

**From:** [REDACTED]  
**Sent:** 05 April 2023 15:43  
**To:** localplan@york.gov.uk  
**Subject:** FW: York Travellers Trust - Local Plan Consultation  
**Attachments:** Appendix 5 Traveller Sites through Local Plan Allocations.docx; Appendix 1 - EHRC letter to York Council.pdf; Appendix 2.pdf; Appendix 7.pdf; Appendix 9.pdf; Appendix 3.pdf; Appendix 10 - Policy H16.docx; Appendix 11 Osbaldwick Resident Testimony.docx; Appendix 4.pdf; Appendix 8.docx; Appendix 12.pdf; Appendix 6.pdf; YTT Consultation Response Final.docx; Appendix 13.pdf

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**From:** Abbie North [REDACTED]  
**Sent:** 27 March 2023 15:49  
**To:** Bartle, Laura [REDACTED]; Cooke, Alison(City Development) [REDACTED]; Goodall, Gail [REDACTED]; Carter, Tracey [REDACTED]  
**Subject:** York Travellers Trust - Local Plan Consultation

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Dear All,

Please find attached our response to the Local Plan Consultation.

Apologies that this is late in arriving with you - as you will see, it has been a long and complicated task.

We look forward to working with you positively in the future to address some of the issues we have raised here.

Many thanks

Abbie North

**York Travellers Trust**

**20 Falsgrave Crescent**

**York YO30 7AZ**

**27 March 2023**

**City of York Council Local Plan**

**Proposed Main Modifications Consultation**

**Response by York Travellers Trust**

**Relating to Proposed Main Modifications: MM5.11;  
MM5.12; MM5.15; MM5.16; MM10.6; and MM10.7**

## 1.0 Introduction

1.1. York Travellers Trust (YTT) objects to the following proposed Major Modifications on the basis that they do not comply with the Soundness Tests at paragraph 182 of the National Planning Policy Framework, 2012:

MM5.11, Policy H5: Gypsies and Travellers:

- Not positively prepared;
- Not Justified;
- Not effective; and
- Inconsistent with National Policy.

MM5.15, Policy H5 Explanation Para 5.38 and Table 5.3

- Not positively prepared;
- Not Justified;
- Not effective; and
- Inconsistent with National Policy.

MM5.16, Policy H5 Explanation Para 5.423

- Not positively prepared;
- Not Justified;
- Not effective; and
- Inconsistent with National Policy.

MM10.6, Policy GB4: 'Exception' Sites for Affordable Housing in the Green Belt

- Not positively prepared;
- Not Justified;
- Not effective; and
- Inconsistent with National Policy.

MM10.7, Policy GB4

- Not positively prepared;
- Not Justified; and
- Not effective.

1.2. Through this submission we provide the evidence that the emerging York Local Plan with proposed Major Modifications is unsound, unlawful and discriminatory in respect of its proposals relating to provision for Gypsies and Travellers. Our objections are not limited to the individual Proposed Major Modifications. They are more to the whole raft of policy, including proposed Major Modifications

1.3. The Plan as it relates to Gypsies and Travellers is not sound on the basis that it has not been based on a '*robust evidence base*', as required by National Policy. Document ex\_cyc\_88

was prepared without effective engagement with relevant parties, including Gypsies and Travellers themselves; York Travellers Trust, or members of the Council's Housing Team most closely involved with the Traveller Sites from which evidence was gathered. The accommodation needs – in terms of either the level or the types of accommodation required by Gypsies and Travellers in York was not discussed with relevant parties or properly understood in preparing this document, or Policy H5.

1.4. We acknowledge that the Council's policy choice to meet the needs of those Gypsies and Travellers who do and those who do not meet the definition set out in Annex 1 PPTS, but who nevertheless have a need for culturally appropriate accommodation on the basis of their race in the same way may be well intentioned. However, it has led to internal and external inconsistencies with Local and National Policy, and, in the context of a negative reading of the provisions in PPTS, to unlawful discrimination under the Equality Act 2010.

1.5. The Plan is not justified, in that it does not take into account or employ reasonable, available alternatives, and does not identify a supply of specific deliverable sites to meet the assessed need for the first 5 years of the plan period, or developable sites, or broad locations for growth, for years 6 to 10, and 11-15.

1.6. In summary, Policy H5 as proposed to be modified is simply not capable of achieving the objectives of Sustainable Development. It will not meet the accommodation needs of Gypsies and Travellers in York, in either the short, or the longer term, and this will have devastating consequences for outcomes for these groups across the full spectrum of social indicators for generations to come. Secondary effects will inevitably be felt by the wider communities of York.

1.7. Contrary to the requirements of National Policy and the provisions of s8(3)(b) of the Housing Act 1985, the Council has made no assessment whatsoever of the accommodation needs of Boat Dwellers in the City, and no Policy to meet these needs.

1.8. We would invite the Local Plan Examination Inspectors to advise the City Council that the Plan incorporating Proposed Major Modifications MM5.11, MM5.12, MM5.15, MM5.16, MM10.6 and MM10.7 is not sound and, if the plan is to be found sound and capable of being adopted, that the Council needs to bring forward amended versions of those proposed major modifications, together with additional allocations for Gypsies and Travellers.

1.9. YTT has no wish to hold up adoption and implementation of the plan. We have worked hard over the Consultation period to identify workable, practical solutions by which the needs of all of the communities of York for a Local Plan which is capable of delivering the urgently needed accommodation in the City can be met.

1.10. At Section 12 below we advocate an approach based on that which was followed in the Chorley Local Plan. In that case, the Inspector found that the accommodation needs assessment was not up to date and the approach of the Local Plan in not allocating any sites for Gypsies and Travellers unsound. On that basis, the Inspector paused the examination for the completion of the review of the Accommodation Needs Assessment and the identification of



allocations. She published a Partial Report<sup>1</sup> in October 2013 which found that the Plan was sound, apart from in regard to Gypsy and Traveller policy, followed by a Supplementary Report in May 2015<sup>2</sup> which stated, based on the Council's further proposed Major Modifications relating to Gypsies and Travellers, that the plan was sound and could be adopted.

## **2.0 Background**

2.1. From its earliest stage YTT has put significant resources into engaging with the Local Plan process. It has consistently expressed doubts about the ability of Policy H5 to meet the needs of Gypsies and Travellers and the failure to make allocations.

2.2. We welcomed positive communication with the Council in the early stages of the process, but in the later stages, we have experienced significant difficulties engaging.

2.3. As advocates for and members of the travelling communities of York, we are painfully familiar with the social and cultural consequences of our minority status; as the needs and interests of the many problematise and overwhelm the needs and interests of the few. Whilst the impacts of systemic discrimination play out in our families and communities across the country, we are aware that the primary characteristics and challenges that the diverse Gypsy and Traveller communities share are in our relationships with Land and experiences of 'Home', and the discrimination and disadvantage we suffer because of them.

2.4. Sustainable, culturally appropriate accommodation for Gypsies and Travellers, and other groups who live a 'nomadic habit of life' is crucial to the objectives of achieving Sustainable Development. Evidence that inter-generational experiences of insecure and inappropriate accommodation are at the root of the extremely poor outcomes for Gypsy and Traveller communities across a range of social indicators is widely available and is well-rehearsed in the Council's own Examination Documents.

2.5. Nationally, the diversity of Gypsy and Traveller communities is reflected in a range of accommodation provision in many areas. Many Councils do provide sites for those Gypsies and Travellers unable to meet their own needs through land acquisition and the planning system, but the preference for most Travellers is for privately owned, family sites. For a city with a relatively large and long-established community, this type of mix of provision is conspicuously absent in York. Almost all Gypsy and Traveller households with the need to live on a caravan site are accommodated on council-owned and managed sites.

2.6. The consequences of the history of extremely poor provision for Traveller sites in York has played a significant role in the social and economic exclusion of these communities. Those

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<sup>1</sup> Appendix 14,

PINS/D2320/429/72013/pdf/Chorley\_Local\_Plan\_Inspectors\_Partial\_Report\_Final.pdf?m=637384460987170000

<sup>2</sup> Available at: [https://chorley.gov.uk/media/608/Inspector-s-Supplementary-Report-May-](https://chorley.gov.uk/media/608/Inspector-s-Supplementary-Report-May-2015/pdf/CH20.2_Inspectors_Supplementary_Report_Chorley_GT__8_May_2015.pdf)

2015/pdf/CH20.2\_Inspectors\_Supplementary\_Report\_Chorley\_GT\_\_8\_May\_2015.pdf?m=637384463381800000

members of the community able to finance the acquisition and development of their own sites have been driven from the City.

2.7. This has led to the situation in York where the only experience people have of Traveller Sites is of those that are provided by the Council. This has resulted in an incomplete and narrow view of Traveller sites which has become embedded in the institutional culture of the Council, and the broader social culture of the City.

2.8. The Council's vision of the future for Traveller Sites, as expressed in Policy H5, is built on, and reflects, the appalling choices in terms of land use planning made in the past. This can only perpetuate the social, political and cultural exclusion of Gypsies and Travellers for generations to come.

2.9. The consequences of adopting a Policy which neither meets the needs of Travelling people, nor makes adequate provision for them to meet their own needs are significant. They will manifest themselves in deep social and educational exclusion for Traveller families, brought about by ghettoization and roadside homelessness; and will mean generations of material harm for the communities we live in and support, alongside our settled neighbours.

2.10. The final policy for Traveller Site provision, and in particular the Main Modifications contained in document ex\_cyc\_121a, have brought into relief the inherent weaknesses and inconsistencies of the Plan as it relates to making provision for the accommodation needs of Gypsies and Travellers. It has made clear what the practical consequences of a Policy that has not had sufficient consideration by parties with relevant expertise will be.

2.11. We recognise the arduous and difficult task the Council and the City have grappled with to reach this point in the Local Plan Examination. However, engagement in a context in which our cultural needs and vulnerabilities in terms of land use and accommodation are perceived and experienced as a problem and threat to the interests of the City as a whole has been extremely challenging.

2.12. We very much regret the situation which has set us up in opposition to York Council in one of the most important tasks of our generation. Our ongoing, positive relationship with the Council is crucial to allow us to work collaboratively together across a range of issues to improve outcomes for the Gypsy and Traveller communities, and by extension, the people of York more widely.

2.13. YTT is aware of the need for the adoption of the Local Plan in York, so that the environmental, economic and housing needs of *all of* York's citizens can be met. We have no desire to delay the adoption of a Plan that is able to meet the needs of all other citizens.

2.14. However, the Local Plan Policy for Gypsies and Travellers has not been based on a robust assessment of accommodation need and is not capable of providing *either* specific allocations to meet the needs of Gypsies and Travellers during the first 5 years of the Plan, *or* functional criteria-based policy by which presenting need, and need identified over the rest of the plan period may be met, either by families themselves or by any other developer.

2.15. The representations within this document will demonstrate that the Local Plan, insofar as it purports to meet the needs of Gypsies and Travellers in the area, is not legally compliant and is not sound. Strategies within the Plan have been based on an incoherent and inconsistent approach to the assessment of accommodation need, resulting in a policy that fails to achieve

the objectives of Sustainable Development through its failure to identify suitable, available, deliverable sites and discriminates against our communities in the process.

2.16. The Secretary of State has responsibilities and positive obligations, under the European Convention on Human Rights; the Human rights Act 1998; and the Equality Act 2010 which, when properly understood and effected, must prevent the Inspector from adopting the Local Plan so far as it relates to the provision of Gypsy and Traveller sites.

2.17. We have discussed our very serious concerns about the Local Plan with the Equality and Human Rights Commission. We have considered, with the EHRC what our options, going forward, may be. A letter to the Council from the EHRC is included at Appendix 1.

2.18. York Travellers Trust is invested in ensuring positive outcomes in this process, so that the communities we support can access secure, sustainable, culturally appropriate accommodation from which they can access the same health, educational, social and economic facilities and services as other citizens. Whilst the fundamental need for a decent home cannot be met, our work in a other areas will fail. For this reason, we will have no choice but to challenge any decision by the Inspector to adopt Policy H5.

### **3.0 MM5.11, Policy H5; MM5.15, Para 5.38 and Table 5.3; and MM5.16, Para 5.42: GTANA 2022: 'Lisa Smith' and definition/non definition 'Gypsies and Travellers'**

#### 3.1.0 National Policy

3.1.1. Policy 11 NPPF provides:

*11. Plans and decisions should apply a presumption in favour of sustainable development. For plan-making this means that:*

*a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;*

*b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas<sup>6</sup>, unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area<sup>7</sup>; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

3.1.2. In order to achieve this objective, which is a central requirement in National Planning Policy; Policy B PPTS confirms, at Paragraph 8 that:

*'8. Local Plans must be prepared with the objective of contributing to the achievement of sustainable development. To this end, they should be consistent with the policies in the National Planning Policy Framework, including the presumption in favour of sustainable development*

*and the application of specific policies in the Framework, and this planning policy for traveller sites.'*

3.1.3. Policy A PPTS provides that, to support this requirement:

*7. In assembling the evidence base necessary to support their planning approach, local planning authorities should:*

*a) pay particular attention to early and effective community engagement with both settled and traveller communities (including discussing travellers' accommodation needs with travellers themselves, their representative bodies and local support groups)*

*b) cooperate with travellers, their representative bodies and local support groups; other local authorities and relevant interest groups to prepare and maintain an up to-date understanding of the likely permanent and transit accommodation needs of their areas over the lifespan of their development plan, working collaboratively with neighbouring local planning authorities*

*c) use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions.*

3.1.4. In addition to the obligation on Local Authorities to provide sites for those households who meet the definition set out in PPTS; Article 8 of the European Convention on Human Rights imposes positive obligations on the state to '*facilitate the Gypsy way of life*' in the regulatory planning framework. (See '*Chapman v UK*' (2001) 33 E.H.R.R. 18)

3.1.5. Sections 1 and 8(3) of the Housing Act 1985 require that:

*(1) Every local housing authority shall consider housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation.*

*(3) In the case of a local housing authority in England, the duty under subsection (1) includes a duty to consider the needs of people residing in or resorting to their district with respect to the provision of—*

*(a) sites on which caravans can be stationed, or*

*(b) places on inland waterways where houseboats can be moored.*

3.1.6. Paragraphs 61 and 62 NPPF require that:

*'61. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.'*

*'62. Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people*

*with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).*'

3.1.7. The Local Plan Policy to meet the needs of Gypsies and Travellers is not based on a robust evidence base and has led inevitably to clear breaches of the provisions of sections 149 and 13 of the Equality Act 2010, and the Human Rights of those affected under Articles 8 and 14 ECHR, and Sections 3 and 6 of the Human Rights Act 1998.

### **3.2. Robust Evidence Base**

3.2.1. Our position as regards the consistent failure of CYC to meet the standards set out in National Policy to use a 'robust evidence base' to assess accommodation needs are set out at paras 3-6 of our February 2018 response to the Reg 19 Consultation; Paras 5.37 – 5.39; Table 5.3; Paragraphs 10 and 11 of our Matters 4 and 7 hearing statement (March 2022), and Paragraphs 8 – 18 of our Hearing Statement for Matter 9 of the Phase 3 Hearings: 'Gypsies and Travellers and Travelling Show-People;' (July 2022). We do not intend to repeat these points here, other than to confirm that we maintain our position as set out previously.

3.2.2. Whilst we have welcomed the Council's recognition that the accommodation needs of both those Gypsies and Travellers who do and those who do not meet the PPTS definition should be catered for through the Local Plan; it is clear that in order for policy to be internally and externally consistent with Local and National Policy and law, it must be made explicit which provisions and policies in NPPF or in PPTS are relied upon and/or operationalised in order to achieve this. National policy requires that these groups are treated differently.

### **3.3. 'Lisa Smith'**

3.3.1. Paragraphs 9.1.2. of the Council's Hearing Statement for Matter 9, and 2.3.2 of the Final Report for the GTAA (June 2022) clearly indicate that emerging Case Law, including the Judgment of Mr Justice Pepperall in 'Lisa Smith' as handed down in June 2021, was considered and followed by the Council in the process of making its assessment of the accommodation needs of Gypsies and Travellers:

*9.1.2. The methodology underpinning the Gypsy and Traveller Accommodation Assessment (June 2022) (attached at appendix 1) has been updated in light of emerging case law, Ministerial Statements, the outcomes of Local Plan Examinations, Planning Appeals, and to reflect Planning Policy Guidance. (York Council Hearing Statement for Matter 9);*

*2.32 In June 2021 Mr Justice Pepperall handed down judgment in Lisa Smith v The Secretary of State for Housing, Communities and Local Government and others[2021]. The case concerned whether the planning definition of Gypsies and Travellers contained in Annex 1 of the PPTS (2015) is discriminatory against Travellers who are settled and who no longer travel for work. Mr Justice Pepperall dismissed the claim and found the PPTS planning definition to be lawful. This further supports Paragraphs 61 and 62 of the NPPF that requires a separate assessment of need for Travellers who do not meet the PPTS planning definition, and that this need should be addressed through separate Local Plan policies to the Gypsy and Traveller Policy.*

3.3.2. The Judgment of June 2021 found that the PPTS Definition of Gypsies and Travellers did not discriminate against the Applicant, who had ceased to travel permanently, on the basis of the protected characteristics of disability and old age.

3.3.3. Importantly, this Judgment was overturned at the Court of Appeal in 2022. Settled Case Law therefore confirms that, contrary to the understanding that was referred to in the GTAA 2022; the definition of "Gypsies and Travellers" in PPTS, which excludes disabled and elderly Gypsies from that definition, may discriminate against individuals in some circumstances. The 2021 Judgment should not, therefore, be relied upon to make the needs assessment against this definition without further consideration of individual circumstances in relations to these protected characteristics.

3.3.4. In light of the recent Judgment, the Planning Inspector asked: *‘whether the Council needs to revisit, modify, or update the GTAA (EX/CYC/88) in the light of the recent Lisa Smith judgment?’*

3.3.5. He further suggested that:

*‘there may be a need to adjust draft Policy SS1 (as proposed to be modified in EX/CYC/111) to accord with the terms of the judgment, with particular reference to those that meet, and those that do not meet, the ‘definition’*

3.3.6. The Councils response to these points, contained at Paragraphs 2 – 2.4 of Document ex\_cyc\_121a is woefully insufficient.

3.3.7. The Council’s response to the question of whether the GTANA should be reviewed in the light of the 2022 Judgment in *Lisa Smith* is contained at paragraphs 2.1 - 2.4 of Document ex\_cyc\_121a. It relies on Paragraph 139 of the 2022 Judgement, and its decision to treat those who do and those who do not meet the PPTS definition in the same way, which is, in itself, inconsistent with National Policy, to dismiss the need to revisit the GTANA at this stage in the Plan-making process.

3.3.8. Quoting directly from the Judgment, the Council states at Paragraph 2.1. (iii), that:

*“The consequences of this outcome for future decision-making on applications for planning permission and appeals in which the relevant exclusion is engaged will inevitably depend on the particular circumstances of the case in hand.*

3.3.9. It goes on to state, at Paragraphs 2.3. and 2.4 that:

*2.3. ‘The GTAA clearly set out that the total need for Travellers in York is for 40 pitches. The level of need was not reduced because of the exclusion for those who had stopped travelling because of age/disability. Accordingly, the concern in Lisa Smith does not arise.’*

*2.4 The PPTS and the National Planning Policy Framework (“the NPPF”) remain government policy and the requirements of both have been applied in a way that is consistent with Lisa Smith. The Council does not, therefore, consider it necessary to review the assessment of Traveller site needs further, nor propose further modifications to Policy SS1 (as presented in EX/CYC/111) which confirms the plan’s strategic approach to meeting all identified Traveller needs.*

3.3.10. Whilst the council is in the process of making Local Plan Policy to meet the accommodation needs of Gypsies and Travellers which must, under National Policy, be based on and respond effectively to a ‘*robust assessment of need*’, and treat those who do and those who do not meet the PPTS definition differently; the appropriate time to consider the ‘particular circumstances’ of each case, as suggested by the Planning Inspector, is through a ‘*robust assessment*’ of the needs of these communities to be carried out now.

3.3.11. The Council’s response, as set out in Document cyc\_ex\_121a highlights, and perhaps begins to explain, some of the major internal and external inconsistencies and incoherency within Policy H5, and its ultimate failure to meet the accommodation needs of *all those households* whose accommodation need must be assessed under s8(3) of the Housing Act 1985, and subsequently met as required under Paragraph 62 NPPF, or PPTS.

3.3.12. The Council intends to treat those ‘Gypsies and Travellers’ who do and those who do not meet the definition – to some extent - in the same way.

