developments are consistent with advice in PPG17: Planning for Open Space, Sport and Recreation with particular regard to:

- i. whether or not any assessment of the needs of the local area has been undertaken and specific needs and quantitative or qualitative deficits or surpluses have been identified;

Both schemes would incorporate substantial amounts of open space; 47% of the whole site at Germany Beck and 33% of the site at Derwenthorpe would constitute some form of open area. Both schemes demonstrate adherence to policy L1c of the Local Plan, which is derived from an analysis of open space requirements [24.61]. Both proposals provide contributions to recreation provision [section 3].

- L) (*K*) the extent to which the proposals are consistent with advice in PPS23: Planning and Pollution Control;

Both schemes would incorporate measures to control pollution [section 3].

- M) (*L*) the extent to which the proposed developments are consistent with advice in PPG24: Planning and Noise;

Both schemes would incorporate measures to control noise during construction. The impact of noise from traffic would be different in each scheme; the assessments are set out in 24.79-24.87.

- N) (M) the extent to which the proposed developments are consistent with advice in PPG25: Development and Flood Risk with particular regard to the need to:
 - i. avoid development that increases flood risk through its effect on flood plain flows and storage;

Using the latest floodplain maps produced by the Environment Agency, it is clear that at both application sites the areas identified for housing would lie beyond the land shown as likely to be flooded with an annual probability of 1% or above [24.107]. Both schemes would serve to reduce flood risks and enhance the ecology of the area [24.112 and 24.117].

- ii. give priority to lower-risk areas for the location of development; and

Neither scheme has been subjected to the sort of 'sequential test' now outlined in draft PPS25. However, the site selection process sought to exclude land shown in flood zones 2 and 3 on the flood plain maps then extant. The latest floodplain maps produced by the Environment Agency tend to show that the application sites are less vulnerable to flooding than the previous versions. Moreover, Flood Risk Assessments have been submitted in relation to both schemes and initial objections raised by the Environment Agency have now been withdrawn, subject to the imposition of conditions or the terms of Agreements. Hence, for all practical purposes, I consider that the aims of the 'sequential test' are met here [24.109].

- iii. ensure that development within areas vulnerable to flooding be protected to an appropriate minimum standard taking account of the likely effects of climate change;

At Germany Beck finished floor levels are required to be at 10.41m AOD, taking account of climate change [24.110]. At Derwenthorpe finished floor levels should be at a minimum of 13.25m AOD [24.116].

- O) (N) whether planning permission should be granted for the developments set out in the applications;

The recommendations are that planning permission should be granted for both schemes.

- P) (O) what conditions should be imposed on any permission which might be given; and, in particular, the need for a condition to limit the likely significant environmental effects of the developments to those described and assessed in the Environmental Statements submitted with the applications;

The conditions suggested are at annexes 1 and 2.

- Q) (P) any other aspect of the proposed developments which the Inspector may feel is material to the decisions.

These are identified in the report.