3.3.13. Since Gypsies and Travellers who do not meet the PPTS definition are, by definition, not ‘Travellers’ for planning purposes, it is important to understand how the Council has determined who this group actually are (and who they are not) for the purposes of the Local Plan.

3.3.14. This is explained in Paragraphs 2.23 and 3.34 of the GTANA 2022:

*‘2.23 The primary guidance for undertaking the assessment of housing need for Gypsies, Travellers and Travelling Showpeople is set out in the PPTS (2015). It should be read in conjunction with the National Planning Policy Framework (NPPF). In addition, the Housing and Planning Act makes provisions for the assessment of need for those Gypsy, Traveller and Travelling Showpeople households living on sites and yards who do not meet the planning definition – through the assessment of all households living in caravans.’*

3.3.15. There is no such group in National Planning Policy for Traveller Sites as ‘*Gypsies and Travellers who do not meet the definition in PPTS*’. Rather, there are people who need sites on which caravans can be stationed, and moorings on which houseboats can be moored. These may be people of any ethnicity, who may reside in caravans or boats for any reason – including, but not limited to, a cultural tradition of living in caravans or boats; personal identification with a nomadic culture, agricultural and land based work requiring on-site accommodation, and/or a need for affordable accommodation.

3.3.16. Paragraph 3.34 of GTANA 2022 confirms that the approach adopted by the Council in determining which households will be considered ‘Gypsies and Travellers’ for Local Plan Policy is one which relies on either a ‘nomadic habit of life’ as defined in Annex 1 PPTS, or, explicitly, on the ethnicity of those individuals with a need for a residential caravan site:

*‘3.34. Households who do not travel for work now fall outside the planning definition of a Traveller. However Romany Gypsies, Irish and Scottish Travellers may be able to claim a right to culturally appropriate accommodation under the Equality Act (2010) as a result of their protected characteristics. In addition, provisions set out in the Housing and Planning Act (2016) now include a duty (under Section 8 of the 1985 Housing Act that covers the requirement for a periodical review of housing needs) for local authorities to consider the needs of people residing in or resorting to their district with respect to the provision of sites on which caravans*

*can be stationed, or places on inland waterways where houseboats can be moored. Draft Guidance<sup>6</sup> related to this section of the Act has been published setting out how the government would want local housing authorities to undertake this assessment and it is the same as the GTAA assessment process. The implication is therefore that the housing needs of any Gypsy and Traveller households who do not meet the planning definition of a Traveller will need to be assessed as part of the wider housing needs of the area and will form a subset of the wider need arising from households residing in caravans. This is echoed in the revised NPPF (July 2021).'*

3.3.17. Paragraph 5.31 of the Officer Report for Application Ref: 18/01884/OUTM (York Central) confirms that:

*'Whilst it is no longer a requirement to include an assessment of need for those gypsies and traveller who do not meet the planning definition within the GTAA, the GTTA (2017), undertaken by consultants ORS, has specifically addressed the need for accommodation that is culturally suitable for ethnic Gypsies and Travellers or the accommodation needs of settled Gypsies, Travellers and Travelling Showpeople (not meeting the planning definition) who live on sites. This work was undertaken as part of the GTAA to assist the Council in identifying and meeting the needs from these households and provides a specific subset of the wider housing need identified in the Strategic Housing Market Assessment (SHMA).'*

3.3.18. We are not aware of any assessment of the wider needs of households residing in caravans or houseboats. Those Gypsies and Travellers who do not meet the planning definition whose needs have been assessed through the GTANA 2022 and addressed in Policy H5 are, as demonstrated by the Councils own evidence, those who reside in caravans and may require culturally appropriate accommodation due to their race. No needs assessment has been carried out for other caravan or boat dwelling households, and no Policy has been considered or provided for these groups in the Local Plan.

3.3.19. As set out below at Paragraphs 6.15 and 8 – 8.38; the effect of this policy choice, in combination with the (negative) reading that has been made by the Council of Policy D PPTS, and the explicit reference to the protected characteristic of 'Race' in deciding whose accommodation needs will be assessed and provided for under Policy H5, constitutes direct and indirect discrimination under sections 13 and 19 of the Equality Act 2010, and does not comply with obligations contained in s149 of that Act. It constitutes a breach of the Human Rights of and a failure to meet its positive obligations towards those affected under Articles 8 and 14 ECHR. These breaches cause a material detriment to both those households who do and those who do not share the protected characteristic of 'Race' and who have a need for a site upon which to station a residential caravan.

3.3.20. The approach the Council has taken to the provision of Traveller Sites is not lawful under these legislative and Convention provisions and is inconsistent with National Policy towards Sustainable Development. It is not workable in terms of providing appropriate accommodation, either for those Gypsies and Travellers who do, or for those who do not meet the PPTS definition, but who have a need for affordable, culturally appropriate accommodation. Finally, it makes no provision at all for those households in the Local Authority Area who have a need for a residential caravan site or boat mooring, but who do not reside on existing Council-owned sites or share with ethnic Gypsies and Travellers the protected characteristic of 'Race'. Since the accommodation needs of these groups have not



been assessed, we have no way of knowing how many of these households may meet the PPTS definition, or how many have a need for affordable accommodation.

3.3.21. Whilst we welcome the Council's recognition that it has a positive obligation to meet the needs of people who may not meet the PPTS definition but who nevertheless require culturally appropriate accommodation; this should be represented in policy which is capable of delivering this provision for all citizens who may have a need for this kind of accommodation. Human Rights and Equality Act arguments centred on ethnicity will likely (and rightly) feature heavily in relevant planning applications which later rely on those policies, but Planning Policy for Traveller Sites that is targeted explicitly toward meeting the accommodation needs of members of a particular Race, as defined under s9 of the Equality Act 2010, and considered in National Case Law is not lawful.

3.3.22. In the context of the York Local Plan, this leads not only to discriminatory consequences for these groups that will result directly from the failure of Policy H5, and which have been brought into relief in the text of Document ex\_cyc\_121a, and particularly paragraph 4.5; it also discriminates against all households who do not share the protected characteristic of 'Race,' but who nevertheless have a practical or cultural need for residential caravan sites or boat moorings.

3.3.23. The Council have made no assessment of the needs of people in the area with respect to the provision of places to moor houseboats as required under s8(3)(b) Housing Act 1985; and no Policy in the Local Plan to meet these needs. Similarly, the Council have made no assessment of or Policy Provision for the accommodation needs of people who fall into these groups and who have a need for 'affordable accommodation.'

3.3.24. We welcome the Council's efforts to meet the needs of ethnic Gypsies and Travellers who have a need for culturally appropriate accommodation. However, no thought has been given to how this may properly be supported or effected in Local Plan Policy.

**4.0 MM5.11, Policy H5; MM5.15, Para 5.38 and Table 5.3; and MM5.16, Para 5.42: Failure to identify a supply specific deliverable sites sufficient to provide 5 years' worth of sites' or a 'rolling supply' of 'specific, developable sites, or broad locations for growth, for years 6 to 10 and years 11-15 of the Plan Period.**

4.1.0. The Local Plan is not sound in that, contrary to National Policy it does not make identify or make allocations for '*specific deliverable sites sufficient to provide 5 years' worth of sites against [...] locally set targets;*' or a '*supply of specific, developable sites, or broad locations for growth for years 6 – 10,*' or 11 – 15 of the plan period. There is no evidence that the Council has considered the 'Duty to Co-Operate' to provide more flexibility in identifying sites, or that it has properly assessed 'reasonable alternatives' in order to make Policy H5 effective. This is despite extremely strict planning constraints across the area in the form of the very tight boundaries of the Green Belt.

4.1.1. The failure to base the Policy on a '*robust evidence base*' and the Policy choice to treat those Travellers who do and those who do not meet the PPTS definition, effectively, in the same way, alongside a failure to properly understand the accommodation needs of the Gypsy and Traveller community and a negative reading of the provisions in PPTS; has led to internal

and external inconsistencies with Local and National Policy, which are extremely difficult to unpick, and which have led, in our view, to a policy that is unsound, discriminatory and unlawful.

#### **4.2. 'Rolling Supply' - Policy H5(b):**

4.2.1. In his Letter to the Council of 16<sup>th</sup> November 2022, the Inspector has asked:

*'H5(b) which refers to 30 pitches to be provided as part of the strategic allocations gives no indication of when those pitches might come forward, and (in detail terms) where. In short, it would be helpful if the Council could provide a trajectory for the provision of the 40 additional pitches, identifying the number of pitches each site will provide, and when that provision is expected to take place. We need to see a satisfactory rolling supply of pitches over the Plan period.'*

4.2.2. Policy H5(b) provides that:

*In order to meet the need of those 30 Gypsies and Traveller households that do and do not meet the planning definition: Residential development proposals on strategic sites will be required to:*

*provide a number of pitches within the site or provide alternative land that meets the criteria set out in part c) of this policy to accommodate the required number of pitches.*

*Commuted sum payments to contribute to development of pitches elsewhere will only be considered where it is demonstrated that on site delivery is not achievable due to site constraints and that there are no suitable and available alternative sites for the required number of pitches that can be secured by the developer.*

*The calculations for this policy will be based on the hierarchy below:*

- 100 – 499 dwellings – 2 pitches should be provided*
- 500 – 999 dwellings – 3 pitches should be provided*
- 1000 – 1499 dwellings – 4 pitches should be provided*
- 1500 – 1999 dwellings – 5 pitches should be provided*
- 2000 or more dwellings – 6 pitches should be provided.*

4.2.3. Without coherent justification with reference to National and Local Plan Policy; Policy H5(b) is incapable of delivering appropriate provision for Gypsies and Travellers in York.

4.2.4. First, as the Policy is currently expressed, the Planning Obligations upon which it relies to deliver the required pitches are likely to be unenforceable.

4.2.5. Second, the hierarchy as set out here is fundamentally flawed, unworkable, and undeliverable.

### **4.3. Unenforceable.**

4.3.1. The planning obligations imposed on developers to provide pitches, alternative land upon which to develop them, or commuted sums in lieu to the Council are expected to come through agreements under s106 of the Town and Country Planning Act 1990.

4.3.2. Paragraph 57 of NPPF states that:

*'Planning obligations must only be sought where they meet all of the following tests:*

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

4.3.3. Policy H5(b) was originally intended to meet the accommodation needs *only* of those Gypsies and Travellers who do not meet the PPTS definition, as a part of the wider housing need identified in the Strategic Housing Market Assessment. As discussed above, at Paragraphs 3.1.6 and 3.3.11; National Policy requires that the needs of these households should be assessed and provided for with reference to paragraphs 61 and 62 NPPF.

4.3.4. The methodology for the needs assessment - both in GTANA 2017 and GTANA 2022 - was based primarily on a study of those households currently occupying pitches on '*authorised and unauthorised sites*' (see Paragraphs 3.10 SD059; Paragraphs 3.11; 3.15 and 3.16 ex\_cyc\_88). In the York context, authorised sites consist almost exclusively of those that are owned and managed by the Council, and are socially rented sites. On this basis, it is reasonable to assume that the majority of the households whose needs were assessed, and from which future need will arise can be considered to be in affordable housing need. Our own understanding of the picture in York in terms of the socio-economic status of Gypsies and Travellers supports this position.

4.3.5. Paragraph: 018 Reference ID: 2a-018-20190220 of the National Planning Practice Guidance confirms that:

*'All households whose needs are not met by the market can be considered in affordable housing need. [...]'*

4.3.6. The requirements as set out in Policy H5(b) are derived directly from Paragraph 63 NPPF, which states that:

*'63. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:*

- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and*
- b) the agreed approach contributes to the objective of creating mixed and balanced communities.'*

4.3.7. The obligations to provide Pitches within Strategic Allocations under Policy H5(b) can only be justified in these terms, and with reference to Paragraph 63 NPPF. There is no other

provision in National Policy or law which allows for planning obligations to be imposed on developers in this way.

4.3.8. Policy H5(b) must, effectively, be geared towards meeting the need for affordable, culturally appropriate accommodation for Gypsies and Travellers in York. The failure to make this explicit within the text of the Local Plan, and the consequent failure to consider reasonable alternatives as supplied in NPPF and PPTS has led to consequences that are manifestly discriminatory, and to the failure of Policy H5(b) to achieve its own objectives. To this extent, the Local Plan is unsound and unjustified. It is inconsistent with National Policy; and is ineffective. The Council has failed to take reasonable alternatives into account. As it is currently drafted, the Policy is likely to be unenforceable.

4.3.9. Paragraph 75 of the Decision in APP/C2741/W/19/3227359<sup>3</sup>, which related to an application for the development of 266 dwellings on Land North of Boroughbridge Road, and would, if Policy H5(b) was robust, have delivered 2 Traveller Pitches confirmed that in relation to this requirement:

*'such provision is not necessary to make the development acceptable in planning terms, is not directly related to the development and does not fairly and reasonably relate in scale and kind to the development. Consequently, it has not been demonstrated that this obligation is necessary. I therefore do not take it into account in determining this appeal and I accord no weight.'*

4.3.10. In contrast, the Inspector's findings in relation to the requirement to provide affordable housing as a part of the development were as follows:

*64. Affordable Housing: A significant need for affordable housing has been identified through the York Strategic Housing Market Assessment and its addendum. Whilst there is currently no adopted development plan policy requiring affordable housing, the delivery of 30% affordable housing would be in line with the Council's current practice. Furthermore the provision of affordable houses as part of the development would accord with the Framework which seeks to ensure a sufficient supply of homes to reflect identified needs. I am satisfied that this planning obligation meets all three planning obligation tests and so is necessary. I give this obligation significant weight.*

4.3.11. Following a meeting with the Council on 16<sup>th</sup> February 2023, in which we referred to this Decision, the Council provided a 'Position Paper'<sup>4</sup> to assist YTT in our understanding of the Policy, and the reasoning behind and justification for some of the Council's most recent modifications. It is advanced by the Council that the *'position has now materially changed'* since the time of the above Appeal, and that *'the evidence to support the policy approach has since been developed further.'* We have not been provided with this evidence.

4.3.12. The Council also stated that: *'Notably, neither the Secretary of State (SoS) or the Inspector in reaching their conclusions on the appeal at Monks Cross (ST8) found the agreed financial contribution to pitches in this case to be flawed.'*

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<sup>3</sup> See Appendix 2

<sup>4</sup> See Appendix 3

4.3.13. The Appeal Decision in this case (Ref: APP/C2741/W/21/3282969<sup>5</sup>) confirms that the ‘financial contributions’ referred to above in fact included *all* obligations that were included in the agreement, not just those related to Traveller pitches. It also confirms that these were not contested at Appeal and were therefore not considered by the Inspector in detail:

*‘12. The Council provided a Compliance Note which considered the obligations in the light of Regulation 122 of the Community Infrastructure Levy Regulations 2010, concluding that the relevant tests would be met. The need for the obligations was not controversial and no party argued that any of the obligations would fail the tests. The appellant expressed no opinion in relation to the Travellers’ pitches contribution. I see no reason to disagree with the conclusions of the Council’s note and I have therefore taken the obligations into account in my assessments and recommendation.’*

4.3.14. This may be explained, at least in part, by the fact that the s106 agreement itself<sup>6</sup> provides a “*claw-back clause*” at paragraph 1.8 to Schedule 3:

*‘The Council hereby covenants with the Owners: ...*

*1.8 to repay to the person or persons (or its nominee) making the Traveller’s Pitch Contribution any part of that sum which has not been spent or committed to be spent within 5 (five) years of the date on which the Traveller s Pitch Contribution is received by the Council if requested to do so in writing by any of the Owners together with any interest which has accrued thereon.’*

4.3.15. It is clear that, should the Council fail to identify suitable Land upon which to develop the pitches, the funds that have been ‘secured’ for this purpose will be recoverable by the developer.

4.3.16. Crucially, and in our view as regards the ability of Policy H5(b) to deliver pitches, fatally; in the absence of relevant Modifications to allow for ‘rural exception sites’ to ensure that the Policy is able to function, **there is no land available in the local authority area upon which Traveller pitches can be developed, due to the extremely tight boundaries of the Green Belt.** (See Paragraphs 5.3.6 - 5.3.8)

4.3.16. The Council seeks to persuade the Inspector that the Policy is sound on the basis, as expressed at paragraph 4.4 ex\_cyc\_121a that it is ‘*reasonable to assume*’ that 13 of the pitches required to meet the assessed need for the first five years of the plan period will be delivered off-site via commuted sums collected through s106 agreements. These relate to the developments of Strategic Sites ST5; ST8; ST33 and ST4.

4.3.17. We disagree. It is not ‘reasonable to assume’ that any commuted sum payments that can be secured under this policy can or will be used to develop pitches in suitable locations (see below, at Paragraphs 6 – 6.2 and 8 – 8.3), or indeed, that they will be forthcoming at all.

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<sup>5</sup> See Appendix 4

<sup>6</sup> Available at [https://planningaccess.york.gov.uk/online-applications/files/5DC83E0C4611AD692D49AC17BA7E4B99/pdf/18\\_00017\\_OUTM-WORKING\\_DRAFT\\_S106\\_AGREEMENT-2441016.pdf](https://planningaccess.york.gov.uk/online-applications/files/5DC83E0C4611AD692D49AC17BA7E4B99/pdf/18_00017_OUTM-WORKING_DRAFT_S106_AGREEMENT-2441016.pdf)

## **5.0 MM5.11, Policy H5 and MM5.16, Para 5.42: Policy H5(b) is fundamentally flawed, and unworkable.**

5.1.1. The primary stated aim of Policy H5(b) is to require that developers of strategic sites *‘provide a number of pitches within the site or provide alternative land that meets the criteria set out in part c) of this policy to accommodate the required number of pitches.’*

5.1.2. Policy H5(b) purports to meet the accommodation needs of Gypsies and Travellers first, by requiring developers to deliver pitches within strategic sites. This is extremely unlikely to deliver the accommodation that is required.

### **5.2. Is it suitable to the needs of those it intended for?**

5.2.1. First, there is no evidence that the actual accommodation needs of Gypsies and Travellers in terms of the type and nature of accommodation needed have been considered at all in drafting this policy. Rather, it seems clear that the Council has approached this task purely with reference to the *numbers* of pitches that it is required, overall, to provide.

5.2.2. Gypsies and Travellers generally prefer to live in extended family groups. Cultural sustainability depends strongly on this tradition, and in practical terms, the common experience – particularly for those families who may have children of school age - is that whilst the male members of a family travel more frequently for work, women and children will remain at home for much of the year. Co-residence with or amongst other Gypsies and Travellers provides a structured system of social support for families in transition or who are subject to racism and hostility within their neighbourhood; and access to education and health services is ordinarily dependent on remaining in one location. The practice of living in family groups allows for those members of families who remain at home to support each other whilst others are away travelling. Clearly, different families will have different needs in terms of the numbers of pitches required on each site, depending on who lives there, and how their social and family networks and relationships work.

5.2.3. The number of pitches required to be delivered by each strategic site under Policy H5 has not been considered in terms of the needs of the families who are intended to occupy them but is related explicitly to the number of houses that will be delivered. There is no practical relationship between the numbers of houses built for settled citizens and the numbers of pitches needed by Gypsy and Traveller households. It is not clear that pitches that may be delivered will be suitable to meet the needs of the households for whom they are intended at all.

5.2.4. Further, in our experience, Travellers and non-Travellers tend to get on better where they are a little separated and are not immediately next door to each other. By virtue of their nature, the fact that Sites require sufficient space for parking and turning touring caravans and that dwelling spaces for Travellers will be single storey, Traveller pitches take up more space per dwelling than other forms of accommodation. Paragraph 5.40 of Document CD001 states that: *‘Space has also been taken into account for equine grazing which is a much needed provision in York.’* It is difficult to see how this can be incorporated into strategic sites, and likely, therefore, that conflicting needs of different residents in terms of access to green space will cause significant tensions between communities.

5.2.5. Case studies from other areas of the country that have any success in making provision in the way proposed in Policy H5(b) relate to substantial urban extensions / garden villages, where it should be easier to find a location for the Traveller site somewhat removed from the rest of the development (see Table at Appendix 5). By contrast the small / medium sites in York are not large enough to locate the Traveller sites alongside the other provision of housing, green space, etc... at all in most cases, and certainly not in such a way that the majority site residents and Traveller sites could be somewhat separated.

5.2.6. There is no evidence in the policy or supporting documents that any thought has been given to how development will be carried out and by which agencies. The developers of large strategic sites are generally house builders, and accordingly, their expertise is in this area. There is no evidence that there is any willingness amongst these parties to develop specific expertise that is required to design and develop high quality Traveller sites. There is no indication in the policy as to how pitches will be provided to individual households, what kinds of tenures may be available, or how the pitches will be allocated or sold. For all those reasons it fails the soundness test of effectiveness.

5.2.7. Beyond questions as to whether the pitches proposed on strategic sites can reasonably be expected to meet the needs of the Gypsy and Traveller community itself; it is clear that developers will have strong incentives to invest considerable resources in demonstrating that providing pitches on strategic sites is not possible, or viable, in terms of overall plans for the sites. All developers of strategic sites will have a range of planning obligations to meet in order to achieve planning permissions, including affordable housing, access routes, primary schools, green spaces etc... to ensure that the developments that result are socially, economically and environmentally sustainable for all those whose housing needs they will ultimately meet. Due to the tight restrictions of the Green Belt drawn around these sites, these obligations already pose significant challenges. Traveller pitch provision will be competing directly with these other vital elements of strategic sites in s106 negotiations, and, due to its unpopularity with developers, as well as the fact that it relates only to a tiny proportion of the community whose needs are to be met on the sites, is likely to be considered last.

5.2.8. Evidence from other areas of the country suggest that due to endemic discrimination against Gypsies and Travellers in the UK, there are significant issues in terms the market viability and profitability of developments which include this kind of provision. The literature suggests that developers may encounter issues with attracting necessary investment where plans include Traveller sites immediately adjacent to market homes.<sup>7</sup>

5.2.9. Councils are frequently under significant political pressure to ensure that the needs of the settled community, in terms of housing; infrastructure etc are given more weight in planning decisions than the needs of Gypsy and Traveller communities. The Planning Application documents for the erection of 139 dwellings at Land To The East Of Millfield Industrial Estate Main Street Wheldrake York, under ref: 21/02283/FULM give an indication of the success the Council is having in ensuring that the needs of Gypsies and Travellers are met in ongoing applications for development, and indeed, of how seriously this requirement is being taken by developers. There is no mention of the need to provide either Traveller pitches or alternative

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<sup>7</sup> See '*Negotiating the delivery of G&T sites through Local Planning*', Jo Richardson, 2020 available here - <https://www.middevon.gov.uk/media/350846/negotiating-the-delivery-of-gypsy-traveller-sites-through-local-planning-july-2020.pdf>

land for these in the internal consultation response by the Housing Policy Team<sup>8</sup>; and no mention anywhere in the application documents themselves of this requirement.<sup>9</sup>

5.2.10. Policies for Strategic Sites are set out in the Local Plan, and contain a range of requirements and expectations on developers of these sites within their text. Not one of these includes the need to provide Traveller pitches. The requirement is not specific in policy terms to any site – it is an add-on, imported as an after-thought through Policy H5.

5.2.11. As is indicated at paragraph 4.2 of Document ex\_cyc\_121a; the several planning applications that have been progressed for Strategic Sites which ought to have delivered pitches under this policy have failed to do so, and will provide, at best, commuted sums. This leaves the Council ‘*in the position of having to find suitable land for the pitches and reduces the certainty around where pitches will come forward.*’ (See Appendix 3). Some of the immediate consequences of this policy failure are brought into relief in paragraphs 4.4. - 4.8 of Document ex\_cyc\_121a and dealt with in detail below at Paragraphs 8 – 8.38.

5.2.12. We would expect that developers will have no difficulty with demonstrating that they cannot reasonably or viably provide Traveller pitches within the boundaries of strategic sites. It is inconceivable that Planning Officers or Inspectors will refuse to grant permission for developments that will meet the housing needs of hundreds of other citizens on the basis of a failure to meet the accommodation needs of individual families – a requirement that has not been properly justified under this Policy.

### **5.3. Provision of pitches off-site**

5.3.1. Once developers have demonstrated that they will not be able to provide Pitches on-site, they will then need to show that there are no available alternative sites which would be suitable for the number of pitches required. According to paragraph 5.42 of the Explanatory Notes to Policy H5; ‘*Evidence should include an appraisal of sites on the market at the time of the application with clear justification for their rejection.*’

5.3.2. It has been explained in the *CYC Position Paper* (Appendix 3) that the text of Policy H5 has been ‘strengthened’ on the basis that:

*The submitted version of the policy offered flexibility in how this could be achieved and effectively gave developers the choice of delivering the pitches on-site, offsite, or through a financial contribution. It was later recognised that developers would likely favour a financial contribution, putting the Council in the position of having to find suitable land for the pitches and reduces the certainty around where pitches will come forward.* (emphasis added).

5.3.3. It is clear from the above that the Council has recognised that it is unlikely to be able to identify suitable available sites on which to meet the need for pitches itself.

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<sup>8</sup> Available here - [https://planningaccess.york.gov.uk/online-applications/files/580659A2E49FC9C7A0196453AD461567/pdf/21\\_02283\\_FULM-HOUSING\\_POLICY-2443827.pdf](https://planningaccess.york.gov.uk/online-applications/files/580659A2E49FC9C7A0196453AD461567/pdf/21_02283_FULM-HOUSING_POLICY-2443827.pdf)

<sup>9</sup> See here - <https://planningaccess.york.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R0TLW9SJLTE00>



5.3.4. York Travellers Trust has advanced our view that the very tight boundaries of the Green Belt will make it almost impossible to provide Traveller Sites within the Local Plan policies throughout our involvement in the Plan-making and examination process.

5.3.5. The Councils own documents and evidence base provide conclusive evidence to support this position.

5.3.6. In the Design and Access Statement by the Council in its 2013 application to expand the Site at Osbaldwick by six pitches (Provided at Appendix 6), it is stated that:

*'CYC is in the process of identifying its supply of suitable sites and it is understood that the council has been unable to find, within settlement limits, sufficient sites to provide for the shortfall identified in the GTAA. Bearing in mind that almost all of the CYC area outside development limits is in the green belt, it is inevitable that some of the shortfall has to be provided on green belt land.'*

*The short-fall in the number of currently available pitches, the requirement to identify suitable sites and the difficulty in finding suitable sites within the settlement limit constitute is seen to be (sic) in this case the very special circumstances that outweigh harm to the green belt.'*

5.3.7. Paragraph 5.5.3 of the 'Gypsy, Roma, Traveller and Travelling Showpeople Site Identification Study' (September 2014; Document SD060) also confirms that:

*'The study has identified no potentially suitable or available sites in the main urban area and villages, therefore to meet the needs identified in the GTAA, the Council will need to consider potential sites currently within the general extent of the Green Belt and to be allocated for Gypsy, Traveller or Travelling Showpeople in the emerging Local Plan. Through the Local plan process the Green Belt boundary will be defined for York.'*

5.3.8. Paragraphs 4.5 – 4.8 of Document ex\_cyc\_121a demonstrate very clearly that the failure of Policy H5(b), which have put the Council in the position of having to find land to provide 13 pitches itself, has proven this point again. The only way the Council has been able to find 'space' for these pitches is through a review of the proposed Green Belt boundary at Osbaldwick:

*'4.5 Consequently, it is likely that 13 pitches will need to be provided on alternative sites. It is within this context that the Council has reviewed its proposed modification to the Green Belt boundary around the site at Osbaldwick (PM 84 in EX/CYC/58).'*

## **6.0 MM10.6, MM10.7, Policy GB4: 'Exceptions' Sites for Affordable Housing in the Green Belt**

6.1. It is clear, at paragraphs 4.4 – 4.8 of document ex\_cyc\_121a that the Councils intentions are, in effect, that provision to meet the assessed need for the first 5 years of the plan period through Policy H5(b); which was intended to be provided as a part of 'mixed, inclusive communities' on Strategic Sites will in fact be delivered in the form of 'affordable housing provision' on existing Council Traveller sites. For the avoidance of doubt, the Council's

'*Traveller Sites Management Plan,*' provided at Appendix 7 confirms that this provision constitutes a form of 'social housing'.

6.2. As set out below, at Paragraphs 8 – 9.4 the Council's existing sites are incapable of delivering the pitches required. Whilst the plans to provide a further 6 pitches at Clifton are not, in principle, wholly unsustainable; it is clear, first, that this site only has capacity for a maximum of 6 pitches in terms of the space available, and second, for the reasons discussed below, that these cannot be expected to provide exclusively, if at all, for households who meet the PPTS definition.

6.3. As discussed below, the site at Osbaldwick is incapable of providing *any* of the pitches required – either for those who do or for those who do not meet the PPTS definition.

6.4. MM5.11 has amended the original text of Policy H5(b) to specify that it will be intended to meet the assessed need both for those households who do and do not meet the PPTS definition. It is clear that households who fall into both categories may be in need of affordable housing.

6.5. Paragraph 149 NPPF indicates that:

*'149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:'* (amongst other things)

*'f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites);'*

6.6. An analysis of the Councils documents suggests that it has previously both understood the policy root of the obligations imposed on developers under Policy H5(b), *and* that it has recognised the need to apply the rural exception policy in paragraph 149 NPPF in order to achieve this.

6.7. Document ex\_cyc\_58 states, at PM 67 and PM 68 (p16) that:

*'Policy GB4, text amendment as follows: The development of affordable housing on exception sites in the Green Belt, including for Gypsy and Travellers, is not inappropriate development and will be considered where: ...'*

*'10.25 It is the Council's intention that policy GB4 should apply to the delivery of **affordable sites for gypsy and travellers** not meeting the planning definition, accommodating households who are either current residents or have an existing family or employment connection. Unlike a rural exception site, exception sites for affordable housing in the Green Belt can be mixed use, accommodating yards for Showpeople where appropriate.'*

6.8. Document ex\_cyc\_111 (August 2022), and the Council's Hearing Statement for Matter 6 of the Phase 4 Hearings: Development in the Green Belt<sup>10</sup> both also stated, at p168 and Paragraph 10.25 (p13) respectively, that:

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<sup>10</sup> (Document EX\_HS\_P4\_M6\_GB\_1\_York\_City\_Council); September 2022

*'It is the Council's intention that policy GB4 should apply to the delivery of affordable sites for Gypsy and Travellers, accommodating households who are either current residents or have an existing family or employment connection. Unlike a rural exception site, exception sites for affordable housing in the Green Belt can be mixed use, accommodating yards for Showpeople where appropriate.'*

6.9. The Council now states, in its 'Position Paper' (see Appendix 3) that it cannot apply the rural exception policy -which is effectively the only way that Policy H5(b) will be capable of delivering sites on the basis that:

*'The PPTS at paragraph 15 (Policy D) refers to potential opportunities for rural exception sites for affordable pitches. However, paragraph 16 (Policy E) makes clear that those provisions cannot apply in Green Belt areas. Paragraph 16 states that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Paragraph 17 continues that if land is to be removed from the Green Belt (to inset a Traveller site) it should be specifically allocated in the development plan as a traveller site only and only through the Plan making process (not in response to a planning application).'*

6.10. We must emphasise that we disagree with the Councils analysis of paragraphs 15 – 17 PPTS (see below, at Paragraphs 10 – 10.7). However, it is clear that the Councils reliance on policies contained in PPTS to justify its refusal to apply the rural exception policy for affordable housing for *all ethnic Gypsies and Travellers who have a cultural need for affordable housing in the form of a residential caravan site – whether they are eligible to be considered under PPTS or not*, has led to consequences - brought into relief in Paragraphs 4.4 - 4.8 of Document ex\_cyc\_121a that are manifestly discriminatory under s13(1) of the Equality Act 2010.

6.11. At least one of the four Strategic Sites referred to by the Council at paragraph 4.4 of Document ex\_cyc\_121a; namely 'Monks Cross' (ST8 - 18/00017/OUTM); through which it expects to receive commuted sum payments to meet the obligation to provide Traveller pitches; and the Site referred to above at Paragraphs 4.3.9 and 4.3.10 which was the subject of the Decision in APP/C2741/W/19/3227359, are themselves in the Green Belt.

6.12. The 'CIL Compliance Statement'<sup>11</sup> that was produced by the Council for application 18/00017/OUTM states, at paragraphs 4.4 - 4.6 that:

*'4.4 No Gypsy or Traveller pitches are proposed on site and alternative land has not been provided for three pitches. Based on Policy H5 of the 2018 eLP, in the absence of alternative provision, a site of 970 proposed dwellings would bring forward a requirement to provide a sum to provide for the provision of 3 pitches off site.*

*4.5 Without a planning obligation securing the provision of an adequate proportion of accommodation for Gypsies and Travellers the proposal would fail to meet the housing needs of the Council's area and would not comply with Policy H5 of the 2018 eLP or be consistent with paragraphs 60 and 62 of the Framework.*

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<sup>11</sup> Available here - [https://planningaccess.york.gov.uk/online-applications/files/93244348EB2A620731091CB090BB4FD5/pdf/18\\_00017\\_OUTM-CIL\\_COMPLIANCE\\_STATEMENT\\_\\_FINAL\\_-2441286.pdf](https://planningaccess.york.gov.uk/online-applications/files/93244348EB2A620731091CB090BB4FD5/pdf/18_00017_OUTM-CIL_COMPLIANCE_STATEMENT__FINAL_-2441286.pdf)

*4.6 In considering the Framework's policy in paragraphs 147 – 149, the appeal site is within the general extent of the Green Belt and is inappropriate development within the Green Belt. Further to policy compliance in respect of housing, a key benefit of the scheme, to contribute towards the very special circumstances that are required to clearly outweigh the harm to the Green Belt, is the provision of housing to address the particular needs of the Council area.* (Emphasis added)

6.13. If the provision of Traveller pitches through Policy H5(b) is able to contribute to the 'very special circumstances' that are required to outweigh the harm to the Green Belt that is caused by the development as a whole, it is extremely difficult to see how the Council can possibly justify accepting s106 contributions in lieu of pitches on or off site that can then not themselves be used to provide pitches in the Green Belt. Had the Policy functioned as intended, the pitches *would have been* in the Green Belt.

6.14. The failure to make the basis of the Policy set out in H5(b) explicit in relation to National Policy (Paragraph 63 NPPF) has led to a situation in which it will be impossible for developers to meet the requirements to provide suitable alternative land on which to deliver pitches, and to consequences that will constitute unlawful discrimination under s13(1) and s13(5) of the Equality Act 2010. (see Paragraphs 8 – 8.38)

6.15. It is clear at paragraph 4.8 of document ex\_cyc\_121a that the failure of Policy H5(b) has led to the Councils intention to develop a further 13<sup>12</sup> pitches at the Osbaldwick site for those Gypsies and Travellers who do not meet the PPTS definition, but have been included in the households whose needs are intended to be met under Policy H5 on the basis of a cultural need to reside in a caravan arising from their ethnicity:

*'4.8. A revised modification based on the above would ensure the Council owned site at Osbaldwick has capacity to deliver the 4 pitches identified as part of the CYC provision and the likely additional requirements generated through development of some of the Plan's allocated sites. It is an approach that provides flexibility and secures a requisite level of certainty that future pitch needs can be met.'*

## **7.0 MM5.11, Policy H5: Allocations**

7.1. In their Letter to the Council of the 16<sup>th</sup> November 2022, the Planning Inspectors asked:

*'First, H5(a) which deals with the provision of 10 extra pitches on existing local authority sites ought to make clear when those additional pitches will be provided.'*

7.2. The Council's response at paragraph 3.3 ex\_cyc\_121a does not seek to answer the question of when the pitches will be provided, but the question of where:

*'3.3. It is recognised that, for clarity, the location of the additional pitches should be specified in the policy and a further modification to Policy H5 is therefore proposed:*

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<sup>12</sup> In addition to the 4 that are planned in Policy H5(a)

a) *Within Existing Local Authority Sites*

*In order to meet the need of Gypsies and Travellers that meet the planning definition, 10 additional pitches will be provided within the existing Local Authority sites at:*

- *Water Lane, Clifton; and*
- *Outgang Lane, Osbaldwick.'*

7.3. It is intended by the Council (Policy H5(a)) that in order to meet the needs of those Gypsies and Travellers who meet the definition in PPTS; a 4 further pitches will be provided at the Council site at Osbaldwick, and 6 at the site at Clifton. (See *figure 2*; ex\_cyc\_121a).

## **8.0 MM5.11, Policy H5a): The Osbaldwick Site**

8.1. The proposed allocations at the Osbaldwick Site are not reasonable, viable or deliverable. The Osbaldwick Site is categorically not capable of delivering further pitches.

8.2. Sections 13(1) and 13(5) of the Equality Act 2010 provide that:

*(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.*

*(5) If the protected characteristic is race, less favourable treatment includes segregating B from others.*

8.3. The allocation of – effectively - 17 Pitches at Osbaldwick amounts to Direct Discrimination under Sections 13(1) and 13(5) of the Equality Act 2010. It does not comply with the Public Sector Equality Duty under s149 of that Act. To this extent, the Local Plan is not legally compliant.

8.4. The proposed allocations at Osbaldwick do not represent an available, suitable location for development and are inconsistent with National Policy to ensure Sustainable Development. The site does not meet the requirements as set out at Paragraph 13 PPTS, or the corresponding criteria set out at Policy H5(c) of the Local Plan.

8.5. The allocations are inconsistent with National and Local Plan Policy. To this extent, the Local Plan is not sound.

8.6. Aerial photographs of the Site at Osbaldwick are provided at Appendix 8 to this document.

8.7. As is shown in Appendix 8, the Site is located some distance from the local community on the edge of an industrial estate and immediately adjacent to a large Waste Transfer Station. There is no bus stop or shop within reasonable walking distance, and access to and from the site on foot is through an industrial estate characterised, during working hours, by the

movements of large trucks and skip wagons. This is profoundly and demonstrably unsafe, and has already led to the tragic death of one elderly resident of the site.<sup>13</sup>

8.8. Existing residents of the Site experience chronic social exclusion and isolation as a direct consequence of the inappropriate location of the Site. This has had and continues to have clear consequences for the health and welfare, and the social, educational and economic opportunities of the people living at the site. Children report that they feel socially excluded as they are not able to leave the site safely to play with other children, and there is no practical or sustainable transport link between their home and their local community. In our experience, 11 and 12 year old children have been left in a situation in which they *recognise and feel* the social exclusion they suffer due to the location of their site, and the impact that this has on them. “*The only children we ever get to play with are other Travellers.*” (See s13(5) Equality Act 2010)

8.9. The Design and Access statement for an application by the Council in 2013 to add a further 6 pitches to the site (Appendix 6) recognises that the adjacent land use involves ‘*forklift movements throughout the working day together with large lorry movements and loadings*’ but adds that ‘*It is an adjacency already established in relation to the existing Gypsy and Traveller Site.*’ In relation to the ‘inert waste transfer station’ immediately to the west of the site it is stated that ‘*site activities are limited to agreed working hours.*’ There is no acknowledgement of the impact on site amenity or residents’ health of the permanent presence of large and dominating piles of waste. The wind continues to blow dust across the site whatever the time of day, and the rats continue to run.

8.10. Paragraph 4.22 of the Committee Report for Application ref: 13/02704/GRG3, provided at Appendix 9, states that:

*‘4.22 Murton Parish Council considers that the surrounding industrial/commercial area is incompatible with good housing. Whilst the area to the north is open countryside officers agree that the area to the south has a heavily commercial character. Nevertheless the existing site has been occupied by Travellers for at least 20 years and is overcrowded. This suggests that whilst the character of the area (including the access to the site) is far from ideal it has not deterred residents from living there. There is a severe undersupply of sites in York for travellers. Officers understand that the application site is available and consider that the presence of the existing site would help to integrate the extension into the surrounding area.’* (Emphasis added)

8.11. The CYC Draft Local Plan (April 2005) Policy H16: Residential Sites for Gypsies/ Travellers, as provided at Appendix 10, sets out the criteria against which this application should have been assessed, including:

*‘a) the proximity of the site to local services and facilities to ensure these are accessible to those on site;*

*b) the potential to achieve safe access for pedestrians, people with mobility problems, carers with children, cyclists and vehicles;*

*c) the extent to which the site impacts on important open areas;*

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<sup>13</sup> See Newspaper Report Here - <https://yorkmix.com/updated-health-and-safety-executive-investigate-death-of-elderly-woman-struck-by-a-lorry-in-york/>

*d) the need to ensure the site is visually integrated with the surrounding area;*

*e) the potential impact of the site on the amenity of the environment, neighbouring properties or the operation of sensitive agricultural or other land uses, by virtue of noise and disturbance from traffic generation and on-site business activities and likewise the residential amenity of those on site.'*

8.12. No assessment was made in the determination of the 2013 planning application against criteria a) or b). The waste transfer station immediately adjacent to the Site was noted, at paragraph 4.11 of the Committee Report (Appendix 9), but its impact on the health or residential amenity for occupants of the site was not further considered or assessed. Rather, the fact that people who were already chronically socially disadvantaged as a result of the '*far from ideal*' location in which they had been, effectively, dumped, and who had nowhere else to go had not gone anywhere else was considered sufficient grounds to justify imposing the same conditions on other Gypsies and Travellers.

8.13. This was and is utterly unacceptable.

8.14. The documents that were included in the Planning Application included the CYC '*Traveller Sites Management Plan*' (See Appendix 7) in which it is stated that:

*'The aim of this plan and the councils approach to site management is that we ensure the same high standards in providing management and support services on Travellers' sites as we do to customers in other forms of social housing, taking in account the distinct cultural need and values of the communities we serve.*

*Effective site management is key to the success of Gypsy and Traveller sites, maximising opportunities for them to be sustainable, successful, self financing and for the travelling community to exist more harmoniously alongside the settled community. Site management should be firm, fair and consistent, treating all residents equally and taking action early if residents break site license agreements. Site Officers should seek to involve residents in management issues so that they take more responsibility for their site and assist in providing solutions to any issues that arise.'*

8.15. Personal testimony from a previous resident of the Site,<sup>14</sup> who was forced to leave her home of 35 years at the Osbaldwick Site due to safety concerns confirms that the Council has been unsuccessful in achieving these aims:

*'The way we were treated as residents on Osbaldwick site by council, police, the NHS, health visitor and Royal mail were inhumane. These are the people who are there to protect and serve the public. All residents on Osbaldwick site are denied such things. Ambulances were held back because they cannot come on site without a police escort, one time one of the residents had taken a seizure in which an ambulance was called, it was stationed at the top of Osbaldwick industrial estate for 40 minutes waiting for a police escort to accompany them.*

*The running of the site from YORK council is absolutely diabolical!*

*Site repairs never get done, people are waiting years for things such as no hot water, no electric over the Christmas holidays, mould growing on bathroom, sewage coming up through the*

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<sup>14</sup> Provided at Appendix 111

*sinks, infested with rats (there are that many that they're getting in to people's caravans and vehicles) bins not getting emptied, the drains outside of residents pitches flooding and not receiving post on to site these are just a small number off thing that don't get done. Osbaldwick site has never been a suitable or safe place to live due to the industrial estate and waste disposal site that surround it, there has already been 1 death due to the site's location. People have only stayed here this long because they have nowhere else to go.'*

8.16. At a meeting of the Local Plan Working Group on 16<sup>th</sup> January 2023, we raised our significant concerns that the Policy failure in H5(b) has led to the Council's intention to expand the Osbaldwick Site by a further 13 pitches - in addition to the 4 allocated in H5(a) (see paragraphs 4.4 – 4.8 of Document ex\_cyc\_121a)

8.17. The Council's Corporate Director of Place recognised the very considerable difficulties that the Council has experienced in managing the site effectively; but abdicated responsibility for the consequences of the Policy failure of Local Plan to the Council's Housing Team; stating that:

*'That's not a planning issue, that's a managerial issue.'*

8.18. We disagree. The Council's plans to expand the site can only exacerbate existing difficulties experienced by the Housing Team in achieving effective management of the Site that are, in large part, a consequence of its inappropriate *location*.

8.19. The Corporate Director of Place further stated that the Housing team would be supported in improving management of the site via *'the additional capital that will be invested at the (Osbaldwick) site, through those off-site contributions.'*<sup>15</sup>

8.20. The s106 agreement for the development of the Strategic Site at Monks Cross confirms that these funds may not be used for ongoing management of the site; Rather, 'off-site contributions' brought forward through H5(b) may be used *'to fund the off-site development of [...] Travellers pitches within the administrative area of the Council and for no other purpose.'*<sup>16</sup>

8.21. The Planning Permission that was granted under ref: 13/02704/GRG3 imposed a number of Planning Conditions, including, at Condition 2: *The development hereby permitted shall be carried out only in accordance with the approved plans numbered 3993(05)01/A, 3993(05)02B and 3993(05)03/B.* (See Decision Notice – Appendix 12.)

8.22. Those plans include, at Drawing 3995 (02)05 B,<sup>17</sup> plans to provide grazing space for horses, including post and rail fencing and field shelters, and a children's play area. Fly-grazing in York has been a serious issue, and has led to car accidents, crop damage, and the death of horses. It has been the cause of significant tension between communities.

8.23. As far as we are aware, field shelters and post and rail fences for grazing horses have never been provided at the Osbaldwick Site. This breach of condition has been raised with the Council's Planning Enforcement Team.

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<sup>15</sup> See <https://www.youtube.com/watch?v=DVcCh7IAhGo&t=630s>; from 37.58

<sup>16</sup> See S106 Agreement – Monks Cross. Available on the CYC Planning Website; Ref: 18/00017/OUTM

<sup>17</sup> See Appendix 13



8.24. In 2016, the Council granted an application by the Waste Transfer and skip hire company (16/02250/FUL) to vary condition 4 of their original permission and to raise the height of the waste piles (which immediately overlook the Traveller site) from 2m to 5m. The Housing Team, responsible for managing the site was not consulted in this application, let alone the residents of the site, and no mention whatsoever was made of the Traveller Site in the Officer Report to recommend approval of the application.

8.25. The increase in the height of the waste piles has significantly exacerbated issues with environmental quality and safety at the Site. Residents report the presence of brick dust, blowing across their pitches, and an increase in rats on the site. Work has commenced in partnership with the University of York to supply air quality monitoring equipment to residents, in order that the environmental issues associated with the 2016 permission may be proven, and hopefully addressed. Clearly, these impacts should have been assessed by the Applicant and the Planning Officer as a part of the determination of the 16/02250/FUL application. They were not.

8.26. The 'Site Identification Study' of 2014; SD060; considered the suitability of the site at Osbaldwick for the delivery or further pitches at 'Appendix 3: Sites with No Potential at Stage 2:'

*'This is an existing Gypsy and Traveller site which has an implemented planning permission for 12 pitches. Planning permission has recently been granted for an extension of a further 6 pitches (18 total). The site should be safeguarded for residential Gypsy and Traveller use in the Local Plan. The site is over the recommended number of pitches for a site and therefore it is not considered suitable for further intensification or expansion, beyond which is already permitted.'* (Emphasis added).

8.27. The Council's Hearing Statement for Matter 4: Spatial Strategy and Site Selection Process, stated in response to question: 'b) Is the methodology (for site selection) used for each justified?':

*4.11.10 Yes, the methodology used for each is based on robust and credible evidence that is proportionate (for housing and employment see Annex 2 of SD049a, for Gypsy, Traveller and Travelling Showpeople see Paragraph 3.2.5 of SD060). They have been subject to extensive consultation [CD013]. The portfolio of sites in the Plan are the most appropriate when considered against the reasonable alternatives and have been subject to sustainability appraisal (see response to Question 4.11c).*

8.28. Due to its failure to pass the first phase of the site selection process, the Osbaldwick Site was not reassessed in Document SD005: 'York Local Plan Preferred Options' June 2016.

8.29. The proposed modification to the Green Belt boundary contained at Paragraph 4.8 ex\_cyc\_121a makes it clear that the land that is required by Condition 2 to the 2013 permission to provide horse grazing, field shelters and children's play areas is now intended to deliver, instead, a further 4 – 17 new pitches. These will inevitably be closer to the Waste Transfer Site and its waste piles next door than the existing pitches, the residents of which, as above, are already experiencing environmental harm as a result of their proximity.

8.30. The Explanatory Notes for H5 in the Local Plan state that:

5.42. *The suitability of sites not allocated for Gypsies, Travellers or Travelling Showpeople in this Local Plan will be assessed against the locational principles within criteria i-v of Policies H5 and H6 (Part C) as appropriate.*

8.31. Following a meeting between the Council and YTT on the 16<sup>th</sup> February; the Council has provided a further document - ‘*Gypsy and Traveller Policy: Position Paper*’ (Appendix 3) – to give further detail and reasoning for its decision to allocate a further 17 pitches at Osbaldwick. Within this document it is stated that:

*‘The submitted version of the Local Plan identified the existing traveller site at Osbaldwick wholly out of the Green Belt. Modifications proposed in April 2021 sought to limit the area excluded from Green Belt to that which had been developed with traveller pitches. That modification significantly reduces the site’s capability to expand and in recognition of the assumptions identified above, it has been reconsidered. A revised modification is now proposed, which aligns the site’s Green Belt along the northern and western boundaries with the site boundary of the scheme approved (under application 13/02704/GRG3) for the expansion of the traveller site.*

[...]

*In response to the inspectors’ seeking greater clarity on how many pitches could be provided on each Council owned site, further assessment of the Osbaldwick (and Clifton) site was undertaken. Regard was given to its constraints and the amount of land needed to provide pitches of a size equivalent to those currently on the site. **No in-principal issues were identified that conflict with the considerations set out in part C of Policy H5 (Gypsies and Travellers) and it was concluded that the site is capable of being configured as two self-contained sites, and that all policy requirements can be satisfied.**’ (Emphasis added)*

8.32. It is clear that, again, the Osbaldwick Site has not been assessed against the locational principles at criteria i-v of Policy H5(c) in order to determine that it represents a *‘suitable location for development*, where the Pitches are *‘achievable with a realistic prospect that development will be delivered on the site within 5 years.’*

8.33. In response to a recent request for the assessment that the Council has made of the ability of the Site to meet the criteria set out in Policy H5(c), we have been advised that *‘Policy H5(c) concerns new sites.’* No assessment has been made, and, alarmingly, it appears from this response by the Council that in the event that the CYC Housing Team submits a planning application to the CYC Planning Department to expand the Site further, the Council will, once again, excuse itself from the need to make an appropriate planning assessment against the relevant Policy on the basis the site already exists.

8.34. The fact that those Gypsies and Travellers who have already been condemned to an existence on the edge of an industrial estate immediately next door to a large waste transfer site - where there is no reasonable access to services or facilities and no residential amenity whatsoever - have not made themselves roadside homeless to escape the appalling conditions that arise as a result of the extremely poor, and discriminatory planning practices and policies of York City Council will be used to justify subjecting other members of their Race to the same conditions. This is manifestly discriminatory and it is unlawful under s13(1) and s13(5) of the Equality Act 2010.

8.35. The standards and criteria that the proposed expansion of the site has been assessed against relate only to the boundaries of the Green Belt, and the amount of land required to provide pitches. These concerns were not the basis for the failure of the Site to pass the first phase of the Site Selection Process.

8.36. There has been no consideration by the Council of its obligations under the Human Rights Act 1998 or the Equality Act 2010 in its Policy making decisions here. There has been no consultation with the existing residents of the site, or with the Housing Team who is ultimately responsible for its management.

8.37. Based on an analysis of the Councils own documents, as well as an assessment of the Site against the criteria set out in Policy H5(c); the Osbaldwick Site does not offer a suitable location for development, and the delivery of pitches there is not achievable. There is no realistic prospect that development will be delivered on the site within 5 years.

8.38. There is no 'site design and layout' solution that can overcome the issues at the site that relate to its *location*. The answer to the Planning Inspectorate's question about '*when*' these allocated pitches may be delivered, is, emphatically, **never.**

## **9.0 MM5.11, Policy H5a): The Clifton Site**

9.1. York Travellers Trust would welcome close involvement in the Detailed Design stage of any Planning Application that may come forward in relation to the 6 additional pitches that are proposed at Clifton, but we do not object, in principle, to this expansion. We would note, however, that the Council's Housing Allocations policy for pitches at its sites is based on need, and does not make reference to the PPTS definition.<sup>18</sup> It is very difficult to see how the 6 pitches that are required for Travellers who meet the PPTS definition can be safeguarded for this purpose here, and in terms of ensuring the social sustainability of the site, it is absolutely not clear that they should be.

9.2. New pitches at Clifton should be allocated on the basis of need, to existing residents who are already experiencing overcrowding or as they grow up to form new households - whether they meet the PPTS definition or not. The allocation here in Policy H5(a) does not make sense in practical terms, and for this reason, is not justified, effective or sound.

9.3. The failure of the Council to consider reasonable alternatives, which results in a lack of an effective criteria-based policy to allow those households who would otherwise be able to meet their own accommodation need through the planning system is not justified. It will mean that *all* Gypsies and Travellers who have a need for accommodation on a Traveller Site will have no option available to them other than social rented provision. In a context in which all other citizens in York have access to a range of accommodation types and tenures depending on their economic means, these consequences constitute Direct Discrimination under s13(1) of the Equality At 2010.

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<sup>18</sup> See Appendix 7

9.4. The Council's failure to make allocations to reflect the need to provide a mix of provision of Traveller Sites in the area – which is not consistent with the objective of achieving sustainable development or with paragraph 62 NPPF - has resulted in a situation in which the Council itself will be responsible for providing the pitches to meet assessed need for the first 5 years of the plan. There is no indication as to where the funding will come from to achieve this, or when the pitches will be provided. Whilst there may, in theory, be a funding stream available through policy H5(b), this is far from certain, and in any case, the use of funds intended to meet one set of need (for affordable pitches for those who do not meet the PPTS definition) to meet another (for those who meet the PPTS definition – whether they are in affordable housing need or not) would not be appropriate, and would reduce the level of accommodation provided overall.

## **10. MM5.12: Policy H5(c)**

10.1. Paragraph 62 NPPF requires that *'the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.'*

10.2. As set out in the introduction, and returned to throughout this document, one of the major failures of Planning Policy for Gypsies and Travellers in York, which has had significant impacts on the communities here historically and now threatens to persist for generations to come; is the extremely narrow and limited choice of accommodation in terms of type and tenure. The ongoing failure of the Council to provide sound and effective Policy or allocations has led to a situation in which *all* Gypsies and Travellers who have a need for culturally appropriate accommodation are left with no option other than Socially rented provision.

10.3. Paragraphs 5.3.6 – 5.3.8 have demonstrated that, in the Councils own experience, as evidenced by years of unsuccessful work to identify suitable available land to develop Traveller sites; the primary challenge that is faced by developers of any description in efforts to develop decent, culturally appropriate homes for Gypsies and Travellers in or around York is caused by the extremely tight boundaries of the Green Belt. Almost all Land that is not in the Green Belt in York is within development boundaries, and for that reason, is astronomically expensive. Those Gypsy and Traveller families who have a connection with the City and who would choose to develop sites here, have not been able to.

10.4. Policy D of Planning Policy for Traveller Sites provides that:

*'15. If there is a lack of affordable land to meet local traveller needs, local planning authorities in rural areas, where viable and practical, should consider allocating and releasing sites solely for affordable traveller sites. This may include using a rural exception site policy for traveller sites that should also be used to manage applications. A rural exception site policy enables small sites to be used, specifically for affordable traveller sites, in small rural communities, that would not normally be used for traveller sites.6 Rural exception sites should only be used for affordable traveller sites in perpetuity. A rural exception site policy should seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection, whilst also ensuring that rural areas continue to develop as sustainable, mixed, inclusive communities.'*

10.5. Rural Exception Sites are defined in the Glossary of NPPF:

*Rural exception sites: Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding.'*

10.6. The Government's Planning Practice Guidance confirms, at Paragraph: 011 that:

*'As set out in the National Planning Policy Framework, rural exception sites can come forward in any rural location. In designated rural areas and areas designated as Green Belt, rural exception sites are the only sort of exception site than can come forward.'*

10.7. Whilst the criteria contained in Policy H5(c) are, in themselves, reasonable, the Policy is not sound. Without the implementation of Policy D PPTS, it will not be capable of delivering any Traveller Sites. In failing to take into account and implement reasonable alternatives to make the Policy effective, it is not consistent with National Policy, and cannot be said to be positively prepared, justified or effective.

### **11.0 MM5.15 Para 5.38 and Table 5.3: Failure to assess the accommodation needs of Boat Dwellers**

11.1. Paragraphs 60 – 62 NPPF require that:

*'60. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.*

*61. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.*

*62. Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, Travellers, people who rent their homes and people wishing to commission or build their own homes).'*

11.2. Sections 8(1) and 8(3)(b) of the Housing Act 1985 require that:

*(1)Every local housing authority shall consider housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation.*

*(3)In the case of a local housing authority in England, the duty under subsection (1) includes a duty to consider the needs of people residing in or resorting to their district with respect to the provision of—*

*(b)places on inland waterways where houseboats can be moored.*

11.3. York Travellers Trust is aware that the City has a significant and well-established community of Boat Dwellers.

11.4. The Council's Website<sup>19</sup> confirms that:

*'Residential and private moorings can be found in the Fulford, Bishopthorpe and Acaster Malbis areas.'*

11.5. The Local Plan is not sound. The Council have made no assessment whatsoever of the accommodation needs of Boat Dwellers in the City and has provided no Policy in the Local Plan by which these needs may be met. There is no way of knowing how many of the Boat Dwellers in the City may meet the Planning definition for Travellers, or how many may require affordable accommodation.

## **12.0 The Way Forward**

12.1. This document has demonstrated that, so far as it relates to the requirements in National Policy to achieve the objectives of Sustainable Development by making provision for the accommodation needs of Gypsies and Travellers, the Local Plan is not sound. It is not based on a 'robust' assessment of accommodation need at all, but to the extent that need has been assessed, it does not provide a strategy which will be capable of meeting it. It has not been positively prepared, is not justified, and it is not effective. It is not consistent with Local or National Policy, and threatens to have consequences which will constitute unlawful discrimination and clear breaches of the Human Rights of the Gypsies and Travellers in this City.

12.2. As stated in the introduction to this document, York Travellers Trust has no desire to hold up development in the City which will meet the needs of all of its citizens.

12.3. However, we cannot accept the Adoption of a Local Plan which threatens to have catastrophic consequences for the communities we support, for generations into the future. We will have no option but to challenge any decision made on behalf of the Secretary of State which allows York City Council to do so.

12.4. We would invite the Local Plan Examination Inspectors to advise the City Council that the Plan incorporating Proposed Major Modifications MM5.11, MM5.12, MM5.15, MM5.16, MM10.6 and MM10.7 is not sound and, if the plan is to be found sound and capable of being

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<sup>19</sup> See <https://www.york.gov.uk/RiverOuse>

adopted, that it needs to bring forward amended versions of those proposed major modifications, together with additional allocations for Gypsies and Travellers.

12.5. Policy H5(b) must be Modified so that it is made explicit that it is intended to meet the need for affordable Traveller Sites, and that Rural Exceptions Policies should apply to Traveller Sites and Residential Boat Moorings in the same way that they apply to other forms of Affordable Housing; both for those households who do and for those who do not meet the definition in PPTS.

12.6. Policy D PPTS must be implemented so that private developers are able to bring forward sites in York.

12.7. YTT has no wish to hold up adoption and implementation of the plan. In order to minimise disruption to effective planning in York, we advocate an approach based on that followed in the Chorley Local Plan.

12.8. In that case, the Inspector found that the accommodation needs assessment was not up to date and the approach of the Local Plan in not allocating any sites for Gypsies and Travellers unsound. On that basis, the Inspector paused the examination for the completion of the review of the Accommodation Needs Assessment and the identification of allocations. She published a Partial Report<sup>20</sup> in October 2013 which found that the Plan was sound, apart from in regard to Gypsy and Traveller policy, followed by a Supplementary Report in May 2015<sup>21</sup> which stated, based on the Council's further proposed Major Modifications relating to Gypsies and Travellers, that the plan was sound and could be adopted.

12.9. Subject to any findings of unsoundness relating to any other sections of the Plan, following the approach employed by the Planning Inspector in the Chorley Local Plan we would invite the Local plan Examination Inspectors to make a Partial Report which confirms that all Policies in the Local Plan are sound other than those relating to the provision of accommodation for Gypsies and Travellers (and any other policies requiring further modification).

12.10. This would provide the City of York with a way forward. Development could proceed on the basis of all other Policies in the Local Plan having been found sound, which would be given very considerable weight in any planning determination.

12.11. Meanwhile, the Council could work closely with stakeholders, including York Travellers Trust, Developers and Social Housing Providers to identify practical, sustainable Policy that would meet the needs of the Gypsy and Traveller communities in the City.

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<sup>20</sup> Appendix 14

<sup>21</sup> Available at: [https://chorley.gov.uk/media/608/Inspector-s-Supplementary-Report-May-2015/pdf/CH20.2\\_Inspectors\\_Supplementary\\_Report\\_Chorley\\_GT\\_\\_8\\_May\\_2015.pdf?m=6373844633818000](https://chorley.gov.uk/media/608/Inspector-s-Supplementary-Report-May-2015/pdf/CH20.2_Inspectors_Supplementary_Report_Chorley_GT__8_May_2015.pdf?m=6373844633818000)

## **Appendices**

1. Letter from EHRC
2. Appeal Decision APP/C2741/W/19/3227359
3. CYC Gypsy and Traveller Sites 'Position Paper'
4. Appeal Decision Ref: APP/C2741/W/21/3282969
5. Case Studies of Traveller Site Delivery through Development Plan Policy
6. Design and Access Statement Ref: 13/02704/GRG3
7. CYC Traveller Sites Management Plan
8. Aerial Photographs of the Osbaldwick Site.
9. Committee Report Osbaldwick expansion.
10. Policy H16
11. Osbaldwick Resident Testimony
12. 13/02704/GRG3 Decision Notice
13. Drawing 3995 (02)05 B
14. Chorley Local Plan Inspector's Partial Report

York Travellers Trust, 27 March 2023



Keith Aspden  
City of York Council  
Email: [cllr.kaspden@york.gov.uk](mailto:cllr.kaspden@york.gov.uk)

Friday 17 February 2023

Dear Keith Aspden,

## **Provision for Gypsy, Roma and Traveller communities in York's Local Plan**

The Equality and Human Rights Commission has a [long-standing commitment](#) to addressing inequalities and discrimination experienced by members of the Gypsy, Roma and Traveller (GRT) communities. We understand that you are in the process of finalising your Local Plan, and I am writing to express our concerns that the Plan will not meet the longer term needs of the Gypsy, Roma and Traveller community for residential sites.

Romany Gypsies and Irish Travellers are legally recognised as ethnic groups and therefore their ethnic identity is a protected characteristic under the Equality Act 2010. As you will know, York Council is required to adhere to the [Public Sector Equality Duty](#) (PSED), arising from the Equality Act 2010. The PSED requires public authorities to:

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**T:** 0161 829 8100  
**E:** [correspondence@equalityhumanrights.com](mailto:correspondence@equalityhumanrights.com)

Arndale House, The Arndale Centre  
Manchester, M4 3AQ

[equalityhumanrights.com](http://equalityhumanrights.com)

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The public sector equality duty in the Equality Act requires active consideration of equality across your work, including in the development of your policies and the use of your powers. This means thinking about the equality implications of decisions, monitoring impact, and taking action if necessary.

We understand that York Council's current proposal is to extend the Osbaldwick site on Outgang Lane. As you will be aware, this site is considered to be in poor condition and is located at some distance from local amenities. The York Travellers Trust has advised us that delivery drivers, postal workers, Council officials and police avoid the site. I understand that residents have raised concerns about air pollution caused by brick dust and traffic from the neighbouring industrial estate, and there is a lack of safe outdoor space. Members of the community feel that the location of the site contributes to the social exclusion they already experience. I note that according to York Council's [own report](#), access to GPs, hospitals and secondary schools from the

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Osbalwick and Derwent ward is considered an “area of concern” (page 3). I note also from looking at the Indices of Multiple Deprivation data which you reproduce in this document that the LSOA in which the Outgang Lane site is situated scores as the most deprived area in the ward across nearly every measure. When making decisions in the Local Plan about accommodation for the GRT community, York Council should consider how these factors may adversely affect equality of opportunity between GRT people and other groups, and good relations between GRT people and other inhabitants of York.

Proper performance of the [specific duties](#) applicable to public bodies under the Equality Act 2010 will help York Council to comply with the general duties of the PSED. One of these specific duties requires you to publish information about groups sharing protected characteristics with respect both to your employees and those who use your services. I note from your website that you provide [detailed information](#) about the different wards in York. However, the 29-page document about the ward of Osbalwick and Derwent does not contain any mention of the GRT community or the Outgang Lane site. The breakdown of the ward’s ethnicity groups (page 4) does not include information about ethnic Romany Gypsies or Irish Travellers; the information provided about the “BME Community” excludes the “White Other” group. Gathering and publishing information about members of the GRT community who access the current site would assist in fulfilment of your duties under the PSED. In addition, York

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Council should ideally publish equality analyses for decisions made in its Local Plan.

I note that York declared itself the UK's first Human Rights City in 2017. By complying with its duties under the Equality Act, York Council will be better able to demonstrate its commitment to equality and human rights for all of its citizens.

I look forward to receiving your acknowledgement of this letter, and I would request that you inform us of the decision regarding facilities for the York GRT community in the finalised Local Plan.

I am copying this letter to the York Travellers Trust.

Yours sincerely,



Jacqueline Killeen  
Chief Regulator

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Manchester, M4 3AQ

[equalityhumanrights.com](http://equalityhumanrights.com)



## Appeal Decision

Inquiry Held on 13 August 2019

Site visits made on 13 and 14 August 2019

**by Y Wright BSc (Hons) DipTP MSc DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 October 2019**

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**Appeal Ref: APP/C2741/W/19/3227359**

**North of Boroughbridge Road, South of Millfield Lane, York YO26 6QB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Miller Homes Ltd against City of York Council.
  - The application Ref 14/02979/FULM, is dated 23 December 2014.
  - The development proposed is residential development, access, public open space, landscaping and associated development infrastructure.
- 

### Decision

1. The appeal is allowed and planning permission is granted for residential development, access, public open space, landscaping and associated development infrastructure at land north of Boroughbridge Road, south of Millfield Lane, York YO26 6QB, in accordance with the terms of the application, Ref 14/02979/FULM, dated 23 December 2014, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. The Inquiry sat for 1 day and I held an accompanied site visit on 13 August 2019 and an unaccompanied visit on 14 August 2019.
3. Concerns have been raised by a neighbour as to the accuracy of the red line site boundary. The Appellant has confirmed that the site boundary on the submitted plans is accurate, but a drafting error included some of the neighbour's trees within it. This has been rectified, but does not change the red line site boundary which remains as originally submitted.
4. Whilst the description of development does not specify the amount of residential development sought, the application was originally submitted for 271 dwellings. Following discussions with Council Officers this was reduced to 266 dwellings and amended plans were submitted to the Council and a second round of public consultation occurred. A further amended layout plan was submitted during the Inquiry, but this only amends the location of the affordable housing within the proposed scheme, not the amount. No prejudice would arise from consideration of the proposal based on these amendments. Thus my decision is made on this basis.

5. The application, the subject of this appeal, was presented to the City of York Council Planning Committee on 2 July 2019 to ask members to confirm how they would have determined the application had it not been appealed against non-determination. At this meeting it was resolved that the Council's position at this Inquiry is that permission should be granted subject to appropriate conditions and the completion of a S106 agreement. The Council therefore does not resist the appeal, and therefore no Council witnesses were called to the witness table.
6. An agreed Statement of Common Ground was submitted prior to the start of the Inquiry which sets out the policy context along with the matters of agreement between the two main parties.
7. It is agreed between the Appellant and the Council that for the purposes of this appeal, the site falls within the general extent of the Green Belt, and the proposal would be inappropriate development in the Green Belt. I deal with this within my main issues below.
8. A planning obligation in the form of a dated and signed planning agreement, was received on 29 August 2019, pursuant to section 106 of the Town and Country Planning Act 1990. The main contributions are: 30% affordable housing, travellers' pitches, open space, education, sports provision, highways and sustainable transport measures. I deal with these below.
9. Whilst it has been confirmed that there is no longer any material difference in position between the two main parties, it is necessary for me to consider the issues involved, not least as a number of concerns have been raised by interested parties.

### **Main Issues**

10. My main issues are:

- Whether or not the proposed development would represent inappropriate development in the Green Belt;
- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the purposes of including land in the Green Belt; and
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### **Reasons**

#### *Inappropriate development in the Green Belt*

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
12. The development plan relevant to this appeal comprises the retained policies and key diagram relating to the Green Belt within the Yorkshire and Humber Regional Spatial Strategy (RSS), and policies within the Upper and Nether Poppleton Neighbourhood Plan which was formally made on 19 October 2017.

- The Council does not have a formally adopted local plan, though work is progressing on the emerging Local Plan.
13. Policies YH9 and Y1 of the RSS establish the principle of the York Green Belt. The RSS key diagram illustrates the general extent of the Green Belt, but it does not determine what the detailed boundaries should be. Indeed Policy Y1 states that the detailed boundaries of the Green Belt are to be defined in a City of York development plan, in accordance with RSS Policy YH9C. This latter policy states that the *'detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. The boundaries must take account of the levels of growth set out in this RSS and must also endure beyond the Plan period.'* All other RSS policies were revoked in 2013. The general extent of the York Green Belt has therefore been established in principle for many years although its detailed boundaries in the City of York Council area have never been formally defined.
  14. In my procedural matters above, I confirmed that both the Appellant and the Council have agreed that, for the purpose of this appeal, the site should be treated as being within the general extent of the Green Belt. I am mindful that the lack of defined boundaries is insufficient justification to arbitrarily exclude sites from being within the general extent of the Green Belt. On this basis I share the view that the site is within the general extent of the Green Belt. Accordingly national and local Green Belt policy applies to this appeal.
  15. The Neighbourhood Plan shows the appeal site as being within the general extent of the Green Belt, though it does not define the detailed Green Belt boundaries within its area. It recognises that these will be determined through the emerging Local Plan: *'it is for the City Planners and Councillors of the City of York to agree the definitive Green Belt around the City and surrounding villages.'* It continues by stating that once the City Council's emerging plan has been adopted, the Neighbourhood Plan *'will be reviewed in order to ensure that the two elements of the development plan are consistent'*.
  16. For the purposes of this appeal Neighbourhood Plan Green Belt Policy PNP1 applies to the proposal. This states that inappropriate development within the general extent of the Green Belt will not be supported except in very special circumstances. This is consistent with national policy.
  17. Whilst I note that the site was supported as a housing allocation in the submission version of the Neighbourhood Plan, this was not carried forward into the 'made' version. As such this carries no weight.
  18. The Council produced the York Development Control Local Plan in 2005, which includes a Proposals Map, but this has not been adopted as policy and does not form part of the development plan. The appeal site is shown as being within the suggested Green Belt boundary on the Proposals Map. Whilst this is a material consideration, I consider it has very little weight, particularly as more recent emerging planning policy in the form of the City of York Local Plan, has been produced by the Council.
  19. This emerging Local Plan was submitted for examination in May 2018 and is at an advanced stage. Within this Plan the proposed detailed boundaries of the Green Belt have been defined for the first time. It does not include the appeal site within the Green Belt. Instead the site is identified as a proposed



allocation for housing development under emerging Policy SS7 (site ST2). I consider the evidence behind the proposed detailed Green Belt boundaries and the weight to be attached to this Plan later in my decision under 'Other considerations'.

20. The National Planning Policy Framework (the Framework) attaches great importance to the Green Belt. Paragraph 133 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belt are its openness and permanence.
21. The Framework goes on to state that inappropriate development within the Green Belt, is by definition harmful and should not be approved except in very special circumstances. Except for a small number of exceptions set out in paragraphs 145 and 146 of the Framework, development within the Green Belt should be regarded as inappropriate. The proposed development does not fit into any of the exceptions listed, and I therefore conclude that it would represent inappropriate development in the Green Belt.

#### *Openness of the Green Belt*

22. The appeal site comprises an L-shaped agricultural field currently in use for growing crops and a former sports ground for the Civil Service Sports Council, which is now overgrown and unused. On my site visit I saw some evidence of the foundations and surfaces of sports related structures and parking areas that used to be located on part of the site, but no buildings remain. Whilst I acknowledge that the site is surrounded by existing urban development, the site itself is clearly currently open in character.
23. The proposal would result in the introduction of residential development onto this open site, which would result in a considerable reduction in its openness. Whilst I accept that the vegetation cover along the site boundary and the additional proposed landscaping would restrict some views of the development, there would inevitably be a permanent change to the character of the site, which would spatially and visually be perceived to some extent, by users of adjacent highways, footpaths and occupiers of adjacent buildings.
24. Due to the scale of the proposed development relative to the existing openness of the appeal site, I conclude that there would be a considerable loss of openness. This would be additional to the harm by reason of its inappropriateness, and in accordance with paragraph 144 of the Framework, together carries substantial weight against the proposal.

#### *Purposes of including land in the Green Belt*

25. Paragraph 134 of the Framework states that Green Belt serves five purposes. I now consider what effect the proposed development would have on these purposes.
26. The first and second Framework purposes are '*to check the unrestricted sprawl of large built-up areas*' and '*to prevent neighbouring towns merging into one another*'. The site is mostly surrounded by existing built form. This includes the Manor Academy school, established residential development and the outer ring road to the west, mixed commercial development to the north, a large previously developed site with planning permission for a substantial number of houses to the north east, existing housing to the east and the A59



- Boroughbridge Road to the south. There is an open field beyond this road to the south.
27. The proposal would introduce built form on to the currently open site, which would increase the amount of development in the area. Whilst this would result in the considerable reduction in the openness of the site, the proposal would not extend development beyond the existing urban form that surrounds the site. Accordingly it would not visually or physically extend development towards nearby settlements, including Upper and Nether Poppleton.
  28. Furthermore the appeal site is not located in any of the areas identified as being essential for preventing coalescence between settlements, as evidenced in the Neighbourhood Plan and supporting documents to the emerging Local Plan. The proposal therefore would not result in the unrestricted sprawl of a large built-up area nor the merging of any settlements.
  29. The third Green Belt purpose is '*to assist in safeguarding the countryside from encroachment*'. Whilst the site is partially agricultural, it is separated from nearby countryside by the outer ring road, A59 and existing built form. This existing development serves to contain the appeal site and isolate it from the wider countryside. In visual terms, views of the site from the A59 and outer ring road are currently limited, due to the existing mature trees, hedgerows and intervening development. Whilst the reduction in height of some of this vegetation has the potential to improve some views into and across the site, it would still be seen within the context of the surrounding built up area and would remain separated from the countryside. Within this context the site does not visually or spatially form part of the nearby countryside. Therefore, whilst the appeal scheme would result in urban form extending on to the site, it would not, in my view, encroach into the countryside.
  30. The fourth Green Belt purpose is '*to preserve the setting and special character of historic towns*'. On my site visit I saw no views of the historic core of the City, including the Minster, from within or across the site or when viewing the site from the adjacent roads. The heritage evidence submitted includes heritage assessments, undertaken as part of the process of producing the emerging Local Plan. These do not identify the site as being of particular importance to York's historic character or its setting. The development proposal would inevitably change the character of the site, but it would be seen within the context of the surrounding built form and the landscaping proposed. Overall, based on the evidence submitted, I find that there would be no harm to the setting and special character of the historic city of York.
  31. The final purpose is '*to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*'. Substantial urban regeneration sites within the City area, including the former British Sugar site immediately to the north east and the York Central site, have both secured planning permission for development, and are progressing. Other previously developed sites in the City have also been identified as part of the emerging Local Plan process and are being positively advanced. Due to the differing site complexities, scale of development and timescales for delivery, the development of the appeal site would not adversely impact on the regeneration of these or other derelict and urban sites. As such there would be no harm to this Green Belt purpose.

32. In taking account of the above, I conclude overall, that the proposal would not result in harm to the five purposes of including land within the Green Belt. This lack of harm is a neutral factor that weighs neither for or against the proposal.

*Other considerations*

33. I now consider whether there are any 'other considerations' that would weigh in favour of the development.
34. I have determined above that the proposal would not result in harm to the five purposes of including land within the Green Belt. Whilst this lack of harm carries no weight, I now consider whether the site contributes to these Green Belt purposes.
35. As I have mentioned earlier in my decision, the existing adopted development plan (RSS and Neighbourhood Plan) sets out the general extent of the Green Belt, but does not determine its detailed boundaries. A detailed assessment of what land should be within the Green Belt boundaries has now been undertaken as part of the process of producing the emerging Local Plan. This evidence delineates the boundaries based on an assessment of whether land meets the essential Green Belt characteristics of openness and permanence, in accordance with the five purposes as set out in the Framework. This evidence concludes that the appeal site does not serve any Green Belt purposes.
36. Having considered this evidence and taken account of the site's location adjacent to existing built form and its self-contained nature and isolation from nearby countryside, I concur with the findings of the Green Belt review, that this site does not contribute to the five Green Belt purposes of including land within the Green Belt. Whilst I have some representations before me arguing that the site does serve a few of the Green Belt purposes, I have no substantive evidence to support these views or counter the findings of the Green Belt review. Consequently, my findings in this regard carry significant weight in favour of the proposal.
37. I note that the Local Plan is currently at examination, so is at an advanced stage. The site is not shown as being within the Green Belt in the emerging Local Plan. This, together with the identification of the site as a proposed allocation for housing development under emerging Policy SS7 (site ST2), are material considerations, though the weight to be attached is dependent on the extent to which there are unresolved objections. In this regard I note that there are four such objections relating to the site, which predominantly raise issues relating to matters that I consider could be resolved through the imposition of planning conditions or are concerns relating to the Green Belt boundary. Overall, on this basis, and taking account of my finding that the site does not serve any Green Belt purposes, I consider that in this instance the emerging Local Plan weighs moderately in support of the proposal.
38. The proposal would result in market and affordable housing which would be in an accessible location. There is a clear need for housing, with the main parties agreeing that the current housing land supply for the City of York is either 3.28 years or 3.82 years, depending on whether the emerging Local Plan allocations within the urban area are included or not. The evidence therefore shows that the Council is currently unable to demonstrate a 5 year housing land supply (5YHLS), without bringing forward sites outside the urban area.

39. The proposal before me seeks full planning permission. Based on the available evidence, a considerable proportion of the 266 dwellings proposed could be delivered in the short term, contributing to the 5YHLS shortfall. In these circumstances, as the Council does not have a 5YHLS and in light of the imperative in the Framework to boost significantly the supply of housing, this provision is a significant consideration that weighs in favour of the proposal. Whilst I am mindful of the Written Ministerial Statement of December 2015 (WMS) which indicates that unmet need is unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances, this pre-dates the revised Framework. As this provision has not been translated into the Framework and the associated guidance has been removed from the Planning Practice Guidance, I give this WMS little weight as a material consideration.
40. The scheme would also boost the local economy by providing construction jobs and supporting local building trades, albeit that this would be for a temporary period. The site is located in a sustainable location, accessible to everyday local facilities and services and therefore future occupants of the development would be likely to use and support local businesses, services and facilities. These economic benefits carry some positive weight.

The development would also enable the positive and beneficial reuse of a partially vacant and underused site. Most of the existing trees and hedgerows within and on the boundary of the site would be retained, although I acknowledge that it would be necessary to remove a small number of protected trees adjacent to the A59, some of which are defective. The proposal would provide further trees, landscaping and other biodiversity features such as bird and bat boxes within the site, which would enhance biodiversity. These elements overall carry some weight in favour of the proposal.

*Whether very special circumstances exist*

41. Taking account of my findings as set out above, I now consider whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, either individually or cumulatively, before determining whether very special circumstances exist to justify inappropriate development.
42. The proposal would be inappropriate development in the Green Belt and would result in considerable harm to openness. In accordance with national policy this harm carries substantial weight against the proposal.
43. I have found that the proposal would not result in harm to the five purposes of the Green Belt. I have also concluded that there would be no other material harm. As such these are neutral factors that weigh neither for nor against the development.
44. In terms of matters weighing in support of the appeal, I have determined that the site does not serve any Green Belt purposes and therefore does not need to be kept permanently open for Green Belt reasons. Furthermore, the provision of 266 market and affordable homes, to be delivered in the short to medium term, is a significant favourable factor. These elements weigh significantly in support of the proposal.

45. The site is not identified as being within the Green Belt as assessed through the Council's Green Belt review evidence. I have myself concluded that the site serves none of the five Green Belt purposes, and as such this carries significant weight.
46. The appeal scheme would accord with the proposed site allocation for residential development in the emerging Local Plan. I have determined that, in this instance, taking account of the advanced stage of the emerging Local Plan and the limited outstanding objections that remain as regards the site allocation, this carries some moderate weight.
47. I have also identified some modest economic benefits and biodiversity enhancements in support of the proposal.
48. I have carefully considered and weighed all the above matters. Overall, in considering these matters in combination, I conclude that the substantial harm by reason of inappropriateness and the effect on openness would be clearly outweighed by these other considerations. I therefore conclude that very special circumstances exist to justify inappropriate development in the Green Belt.

*Other matters*

49. In addition to concerns raised about development on land within the general extent of the Green Belt, interested parties have also made representations on other issues.
50. In relation to highway related concerns, I note that the proposal would increase traffic in the locality to some extent. Indeed the updated transport assessment (Sanderson Associates 2017) states that the proposal would have '*some detrimental impact on existing junctions*'. However, the site is in an accessible location, with existing bus stops and services adjacent to the site, and taking into account the measures proposed within the travel plan and planning agreement, I consider that future residents and visitors to the development would have a realistic and reasonable opportunity to utilise sustainable modes of travel for meeting day to day needs. These measures would assist in reducing the reliance on the private car and would support travel by other modes of transport. The delivery of these measures could be secured by means of suitable planning conditions.
51. I also note that since the transport assessment was completed, improvements to the nearby A59/A1237 roundabout have taken place, to ease existing congestion. Furthermore the Council confirmed at the Inquiry that other local roads and junctions are due to be improved/upgraded. This includes network capacity enhancements to junctions associated with the York Central development. As a consequence of these measures, no additional mitigation is required by the Highway Authority, for highway improvements as a consequence of the appeal scheme, except for those set out within the planning agreement or through the suggested conditions. Nevertheless, to ensure that the travel plan includes targets to take account of the number of trips to be taken off the network to assist in reducing any impact on the A59 and key junctions, this measure could be imposed in a suitably worded condition. This is a reasonable approach.

52. There would be limited vehicular access from Millfield Lane as the proposed access here would only serve a few houses, and whilst there would be pedestrian and cycle access across the site, there would be no vehicular through route. Construction traffic would only be for a temporary period.
53. Overall, I am satisfied that the accessible location of the appeal site, together with the sustainable transport measures proposed, would assist in minimising the amount of car borne travel from the development. Based on the available evidence I consider that the proposal would not result in an unacceptable impact on highway safety nor would the residual cumulative impacts on the road network be severe. Furthermore the Highway Authority does not object to the proposal on highway safety or operational grounds, and having had regard to all the available evidence I have no reason to reach another conclusion.
54. The proposal would result in the loss of some Grade 2 best and most versatile (BMV) agricultural land. However, this part of the site lies adjacent to existing urban development and is isolated from other agricultural land within the locality. Furthermore, there is a significant amount of BMV land surrounding York, so the loss of such a small area would have a minimal impact. The field forms only a small part of the farmer's land holding, and its loss would not affect the viability of his wider farming business. On this basis, there would be no material harm in this regard.
55. Local residents have also suggested that the development would result in unacceptable pressure being placed on existing local services and facilities, including schools and healthcare. However there is no evidence that these facilities would not be able to cope with the level of development proposed. Indeed the Appellant proposes to provide planning contributions towards the provision of some necessary facilities and local infrastructure, including schools, as part of a legal agreement, such that the concerns on this matter could be overcome. I also note that the Council, and statutory agencies responsible for such facilities have not objected to the proposal. As there is no substantive evidence before me demonstrating harm in this regard, I have no reason to reach another conclusion.
56. Whilst concerns about prematurity have been raised, I consider the development is not so substantial or that its cumulative effect so great that it would undermine the plan making process. Furthermore the development would be consistent with its allocation for residential development in the emerging Local Plan. Whilst this is not yet an adopted plan it is at an advanced stage and in the case of this site has very few outstanding objections. I therefore do not attach weight to the issue of prematurity in this instance.
57. In relation to other issues raised, the design and density of the proposed scheme would ensure that the site would not be overdeveloped, and living conditions for occupiers of neighbouring properties and future occupiers of the development would be satisfactory, including in relation to privacy, overlooking and overshadowing. The scheme includes a landscape buffer between the school and proposed residential properties, and it is my view that its size would be adequate in this regard. The scheme would also provide sufficient distances between new and neighbouring properties to protect privacy.

58. The site is currently private land with no public right of access so there would be no loss of public open space. Indeed the proposal would provide new play areas and public open space.
59. As regards wildlife, I note that the site is supported by an ecological assessment (Ecology Report 2014) and further surveys and addendum statements carried out in 2016 and 2019. Based on the evidence that is before me, the recommended mitigation and enhancement measures proposed within these reports and the imposition of a suitable ecological condition would ensure biodiversity enhancement.
60. The scheme includes a submitted drainage strategy which would ensure adequate drainage and flood risk measures were implemented. I note that there is no objection to the drainage strategy from Yorkshire Water and the Internal Drainage Board. Based on the available evidence I have no reason to reach a different conclusion.
61. Whilst it has been suggested that the site could be used for other means such as sports fields or other recreational use or the expansion of the adjacent school, these proposals are not before me. I can only consider the appeal based on the development that has been applied for.

#### *Planning obligations*

62. The relevant parties have entered into a planning agreement under section 106 of the Town and Country Planning Act 1990, which includes a number of obligations which would come into effect if planning permission were to be granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and as set out in paragraph 56 of the Framework. These state that a planning obligation must be: necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.
63. The planning agreement comprises a range of contributions that would be provided were the appeal to be allowed, which I now consider.
64. Affordable Housing: A significant need for affordable housing has been identified through the York Strategic Housing Market Assessment and its addendum. Whilst there is currently no adopted development plan policy requiring affordable housing, the delivery of 30% affordable housing would be in line with the Council's current practice. Furthermore the provision of affordable houses as part of the development would accord with the Framework which seeks to ensure a sufficient supply of homes to reflect identified needs. I am satisfied that this planning obligation meets all three planning obligation tests and so is necessary. I give this obligation significant weight.
65. Open space and sports provision: The obligation requires the submission and implementation of a public open space and landscape management scheme, to ensure the future management and maintenance of the public open space and landscaping for the lifetime of the scheme. This would be required to meet the needs of the future residents of the scheme.
66. The off-site sports contribution of £184,671 would be used to improve/extend existing local facilities at named sites, to accommodate the additional needs of the new residents. The quantum of provision and sum requested are



consistent with the standards set out in the Council's Open Space and Green Infrastructure Update 2017. I am satisfied that these planning obligations meet all three statutory tests and so are necessary. As they would meet the needs of the future residents of the scheme, they are neutral factors that carry no weight.

67. Education: Contributions would go to local pre-school, primary and secondary schools to enable them to accommodate the additional pupils that would be generated by the appeal proposal. The contributions have been calculated in accordance with the methodology set out in the Council's Supplementary Planning Guidance for developer contributions to education facilities, as updated in June 2019 (Education SPG). The actual costs requested are based on the Department for Education cost multiplier, which is annually updated and regionally adjusted. This is a reasonable approach.
68. The evidence identifies that existing early years establishments do not have the capacity to accommodate the additional 33 places that would be directly generated by the development. The sum of £300,927 would contribute towards the provision of these additional places within the locality. This would meet the planning obligation tests and is therefore necessary.
69. In relation to primary school education, the evidence identifies that the scheme would result in the need for 63 additional spaces, which cannot currently be accommodated locally. The planning agreement specifies the requirement for a sum of £1,148,931, to be used to provide these spaces at named schools within the area, and the future school planned to be constructed on the former British Sugar development site, opposite the appeal site. This provision would be directly related to the development, would meet the other two tests and accordingly the contribution is necessary.
70. A contribution of £899,532 towards the provision of 36 secondary places at the adjacent Manor Academy School reflects the additional places that would be generated by the development proposal in accordance with the SPG calculation. This would meet the planning obligation tests and is therefore necessary.
71. As these education related obligations would meet the needs of the future residents of the scheme, they are neutral factors that carry no weight.
72. Highways and sustainable transport: The highway infrastructure and sustainable transport contributions would provide funding for membership of and access to a car club, pedestrian crossing improvements, bus priority measures, bus service improvements, new bus stops, bus passes, and a travel plan, all of which would encourage and support the use of more sustainable means of transport.
73. A contribution of £20,000 would be used towards the upgrading of a pedestrian crossing on the A59. Bus related contributions comprise the following: £120,000 for the funding of up to four bus stops on the A59 and Millfield Lane; £400,000 to increase the frequency of bus service number 10 in the evenings and on Sundays for a 5 year period; and £480,000 towards bus priority measures on the A59. A sum of £69,160 would be used to provide subsidised travel measures including bus passes and car club access. A sum of £80,000 for a travel plan for the development would reduce dependence on the private car and promote sustainable travel. The sums requested are based on similar

schemes and interventions within the area and would be proportionate to the impacts.

74. I find that these highway infrastructure and sustainable transport contributions would serve the residents of the scheme and would meet all three planning obligation tests. They are therefore necessary. As they would meet the needs of the future residents of the scheme, they are neutral factors that carry no weight.
75. Traveller pitches: The planning agreement also contains an obligation to provide a £300,000 contribution towards the provision of two off-site gypsy and traveller pitches. This would contribute towards meeting the accommodation needs for 44 gypsy and traveller households that do not meet the planning definition, as defined in emerging Policy H5 of the Local Plan. Nevertheless, there is no indication of where the pitches would be located, when they would be provided and how they would be delivered. Furthermore, such provision is not necessary to make the development acceptable in planning terms, is not directly related to the development and does not fairly and reasonably relate in scale and kind to the development. Consequently, it has not been demonstrated that this obligation is necessary. I therefore do not take it into account in determining this appeal and I accord no weight.

### **Conditions**

76. I have considered the conditions suggested by the Council in the light of the advice given in the Planning Practice Guidance (PPG). All of the conditions are deemed to be acceptable by the Appellant, including those that are pre-commencement. Whilst I impose most of them, I do not impose those that do not meet the required tests. Conditions can only be imposed where they are necessary, relevant to planning and to the development being permitted, enforceable, precise and reasonable in all other respects. I have combined some of the conditions and amended the wording of others where necessary, in the interests of precision and enforceability. Overall, I am satisfied that the conditions set out in my decision meet the tests within the PPG and the Framework.
77. In addition to the standard time limit condition, I impose a condition specifying the approved plans for reasons of certainty. The submission and implementation of a construction method statement is necessary to minimise detrimental effects to the living conditions of neighbouring residents, to protect the natural environment from pollution and ensure highway safety during the construction phase. It also requires the inclusion of measures to avoid protected and priority species, particularly in relation to the potential for bats and badgers, in accordance with the advice in the Ecology Report (2014) and its addendums (2016 and 2019).
78. As the site contains Himalayan Balsam, I impose a condition to manage and control this invasive non-native species. A tree protection method statement is necessary to safeguard existing trees during construction. In accordance with the Ecology Report and its addendums, ecological measures are necessary to provide net gains in biodiversity as part of the development. I therefore include the suggested condition, but also add an implementation clause. In order to prevent flooding and ensure satisfactory drainage a suitably worded condition is necessary.



79. Due to the findings of the OSA 2015 archaeological assessment, I impose an archaeological condition to ensure satisfactory archaeological investigation and recording of the site.
80. Conditions requiring detailed drawings of the roads, footpaths, cycleways and other areas of open space to be adopted, together with a phasing plan detailing the timescales for implementation of the road and green infrastructure, are imposed. I also impose conditions requiring car club facilities, electric vehicle charging points and a travel plan to ensure the provision of sustainable forms of travel, though for the former I have added a suitable implementation clause. Also the Council's condition for the provision of electrical charging sockets is unnecessarily detailed, particularly in relation to the length of cable to be installed. It may be more appropriate for different cable lengths to be installed depending on the dwelling under construction. As such, I amend the condition to require a scheme to be submitted to the Council setting out the required details, to allow greater flexibility.
81. The provision of cycle parking in accordance with the approved details will protect the character and appearance of the development and promote sustainable travel. For precision and reasons of enforceability I have amended the suggested condition to require the installation of the cycle parking prior to first occupation of the dwelling to which it relates.
82. A condition requiring detailed designs of the play areas is necessary to ensure they are suitable. As agreed by the main parties at the Inquiry, I include reference to the phasing plan, to ensure that a timescale for implementation is included in the condition.
83. The Council has put forward a condition which requires the delivery of sustainable design and construction which exceeds the minimum Building Regulations standards for dwelling energy efficiency, water consumption rates and carbon emissions. The additional evidence submitted at the Inquiry in the form of the Carbon Trust report (2017) justifies these requirements. I therefore consider the condition meets the necessary tests and I impose it.
84. In relation to noise levels I note that the Appellant's noise impact assessment concludes that the dominant noise source near to the south western and eastern boundaries was due to road traffic on the A59 Boroughbridge Road and Millfield Lane, respectively, along with some noise associated with the school for a limited period of the daytime. Accordingly I impose a suitable condition which requires noise mitigation measures so that the dwellings are constructed to not exceed specified internal daytime and night time noise levels. This will minimise adverse effects on health and quality of life for future occupiers to ensure that living conditions are satisfactory.
85. A condition requiring that a survey of adjacent highways is carried out prior to the commencement of development does not meet the required tests and is therefore not necessary, as such matters can be dealt with through relevant highway legislation and regulations. I therefore do not impose it.
86. I do not impose conditions requiring ground gas monitoring, an assessment of landfill gas generation and migration, and a remedial scheme, as no evidence of such issues within or surrounding the site is before me. No evidence of the need for these provisions has been submitted. However I do impose a condition relating to any unforeseen contamination that may come to light

whilst carrying out the development, in order to protect future users of the land, existing neighbours, properties, controlled waters and ecological systems.

87. I acknowledge the requirement in the emerging Local Plan in respect of the provision of a mix of housing types to meet identified needs, but insufficient evidence has been provided in this case, to support the necessity for a condition requiring 10% wheelchair accessible/adaptable dwellings within this site. There is also insufficient evidence before me to demonstrate the need for at least 5% of the dwellings to be self-build or custom build. As such, these suggested conditions would not meet the statutory tests and I therefore do not impose them.

### **Conclusion**

88. I have concluded above that, for this appeal, very special circumstances exist to justify inappropriate development in the Green Belt. My findings on other matters do not lead me to reach a different conclusion. Consequently, I conclude overall that the proposal would comply with the relevant provisions of the Framework and the development plan when considered as a whole. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

*Y Wright*

INSPECTOR

## Appearances

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Stephen Morgan of Counsel, Landmark Chambers, instructed by Ms Sandra Branigan, Senior Solicitor, City of York Council

Assisted by:

Mr David Allenby BA(Hons) MRTPI, Planning Consultant

Mrs Becky Eades, Development Management, City of York Council

### FOR THE APPELLANT:

Mr Michael Bedford QC, Cornerstone Chambers, instructed by Mr Jason Tait DipTP MRTPI, Director at Planning Prospects Ltd

He called: Mr Jason Tait DipTP MRTPI, Director at Planning Prospects Ltd

Other person available: Mr Ian Ladbrooke BA(Hons) MIHT MIHE, Associate at Sanderson Associates (Consulting Engineers) Ltd

### FOR INTERESTED PERSONS:

Mr David Gale	Local resident
Mr Stephen Winston	Local resident
Mrs Lynda Winston	Local resident
Councillor Ms Anne Hook	Ward member and Parish Councillor
Mrs Edie Jones	Chair of Poppleton Neighbourhood Plan Committee, Councillor of Nether Poppleton Parish Council and Governor of Manor Academy
Mr Lionel Lennox	Local resident
Mrs Maggie Johnson	Local resident
Mr Michael Wistow	Chairman of York Trenchard Group

### DOCUMENTS:

- 1 Letter of notification of the Inquiry dated 12 July 2019 and list of addresses
- 2 Revised planning layout plan 0199-100-04 Rev E
- 3 Extracts from the submission version of the Poppleton Neighbourhood Plan and Parish Council minutes
- 4 Ecology Information addendum statement July 2019

- 5 Copy of Cllr Ms Anne Hook's comments made at the 2 July 2019 City of York Council Planning Committee
- 6 Photos of the site (aerial and from the adjacent school) provided by Mrs Edie Jones
- 7 Map showing the amount of agricultural land surrounding the City of York
- 8 Carbon Trust report used to assist the Council in developing the climate change section of the emerging local plan – provides evidence for some of the proposed conditions
- 9 High Court decision *Monkhill Limited v Secretary of State for Housing, Communities and Local Government and Waverley Borough Council* [2019] EWHC 1993 (Admin)
- 10 Appellant's final reply
- 11 Signed S106 planning agreement dated 29 August 2019

## Schedule of Conditions

1. The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

811105-100-01 Site location plan  
0199-100-01 Rev E Site layout plan  
0199-100-04 Rev E Planning layout  
2694-101 Landscape layout  
0199-100-02 Enclosures plan  
0199-100-03 Character areas plan  
811105-100-20 to 811105-100-24 Street scenes

### Character Area 1 House type booklet:

0199-C1-TO-01 to 0199-C1-TO-04  
0199-C1-DA-01 and 0199-C1-DA-02  
0199-C1-KI-01 to 0199-C1-KI-04  
0199-C1-MA-01 to 0199-C1-MA-04  
0199-C1-BL-01 to 0199-C1-BL-04  
0199-C1-ES-01 to 0199-C1-ES-04  
0199-C1-BU-01 to 0199-C1-BU-08  
0199-C1-BU.DA.-01 and 0199-C1-BU.DA.-02  
0199-C1-AS-01 and 0199-C1-AS-02  
0199-C1-RE-01 to 0199-C1-RE-04  
0199-C1-RY-01 to 0199-C1-RY-04  
0199-C1-ST-01 and 0199-C1-ST-06  
0199-C1-BM-01 to 0199-C1-BM-04  
0199-C1-SG-01  
0199-C1-DG-01

### Character Area 2 House type booklet:

0199-C2-TW-01 to 0199-C2-TW-04  
0199-C2-AP-01 to 0199-C2-AP-04  
0199-C2-YA-01 and 0199-C2-YA-02  
0199-C2-SN-01 and 0199-C2-SN-02  
0199-C2-PU-01 and 0199-C2-PU-02  
0199-C2-TO-01 to 0199-C2-TO-04  
0199-C2-DA-01 and 0199-C2-DA-02  
0199-C2-DA.DA-01 and 0199-C2-DA.DA-02 ▪  
0199-C2-KI-01 and 0199-C2-KI-02  
0199-C2-MA-01 and 0199-C2-MA-02  
0199-C2-BL-01 to 0199-C2-BL-04  
0199-C2-BU-01 to 0199-C2-BU-10  
0199-C2-BU.DA.-01 and 0199-C2-BU.DA.-02  
0199-C2-AS-01 and 0199-C2-AS-02  
0199-C2-RE-01 and 0199-C2-RE-02  
0199-C2-RY-01 and 0199-C2-RY-02  
0199-C2-BM-01 and 0199-C2-BM-02  
0199-C2-SG-01

0199-C2-DG-01

Character Area 3 House type booklet:

0199-C3-CH-01 and 0199-C3-CH-02  
0199-C3-ED-01 and 0199-C3-ED-02  
0199-C3-TW-01 and 0199-C3-TW-02  
0199-C3-WE-01 and 0199-C3-WE-02  
0199-C3-SN-01 and 0199-C3-SN-02  
0199-C3-WA-01 and 0199-C3-WA-02  
0199-C3-PU-01 and 0199-C3-PU-02  
0199-C3-TO-01 and 0199-C3-TO-02  
0199-C3-DA-01 and 0199-C3-DA-02  
0199-C3-DA.DA-01 and 0199-C3-DA.DA-02  
0199-C3-KI-01 and 0199-C3-KI-02  
0199-C3-ES-01 and 0199-C3-ES-02  
0199-C3-AV-01 and 0199-C3-AV-02  
0199-C3-AS-01 and 0199-C3-AS-02  
0199-C3-SG-01  
0199-C3-DG-01  
0199-C3-CP-01

3. Prior to commencement of development a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. The Statement shall provide for:
- wheel washing facilities to prevent mud and detritus getting on to the public highway;
  - measures to control the emission of noise, dust and dirt during construction including appropriate measures;
  - a scheme for recycling/disposing of waste resulting from construction works;
  - delivery and construction working hours;
  - measures to control noise during any piling of foundations (if required);
  - measures for avoiding harm to protected and priority species (in particular bats and badgers) including method statements for undertaking construction activities in the best interest of biodiversity, appropriate protection zones, locations and timing of sensitive works and roles and responsibilities of an Ecological Clerk of Works; and
  - point of contact on site for enquiries.

The approved Construction Method Statement shall be strictly adhered to throughout the construction period of the development.

4. Prior to the commencement of development, a method statement, to include a programme of works, shall be submitted to and approved in writing by the local planning authority detailing the containment, control and where possible removal of Himalayan balsam, an invasive non-native species, on site. The measures shall be carried out strictly in accordance with the approved scheme and programme of works.
5. Prior to the commencement of development, including the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings and in the Tree Survey (Revision B December 2014), 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 method statement. For the avoidance of doubt this condition excludes works necessary for routine tree maintenance, pruning and crowning works.

This method statement shall include details and locations of protective fencing, and construction details where any change in surface material or installation of services is proposed within the canopy spread and likely rooting zone of a tree. No trenches, pipe runs for services or drains shall be sited within the root protection area of the tree(s) on the site which are to be retained without the prior approval in writing of the local planning authority.

6. Prior to commencement of development, details of foul and surface water drainage works shall be submitted to and approved in writing by the local planning authority, and the development shall be carried out in accordance with these approved details.
7. Prior to the commencement of development details of measures and a programme of works to enhance biodiversity shall be submitted to and approved in writing by the local planning authority and the works shall be carried out in accordance with the approved details and the programme of works. The required details shall include the following:
  - Native tree and hedgerow planting,
  - Wildflower meadow seeding,
  - Bat and bird boxes, and
  - Lighting scheme that avoids light spill onto the boundary features and retained mature trees.
8. Prior to commencement of development, a phasing plan detailing the installation of the road network and the green infrastructure within the site (including the main vehicular access, amenity and play space, pedestrian and cycle routes and car club parking spaces), shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing plan. The main vehicular access from Boroughbridge Road, shall be constructed in accordance with the approved plans and made available for use before first occupation of a dwelling within the site.
9. No groundworks shall take place until a written scheme of archaeological investigation (WSI) has been submitted to and approved in writing by the local planning authority in writing. The WSI shall include details of: archaeological excavation of the site; a post-investigation programme of archaeological, artefactual and environmental analysis of excavated material; production of a report on the archaeological excavation and post-excavation analyses; deposition of the archaeological archive with the Yorkshire Museum; and a full programme of community involvement in the excavation and post-excavation phases of the project. For land that is included within the WSI, no work shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

The development shall be completed in accordance with the programme set out in the approved WSI. A copy of a publication report shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 12 months of completion or such other period as may be agreed in writing

with the local planning authority in accordance with the programme set out in the approved WSI.

10. Prior to their construction, detailed drawings showing areas of highway, footpaths/cycleways and other areas of open space to be adopted including their design and materials, shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details and the approved phasing plan.
11. Prior to first occupation of each dwelling hereby approved details of covered and secure cycle parking for the relevant dwelling shall be submitted to and approved in writing by the local planning authority. The cycle parking shall be carried out in accordance with the approved details and prior to the first occupation of the dwelling to which it relates.
12. Prior to first occupation of each dwelling hereby approved, a scheme to provide electrical charging sockets, for the charging of electric vehicles, at each dwelling with off street parking spaces, shall be submitted to and approved in writing by the local planning authority. The sockets shall be provided and installed in accordance with the approved details prior to the first occupation of each relevant dwelling.

A strategy for accommodating electric vehicle charging facilities for dwellings with car parking which is either on street or within shared parking areas shall be submitted to and approved in writing by the local planning authority prior to first occupation of those dwellings. The facilities shall be installed in accordance with the approved details prior to first occupation of the relevant dwellings.

13. Prior to first occupation of the development hereby approved details of car parking facilities for car share/car club vehicles and a programme of works, shall be submitted to and approved in writing by the local planning authority. The car parking facilities shall be provided in accordance with the approved details and the programme of works, shall be for the exclusive use of electric vehicles, and shall be retained for such use at all times.
14. Prior to first occupation of the development hereby approved a travel plan shall be submitted to and approved in writing by the local planning authority. The measures within the approved travel plan shall be implemented in accordance with the approved details and programme.

In addition to the details set out in the Travel Plan by Sanderson Associates (March 2017) the plan shall contain the following information:

- Travel plan targets to take account of the number of trips to be taken off the network to reduce impact on the A59 and key junctions;
  - Measures to promote sustainable travel, including sustainable transport incentives to residents and consideration of travel to local primary/secondary schools; and
  - Travel plan implementation and monitoring schedule.
15. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in



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

16. Details of the equipped play areas shall be submitted to and approved in writing by the local planning authority prior to installation and provided in accordance with the approved plans and the approved phasing plan as specified in condition 8.

17. The dwellings hereby approved shall achieve the following measures:

- At least a 19% reduction in Dwelling Emission Rate compared to the target fabric energy efficiency rates as required under Part L1A of the Building Regulations 2013).
- A water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).
- A reduction in carbon emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations.

Prior to first occupation of each dwelling details of the measures undertaken to secure compliance with this condition shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

18. The residential accommodation shall be constructed so that it does not exceed the following noise levels:

- a) 30 dB LAeq (8 hour) and 45dB L<sub>Amax</sub> inside bedrooms at night (23:00 - 07:00 hrs)
- b) 35 dB LAeq (16 hour) in all other habitable rooms during the day (07:00 - 23:00 hrs).

The internal noise levels shall be achieved with all windows shut and alternative means of ventilation provided if necessary.

# **City of York Council Local Plan**

## **Gypsy and Traveller Policy: Position Paper**

### **February 2023**

#### **Background**

It is a requirement of national policy that Local Plans make adequate provision for the needs of Gypsies and Travellers.

In order to understand the needs that were to be incorporated into the City of York Local Plan, a Gypsy and Traveller Accommodation Assessment (GTAA) was prepared in 2017. This work formed the basis of the policy approach set out in the Plan that was submitted to the Planning Inspectorate for examination in 2018.

For several reasons, the Examination period has been protracted and subject to further consultation in 2019 and 2021. It was therefore necessary to review the GTAA in advance of the later phases of hearings scheduled over summer 2022. That work<sup>1</sup> was used to demonstrate that the Plan is supported by an up-to-date evidence base and meets the requirements of, and reflects guidance in, the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites 2015 (PPTS).

The findings of the latest GTAA indicate that the plan should support the following:

- 15 new permanent pitches for gypsies and travellers meeting the PPTS definition;
- 4 permanent plots for show people meeting the PPTS definition; and,
- 25 permanent pitches for gypsies and travellers not meeting the definition

#### **Local Plan policy approach to gypsy and traveller pitches**

Work was undertaken as part of the early stages of the Plan's preparation to identify and assess potential sites suitable for new gypsy and traveller pitches. This site selection process did not result in sites being allocated in the Local Plan.

An alternative approach was progressed which sought to deliver the required number of new pitches on the exiting Council owned sites and as part of the development of allocated strategic residential sites; this is an adopted approach in other LPAs<sup>2</sup>. An audit trail of the approach taken by York is presented at Appendix 1.

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<sup>1</sup>Gypsy and Traveller Accommodation Assessment, July 2022:

<https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment>

<sup>2</sup> An adopted approach in other Local Plans, including Vale of Aylesbury Local Plan (2013-2033, adopted 2021):

[https://buckinghamshire-gov-uk.s3.amazonaws.com/documents/Aylesbury\\_local\\_plan\\_L46JWaT.pdf](https://buckinghamshire-gov-uk.s3.amazonaws.com/documents/Aylesbury_local_plan_L46JWaT.pdf)

The submitted version of the Plan indicated that the Council owned sites would be expanded to provide the pitches required within the first 5 years of the plan period, but the policy did not identify which sites would be subject to expansion or the number of pitches expected on each site. Modifications to the policy (part a of Policy H5) have now been proposed, which identify Clifton and Osbaldwick sites as the locations for additional pitches. This was supported by additional work presented to the Inspectors<sup>3</sup> to satisfy concerns around the deliverability of the 5-year pitch requirement. The Council confirmed that there is capacity at the Clifton site for an additional 6 pitches and sufficient space on the Osbaldwick site to provide at least 4 more pitches.

Local Plan Policy H5 (part a): Proposed Main Modification MM5.11

a) **Within Existing Local Authority Sites**

In order to meet the need of Gypsies and Travellers that meet the planning definition, **10 3** additional pitches will be **provided identified** within the existing **three** Local Authority sites **at:**

- **Water Lane, Clifton; and**
- **Outgang Lane, Osbaldwick.**

Part B of Policy H5 directs the provision of 30 additional pitches to allocated strategic sites via proportional contribution to the number of proposed dwellings. The submitted version of the policy offered flexibility in how this could be achieved and effectively gave developers the choice of delivering the pitches on-site, offsite, or through a financial contribution. It was later recognised that developers would likely favour a financial contribution, putting the Council in the position of having to find suitable land for the pitches and reduces the certainty around where pitches will come forward.

Modifications to the policy were initially proposed in April 2021, which sought to prioritise on-site or alternative site provision over a financial contribution. This modification was revised again following the close of hearings in summer 2022 to narrow the scope for financial contributions and give more certainty on where pitches will be located.

The policy now sets out the assessment basis for demonstrating that a financial contribution is an acceptable solution. Only where there is clear evidence of site constraints restricting pitch delivery and no alternative site having been found following a meaningful search process, will a financial contribution be supported. It is

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Guildford Borough Local Plan (2015-2034, adopted 2019):

<https://www.guildford.gov.uk/localplan/2015-2034>

<sup>3</sup> Provision for Gypsies and Travellers and Travelling Showpeople, Dec 2022

<https://www.york.gov.uk/downloads/file/8695/ex-cyc-121a-provision-of-gypsy-and-traveller-etc>

expected that these policy requirements will significantly restrict financial contributions coming forward and will encourage pitch delivery on strategic sites.

Local Plan Policy H5 and supporting text: Proposed Main Modifications MM5.11

**Policy H5: Gypsies and Travellers**

**b) Within Strategic Allocations**

In order to meet the need of those 30 44 Gypsies and Traveller households that do and do not meet the planning definition:

Residential development proposals on strategic sites Applications for larger development sites of 5 ha or more will be required to: provide a number of pitches within the site or provide alternative land that meets the criteria set out in part c) of this policy to accommodate the required number of pitches.

Commuted sum payments to contribute to development of pitches elsewhere will only be considered where it is demonstrated that on site delivery is not achievable due to site constraints and that there are no suitable and available alternative sites for the required number of pitches that can be secured by the developer

- ~~• provide a number of pitches within the site; or~~
- ~~• provide alternative land that meets the criteria set out in part c) of this policy to accommodate the required number of pitches; or~~
- ~~• provide commuted sum payments to contribute towards to development of pitches elsewhere.~~

The calculations for this policy will be based on the hierarchy below:

- 100 – 499 dwellings – 2 pitches should be provided
- 500 – 999 dwellings – 3 pitches should be provided
- 1000 – 1499 dwellings – 4 pitches should be provided
- 1500 – 1999 dwellings – 5 pitches should be provided
- 2000 or more dwellings – 6 pitches should be provided

~~5.42 The suitability of the location of any further sites for Gypsies, Travellers or Travelling Showpeople which come forward during the plan period will be determined in accordance with criteria i – v of Policies H5 and H6. These consider the natural and historic environment, access to public transport and services, road access and congestion, flood risk and amenity. The development of the allocated sites and any further sites that come forward during the plan period will be determined in accordance with Policies H5 and H6 criteria vi – x. These consider the provision of storage and recreation space, amenity provision, size and density of pitches/plots, landscaping of the site, amenity of nearby residents and future occupiers of the site.~~

5.42 The suitability of sites not allocated for Gypsies, Travellers or Travelling Showpeople in this Local Plan will be assessed against the locational principles within criteria i-v of Policies H5 and H6 (Part C) as appropriate. All development proposals (including those forming part of a strategic allocation) will need to demonstrate that the site's design and layout observes the principles within criteria vi-x of Policies H5 and H6, as appropriate.

Where proposals seek to provide a commuted sum in lieu of either on or off-site pitch provision, applications will need to comprehensively demonstrate the following:

1. That the design parameters (vi – x in part C of Policy H6) cannot be satisfactorily achieved through evidence of a site and masterplan appraisal (which should include layout and capacity assessments as well as a demonstration of all reasonable attempts to overcome any site constraints); and,
2. That there are no available sites which would be suitable for the number of pitches required. Evidence should include an appraisal of sites on the market at the time of the application with clear justification for their rejection.

Commuted sums will be calculated on the basis that costs are met in full including, where appropriate, land purchase, professional fees, construction and operating costs.

Additionally, in 2021 the Council proposed an amendment to the Policy GB4 (Exception Sites for Affordable Housing) to support the development of affordable pitches in the Green Belt<sup>4</sup>. The Council was unable to pursue this modification following legal advice, which stated that this approach is not in accordance with national policy<sup>5</sup> and consequently, the Plan would be found to be unsound.

The PPTS at paragraph 15 (Policy D) refers to potential opportunities for rural exception sites for affordable pitches. However, paragraph 16 (Policy E) makes clear that those provisions cannot apply in Green Belt areas. Paragraph 16 states that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Paragraph 17 continues that if land is to be removed from the Green Belt (to inset a Traveller site) it should be specifically allocated in the development plan as a traveller site only and only through the Plan making process (not in response to a planning application).

Green Belt exceptions under NPPF 2012<sup>6</sup> paragraph 89 relate to the construction of new buildings. A gypsy and traveller site is principally a change of use (although some new buildings may also be added – e.g. utility blocks).

Whilst regrettable that the proposed modification to Policy GB4 had to be withdrawn, the Council is satisfied that its approach to meeting the housing need for gypsies and travellers through the retention and expansion of the existing (non-green belt) public sites, in connection with strategic sites (where green belt boundaries are drawn to exclude development sites) and alongside a criteria-based policy, is appropriate and will meet needs over the plan period.

### **Planning Obligations for Off-Site Financial Contributions**

YTT refer to an appeal decision in 2019<sup>7</sup> where the Inspector found that a financial contribution associated with residential development at Millfield Lane did not meet the necessary legal tests. That decision was made at a time when the Local Plan's examination was in the very early stages.

That position has now materially changed and the evidence to support the policy approach has since been developed further. Notably, neither the Secretary of State (SoS) or the Inspector in reaching their conclusions on the appeal at Monks Cross (ST8)<sup>8</sup> found the agreed financial contribution to pitches in this case to be flawed.

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<sup>4</sup> Proposed Modifications, published for consultation April 2021 [[EX/CYC/58](#)] with responses all submitted to the Examination and summarised in [EX/CYC/65](#).

<sup>5</sup> Planning Policy for Traveller Sites (<https://www.gov.uk/government/publications/planning-policy-for-traveller-sites>)

<sup>6</sup> The Local Plan is being examined under transitional arrangements

<sup>7</sup> Appeal Ref: APP/C2741/W/19/3227359 North of Boroughbridge Road, South of Millfield Lane, York

<sup>8</sup> Appeal Ref: APP/C2741/W/21/3282969 Site to the west of the a1237 and south of North Lane, Huntington, York



The 14 December 2022 decision letter confirms that, “*the Secretary of State agrees with the Inspector’s conclusion for the reasons given in IR12 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework.*”

Having considered the matter further and as explained in the Examination, the Council is of the view that reg. 122 of the Community Infrastructure Levy Regulations 2010 is not a barrier to the approach set out in policy H5.

Notwithstanding these conclusions, the Council acknowledges that in the absence of other sites identified for gypsy and traveller provision, coupled with the Green Belt policy restriction, it is necessary for the Local Plan policy to prioritise delivery on-site or on an alternative site as provided by the developer.

The proposed modifications, referred to above, require applicants to demonstrate exceptional circumstances before financial contributions will be entertained. In the first instance, it must be demonstrated that site constraints prevent pitches being delivered.

Except for those strategic sites that have the benefit of planning permission or have applications pending, the remaining strategic sites are at very early stages of design work and have no known physical site constraints that would prohibit delivery of pitches. The Council is actively engaged with developers and landowners on these respective sites and officers are highlighting the policy requirement in discussions to ensure that it is fully understood and incorporated in initial feasibility and masterplanning work. The development of the associated Supplementary Planning Document as recommended to Executive will assist in this regard.

Alternative sites would be supported, but the onus is on the developer to secure a site. On that basis the Council is not anticipating additional financial contributions over and above those noted below, but the policy is sufficiently flexible to accommodate them should circumstances change and makes very clear the scope of evidence needed to support that approach.

### **Osboldwick Site**



The Council has calculated that it will, potentially, need to deliver an additional 13 pitches, over and above the commitment to providing 10 pitches for those gypsies and travellers who meet the planning definition. This is the result of:

- Confirmed financial contributions for equivalent pitches that have been secured through S106 agreement on strategic sites with planning permission: York Central, ST5 and Monks Cross, ST8; and,
- Likely financial contributions for equivalent pitches to be secured through S106 agreement on sites where planning applications are pending decision: Land Adjacent to Hull Road, ST4 and Station Yard in Wheldrake, ST33.

The submitted version of the Local Plan identified the existing traveller site at Osbaldwick wholly out of the Green Belt. Modifications proposed in April 2021 sought to limit the area excluded from Green Belt to that which had been developed with traveller pitches. That modification significantly reduces the site's capability to expand and in recognition of the assumptions identified above, it has been reconsidered.

A revised modification is now proposed, which aligns the site's Green Belt along the northern and western boundaries with the site boundary of the scheme approved (under application 13/02704/GRG3) for the expansion of the traveller site.

Policy Map Modification PMM25

<b>Name</b>
PMM25 Osbaldwick Gypsy and Traveller Site (Policies Map North)
<b>Reason</b>
Amendment to the Green Belt boundary to follow the northernmost boundary of the area of the site that benefits from planning permission Note: the extent of the Gypsy and Traveller site designation is unchanged from the submitted Plan.
<b>Policies map boundary (2018)</b>

<b>Proposed modification</b>


A revised modification based on the above would ensure the site at Osbaldwick has capacity to deliver the 4 pitches identified as part of the CYC provision and the likely additional requirements generated through development of some of the Plan's allocated sites. It is an approach that provides flexibility and secures a requisite level of certainty that future pitch needs can be met.

York Travellers Trust ("YTT") raised concerns that the Osbaldwick site is unsuitable for expansion. The Council addressed all these concerns during the hearing sessions, when matters were raised to the Inspectors.

In response to the inspectors' seeking greater clarity on how many pitches could be provided on each Council owned site, further assessment of the Osbaldwick (and Clifton) site was undertaken. Regard was given to its constraints and the amount of land needed to provide pitches of a size equivalent to those currently on the site. No in-principal issues were identified that conflict with the considerations set out in part C of Policy H5 (Gypsies and Travellers) and it was concluded that the site is capable of being configured as two self-contained sites, and that all policy requirements can be satisfied.

These are, however, detailed design matters that will be advanced as part of the work to support the planning application that is required. As landowner and manager of the site, the Council acknowledges that there are ongoing management challenges on the site. The matter was publicly acknowledged recently by the Council's Corporate Director of Place, recognising that management improvements are fundamental to delivery of the Local Plan objectives.

Furthermore, the Council will ensure all relevant stakeholders are properly engaged as part of its pre-application activity so that the site's design and layout is suitable for both existing and future residents. Existing residents will play a key role in that process and investment in the site offers an opportunity for current issues and conditions to be improved. There is no reason why an acceptable development cannot come forward through subsequent detailed design work (including as part of an application for planning permission).



## Appendix 1

Plan	Policy H5 Gypsies and Travellers	Policy H6 Showpeople	Supporting Evidence
2018 incl Proposed Modifications (Phase 4 onwards)	<p><b>No allocations</b></p> <ul style="list-style-type: none"> <li>● Protecting existing provision: <ul style="list-style-type: none"> <li>○ James Street</li> <li>○ Water Lane, Clifton</li> <li>○ Outgang Lane, Osbaldwick</li> </ul> </li> <li>● 10 additional pitches within named existing LA sites (Clifton and Osbaldwick)</li> <li>● Larger Strategic sites to contribute provision towards need for 30 pitches for defined and undefined Travellers (cascade policy prioritising on-site or alternative off-site provision with parameters for assessment to justify financial contribution) based on no. of dwellings.</li> <li>● Criteria based policy</li> </ul>	<ul style="list-style-type: none"> <li>● Safeguarding existing supply <ul style="list-style-type: none"> <li>○ The Stables, Elvington</li> </ul> </li> <li>● Meeting future need <ul style="list-style-type: none"> <li>○ 4 plots at The Stables, Elvington)</li> </ul> </li> <li>● Potential for yards within employment sites.</li> <li>● Criteria based policy.</li> </ul>	<p>GTAA 2022 (ORS, June 2022) [EX/CYC/88]  <a href="https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment">https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment</a></p> <p>Provision of Gypsy and Traveller Pitches (December 2022) [EX/CYC/121a]  <a href="https://www.york.gov.uk/downloads/file/8695/ex-cyc-121a-provision-of-gypsy-and-traveller-etc">https://www.york.gov.uk/downloads/file/8695/ex-cyc-121a-provision-of-gypsy-and-traveller-etc</a></p>

<p>2018 incl Proposed Modifications (Phase 3)</p>	<p><b>No allocations</b></p> <ul style="list-style-type: none"> <li>● Protecting existing provision: <ul style="list-style-type: none"> <li>○ James Street</li> <li>○ Water Lane, Clifton</li> <li>○ Outgang Lane, Osbaldwick</li> </ul> </li> <li>● 10 additional pitches within existing LA sites (above)</li> <li>● Larger Strategic sites to contribute provision towards need for 30 pitches for defined and undefined Travellers (cascade policy prioritising on-site or alternative off-site provision) based on no. of dwellings.</li> <li>● Criteria based policy</li> </ul>	<ul style="list-style-type: none"> <li>● Safeguarding existing supply <ul style="list-style-type: none"> <li>○ The Stables, Elvington</li> </ul> </li> <li>● Meeting future need <ul style="list-style-type: none"> <li>○ 4 plots at The Stables, Elvington)</li> </ul> </li> <li>● Potential for yards within employment sites.</li> <li>● Criteria based policy.</li> </ul>	<p>GTAA 2022 (ORS, June 2022) [EX/CYC/88]  <a href="https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment">https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment</a></p>
<p>Publication 2018</p>	<p><b>No allocations</b></p> <ul style="list-style-type: none"> <li>● Protecting existing provision: <ul style="list-style-type: none"> <li>○ James Street</li> <li>○ Water Lane, Clifton</li> <li>○ Outgang Lane, Osbaldwick</li> </ul> </li> <li>● 3 additional pitches within existing LA sites (above)</li> <li>● Larger Strategic sites to contribute provision (cascade policy prioritising on-site or alternative off-site provision) based on no. of dwellings.</li> <li>● Criteria based policy</li> </ul>	<ul style="list-style-type: none"> <li>● Safeguarding existing supply <ul style="list-style-type: none"> <li>○ The Stables, Elvington</li> </ul> </li> <li>● Meeting future need <ul style="list-style-type: none"> <li>○ 3 plots at The Stables, Elvington)</li> </ul> </li> <li>● Potential for yards within employment sites.</li> <li>● Criteria based policy.</li> </ul>	<p>2017 GTAA Update (ORS) [SD059]  <a href="https://www.york.gov.uk/downloads/file/1572/sd059-city-of-york-gypsy-and-traveller-accommodation-assessment-update-september-2017-">https://www.york.gov.uk/downloads/file/1572/sd059-city-of-york-gypsy-and-traveller-accommodation-assessment-update-september-2017-</a></p>

Pre-publication 2017 (accompanied by GTAA update 2017)	<b>No allocations</b> As Publication 2018 above	As Publication 2018 above	2017 GTAA Update (ORS) [SD059] <a href="https://www.york.gov.uk/downloads/file/1572/sd059-city-of-york-gypsy-and-traveller-accommodation-assessment-update-september-2017-">https://www.york.gov.uk/downloads/file/1572/sd059-city-of-york-gypsy-and-traveller-accommodation-assessment-update-september-2017-</a>
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Department for Levelling Up,  
Housing & Communities

Mark Johnson  
Johnson Mowat  
Coronet House  
Queen Street  
Leeds  
LS1 2TW

Our ref: APP/C2741/W/21/3282969  
Your ref: 18/00017/OUTM

14 December 2022

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY REDROW HOMES (YORKSHIRE) LIMITED  
SITE TO THE WEST OF THE A1237 AND SOUTH OF NORTH LANE, HUNTINGTON,  
YORK  
APPLICATION REF: 18/00017/OUTM**

*This decision was made by the Minister of State for Housing, Lucy Frazer MP, on behalf of the Secretary of State, and signed on her behalf*

1. I am directed by the Secretary of State to say that consideration has been given to the report of David Prentis BA BPI MRTPI, who held a public local inquiry on 25-28 January 2022 into your client's appeal against the failure of the Council of the City of York to determine your client's application for outline planning permission for residential development of circa 970 dwellings with associated demolition, infrastructure works, open space, primary school, community facilities and convenience store (use class A1; not exceeding 200sqm floorspace) on land west of Monks Cross Link Road and a country park with drainage infrastructure east of Monks Cross Link Road, in accordance with application Ref. 18/00017/OUTM, dated 4 January 2018.
2. On 10 January 2022 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed, and planning permission be granted, subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Having taken account of the Inspector's comments at IR6, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

## **Matters arising since the close of the inquiry**

6. On 25 March 2022, Natural England (NE) provided a consultation response to the Planning Inspectorate (PINS) regarding a separate appeal against the Council's non-determination of application reference 21/00305/OUTM (Outline planning permission with all matters reserved except access, for circa 300 residential dwellings, associated landscaping, public open space and the formation of two new vehicle accesses from New Lane, Huntingdon, York). The consultation response identifies the 'Surveys and Impacts of Recreation at Strensall Common SAC' report, plus subsequent analysis and change of policy in the emerging City of York Council Local Plan and Local Plan Habitats Regulations Assessment (HRA). NE stated that it considers this evidence, analysis and draft policy to represent a "fundamental change in the ecological baseline".
7. On 11 April, the Secretary of State wrote to Natural England (NE) and the main parties to afford them an opportunity to comment on the draft HRA for the appeal currently before the Secretary of State at North Lane, Huntingdon in light of NE's updated approach to assessing potential impacts from development on the Strensall Common Special Area of Conservation (SAC) outlined above. These representations were circulated to the main parties on 9 May. A list of representations received in response to the Secretary of State's letter is at Annex A. Copies of these may be obtained on request to the email address at the foot of the first page of this letter.
8. The Secretary of State has taken into account the responses received. His conclusions on them are set out at paragraphs 35-38 below. The Secretary of State is satisfied that no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties.

## **Policy and statutory considerations**

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan consists of the Huntingdon Neighbourhood Plan (HNP) 2021 and the saved policies of the otherwise revoked Yorkshire and Humber Regional Spatial Strategy (RSS) 2008. The Secretary of State considers that relevant development plan policies include those set out at IR18-21 & IR124-126. The Secretary of State notes that The HNP refers to a strategic housing allocation in the emerging Local Plan ST8 Land North of Monks Cross identifying the appeal site. However, he further notes that the

HNP does not itself allocate strategic housing sites, that being a matter for the Local Plan (IR20).

11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').

### *Emerging plan*

12. The emerging plan (eLP) comprises the emerging City of York Local Plan. The eLP was submitted for examination in May 2018. The examination is continuing. The Secretary of State considers that the emerging policies of most relevance to this case include ST8 which identifies the appeal site as a strategic housing site, OS8 which allocates the area to the east of the Monks Cross Link Road as open space, and the emerging policies identified at IR24 and IR127.
13. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State notes that there are unresolved objections to allocation ST8, albeit that some objections relate to matters of detail rather than the principle of development. He agrees with the Inspector at IR128 that in these circumstances only limited weight can be attached to the eLP as a statement of emerging policy. He further agrees that the fact this site has been identified as a suitable location for a strategic housing development is a material consideration that weighs in support of the proposal.
14. For the reasons given at IR129, the Secretary of State agrees that the Draft Local Plan 2005 incorporating the Fourth Set of Changes, which was approved by the Council for development management purposes in April 2005, attracts very little weight and has been overtaken by the eLP.

### **Main issues**

#### ***The effect of the proposal on the Green Belt, including any effects on openness and the purposes of including land within the Green Belt***

15. For the reasons given at IR19 and IR130 the Secretary of State agrees at IR130 that the appeal site has the characteristics of Green Belt and should be treated as such for the purposes of this appeal. He further agrees that the proposal would conflict with saved RSS Policy Y1(C)1 which establishes a Green Belt around York (IR135). In the absence of an up to date adopted development plan policy which deals with Green Belt, the Secretary of State has followed the Inspector's approach in applying the Framework policy.
16. There is no dispute between the parties that the proposal would amount to inappropriate development (IR131). The Secretary of State agrees that the proposed country park would be a change of use of land for recreation, and that the necessary engineering operations described by the Inspector at IR131 would not in themselves amount to

inappropriate development for the reasons given there. For the reasons given, the Secretary of State agrees that nevertheless, looked at in the round, the proposal as a whole would represent inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances

17. For the reasons given at IR132, the Secretary of State agrees that as a result of the proposal, the site would be very much more built-up than it is now, and agrees that this would result in significant harm to the openness of the Green Belt.
18. The Secretary of State agrees at IR133 that in its current condition, the site contributes to two of the five purposes of the Green Belt set out in paragraph 138 of the Framework, namely checking the unrestricted sprawl of large built-up areas and assisting in safeguarding the countryside from encroachment, and that the proposal would conflict with these purposes. For the reasons given at IR134, he also agrees that the experience of arriving at the historic city from the north would not be significantly affected by the proposal and that this is not a matter that weighs against the appeal.
19. For the reasons given at IR135, the Secretary of State agrees there and at IR194 that substantial weight should be given to the identified Green Belt harms.

***The effect of the proposal on transport networks and the extent to which it would support the objective of promoting sustainable transport***

*Effect on the highway network*

20. For the reasons given at IR136-143 and IR167, the Secretary of State agrees with the Inspector at IR143 that subject to the mitigation measures provided for in the Agreement, the proposal would not result in any unacceptable impacts on the highway network, either in terms of safety of capacity, and that there would be no severe impacts on the road network (IR167).

*Public transport*

21. For the reasons given at IR144-145 and at IR166 the Secretary of State agrees with the Inspector that the proposed bus service improvements would make bus transport a convenient and attractive option for trips to the city centre and other locations within York (IR166). He has further taken into account the contributions to sustainable transport measures set out at IR164.

*Walking and cycling*

22. For the reasons given at IR146-148 and IR166 the Secretary of State agrees with the Inspector that the site is well located to enable walking and cycling trips to be made for a wide range of purposes (IR146, IR166) and that subject to the design process, the facilities within the site should be reasonably accessible to new residents by walking and

cycling (IR147). He has further taken into account that the scheme would include three pedestrian/ cycle links to the site (IR148).

23. The Secretary of State has carefully considered the two additional links at Garth Road and Alpha Court which were discussed at the inquiry. For the reasons given at IR149-163 he agrees with the Inspector's assessment of the additional links and agrees that the Garth Road and Alpha Court links would both be useful facilities which would offer additional travel choice to new residents (IR158 & IR163). However he further agrees that these links would not bring about a significant change in the proportion of trips made on foot (IR158 and IR163).

#### *Conclusions on transport*

24. The Secretary of State agrees for the reasons given at IR165-169 that overall the proposal accords with those policies of the Framework that seek to promote sustainable transport (IR168). He further agrees at IR170 that the proposal would accord with the key principles for emerging site allocation ST8 in various respects.

25. For the reasons given at IR170-IR172, the Secretary of State agrees with the Inspector at IR172 that taking account of the totality of the transport measures proposed, neither the Garth Road nor the Alpha Court link is necessary for the grant of planning permission. For the reasons given at IR173-175, he further agrees at IR174 that would be conflict with the element of eLP Policy SS10 which calls for "*further strategic connections*" but agrees that limited weight should be attached. He agrees at IR175 that a Grampian condition would not be necessary for the grant of planning permission.

26. The Secretary of State agrees overall with the Inspector's conclusion at IR176 that the proposal would not cause harm to the safety or the capacity of the highway network. He further agrees that opportunities for travel on foot, cycle or bus have been considered and appropriate provision has been made, consistent with those policies of the Framework that seek to promote sustainable travel. He further agrees that the proposal would accord with HNP Policy H1, insofar as the policy relates to transport.

#### ***The nature and extent of any economic, social and environmental benefits which would result from the proposal***

##### *Housing and affordable housing*

27. For the reasons set out at IR197, the Secretary of State agrees with the Inspector that there is not currently a plan-led route to meeting housing needs, and agrees that this adds to the weight attaching to housing delivery. He has taken this into account in his assessment below.

28. For the reasons given in IR177 and IR196, the Secretary of State agrees that the Council is unable to demonstrate a five year supply of housing sites, as required by the Framework. The current housing land supply is agreed to be between 2.79 years and 3.45 years. The Secretary of State agrees that the proposal would make an important contribution to housing delivery in York over an extended period, and that there is an



urgent need for housing in York. He further agrees with the Inspector that significant weight should be attached to the social and economic benefits of housing delivery.

29. For the reasons given at IR178 and IR196, the Secretary of State agrees that delivery of 30% affordable housing would be a further social and economic benefit to which significant weight should be attached. For the reasons given at IR204, the Secretary of State agrees that the proposal would be in accordance with HNP Policy H3.

#### *Primary school and early years facility*

30. For the reasons given at IR179, the Secretary of State agrees that the provision of an early years facility and a primary school on site should be regarded as an important benefit. For the reasons given at IR180 he agrees that creating a school within the appeal site would contribute to place-making and community identity and also agrees that as both the primary school and the early years facility would be within a reasonable walking distance of all parts of the site, this would contribute to sustainable transport objectives and reduce car travel from the site to other schools in the locality. For the reasons given at IR181, the Secretary of State agrees that while 'Plan B' is a sensible contingency arrangement, based on the evidence before the inquiry the likelihood is that the school would be delivered on site.

31. Overall, for the reasons given at IR179-181 and at IR196, the Secretary of State agrees at IR196 that significant weight should be attached to provision of a primary school and associated early years facility.

#### *Country park*

32. For the reasons given at IR182, the Secretary of State agrees at IR196 that the park would provide an extensive area of informal open space with a rural character that would be attractive to new residents as well as existing residents of Huntington. The Secretary of State agrees that whilst the detailed design of the park would be approved at a later stage, the illustrative plans show how it could be laid out as an attractive space with a rural character and further agrees that this would result in social and environmental benefits to which moderate weight should be attached.

#### **Other matters**

##### *Character and appearance of the area*

33. The Secretary of State has had regard to the Inspector's conclusions on character and appearance at IR183. He recognises that matters of design and landscape would be considered at reserved matters stage. The Secretary of State is not persuaded that he has sufficient evidence before him to conclude that overall landscape effects during the operational phase would be beneficial. He considers that the proposed development is likely to have an overall neutral effect on the landscape and attracts neutral weight in the planning balance.

## *Biodiversity*

34. For the reasons given in IR185 the Secretary of State agrees that there are opportunities to promote biodiversity net gain within the proposed residential areas and the country park, and agrees, in line with the ES, that taking account of the proposed mitigation measures, there are no significant adverse effects on biodiversity (IR185). He considers that biodiversity attracts neutral weight in the planning balance.

## *Habitats Regulation Assessment*

35. The site is within the zone of influence of Strensall Common Special Area Conservation (SAC) and Site of Special Scientific Interest (SSSI). The Secretary of State notes that the Council's Habitats Regulations Assessment identified a likelihood of increased recreational impact on the SAC/SSSI as a result of development (IR186). However, for the reasons given at IR186 agrees that the open spaces, together with the country park, would provide suitable alternative locations for informal outdoor recreation. Furthermore would mitigate the potential recreational impact on the SAC/SSSI.
36. As the Secretary of State is the competent authority for the purposes of the Conservation of Habitats and Species Regulations, information to support the Secretary of State's assessment was provided (Annex D of the IR). This concluded that in the absence of mitigation, a likely significant effect could not be ruled out, but that with mitigation, it would be reasonable to reach a conclusion of no adverse effects on the Strensall Common SAC.
37. Post-Inquiry, Natural England (NE) stated it was not possible for it to conclude that the proposal would not have significant effects on the SAC without further detail on mitigation (as set out in paragraphs 7-9 above). In response to the Secretary of State's reference back exercise, a Shadow Habitats Regulation Assessment (sHRA) has since been provided by the Applicant and agreed by NE. Parties have also agreed an amended condition 11. This revised sHRA supersedes that version provided by the Council at the time of the application and included at Annex D of the IR.
38. The Secretary of State is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017 and is required to make an Appropriate Assessment (AA) of the implications of that plan or project on the integrity of any affected European site in view of each site's conservation objectives. The Secretary of State has reviewed the sHRA and has taken into account the confirmation from NE on 10 June 2022 that they are now satisfied in principle that the proposed country park will provide Suitable Alternative Natural Greenspace (SANG) sufficient to incentivise residents of the new development to use the SANG for recreational purposes instead of the SAC. Furthermore, NE are content that planning permission could be granted for the proposed development in full compliance with Regulation 63 of the 2017 Regulations, subject to the imposition of amended condition 11, as set out at paragraph 42 below. The sHRA is attached at Annex C of this letter. The Secretary of State agrees with its analysis, and agrees with its conclusion that with the proposed SANG in place, a neutral effect on Strensall Common SAC is predicted from the proposed development at Land North of Monks Cross, both in isolation and in combination with other housing sites . The

Secretary of State therefore adopts the sHRA as the necessary Appropriate Assessment in his role as the Competent Authority on this matter.

*Flood risk and drainage; Noise; Excluded land, and other matters raised by interested parties*

39. The Secretary of State agrees with Inspector's conclusions in relation to flood risk and drainage for the reasons given at IR184. For the reasons given at IR187-189 he agrees with the Inspector's conclusions in relation to noise and vibration during the construction phase. He notes that that the updated noise assessment recommends that noise assessments are repeated when the layout and design of the proposed houses is considered and like the Inspector agrees with that approach (IR189). He further agrees with the Inspector's conclusions at IR190 in respect of the excluded land, and at IR191 in respect of other matters.

**Planning conditions**

40. The Secretary of State has given consideration to the Inspector's analysis at IR114-122, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

41. In response to the representations received from NE detailed at paragraphs 6-8 above, and in light of the additional information provided by the Applicant on mitigation measures in relation to the Strensall Common SAC detailed at paragraph 35-38 above, the Secretary of State considers that it is necessary and appropriate to address this matter by way of an amended condition. Parties have agreed an amended condition, as set out at condition 11 of Annex B. The Secretary of State considers that this condition complies with the policy test set out at paragraph 56 of the Framework.

**Planning obligations**

42. Having had regard to the Inspector's analysis at IR7-12, the planning obligation dated 10 February 2022, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR12 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework.

**Planning balance and overall conclusion**

43. For the reasons given at IR201-205, the Secretary of State agrees that the proposal is in accordance with the HNP. He also agrees, however, that due to the conflict with RSS Policy Y1(C)1, which establishes a Green Belt round York, the proposal should be regarded as being in conflict with the development plan as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

44. As the Council is unable to demonstrate a five year supply of housing sites, as required by the Framework, paragraph 11(d) of the Framework indicates that planning permission

should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

45. Weighing in favour of the proposal are the delivery of housing and affordable housing, which each attract significant weight; the provision of a new primary school and early years facility which attracts significant weight; provision of a new country park which attracts moderate weight, and the fact the site is identified in the emerging Local Plan as suitable in principle for strategic development which attracts limited weight.
46. Weighing against the proposal are harm to the Green Belt by reason of inappropriateness, as well as significant harm to Green Belt openness and to two Green Belt purposes which collectively attracts substantial weight; as well as conflict with the eLP on strategic connections which attracts limited weight.
47. The Secretary of State has considered whether the harm to the Green Belt, and the other harm he has identified, are clearly outweighed by other considerations. Overall, the Secretary of State considers that the benefits of the proposal are collectively sufficient to clearly outweigh the harm to the Green Belt and other harm such that very special circumstances exist to justify permitting the development. As such, he finds no conflict with Green Belt policy at Section 13 of the Framework, which is favourable to the proposal.
48. The Secretary of State therefore considers that there are no protective policies which provide a clear reason for refusing the development proposed. He further considers that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development therefore applies.
49. Overall, the Secretary of State considers that despite the conflict with the development plan, the material considerations in this case indicate that permission should be granted.
50. The Secretary of State therefore concludes that the appeal should be allowed.

### **Formal decision**

51. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission, subject to the conditions set out in Annex B of this decision letter, for residential development of circa 970 dwellings with associated demolition, infrastructure works, open space, primary school, community facilities and convenience store (use class A1; not exceeding 200sqm floorspace) on land west of Monks Cross Link Road and a country park with drainage infrastructure east of Monks Cross Link Road, in accordance with application Ref. 18/00017/OUTM, dated 4 January 2018.
52. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

## Right to challenge the decision

53. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
54. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
55. A copy of this letter has been sent to the Council of the City of York, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Phil Barber*

Decision officer

*This decision was made by the Minister of State for Housing, Lucy Frazer MP, on behalf of the Secretary of State, and signed on her behalf*

## Annex A Schedule of Representations

### General representations

Party	Date

### Representations received in response to the Secretary of State's letter of 11 April 2022

Party	Date
City of York Council	May 5 2022
Natural England	May 6 2022

### Representations received in response to the re-circulation of responses received to the Secretary of State's letter of 11 April 2022

Party	Date
Natural England	May 16 2022
Johnson Mowat	May 20 2022
Natural England	June 10 2022
Johnson Mowat	June 14 2022

## Annex B List of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following plans:-
  - PL1377-VW-016-5-04 – Location Plan
  - 13035/GA/03 Rev C - Proposed Site Access onto North Lane
  - 13035/GA/05 Rev A - Proposed Northern Access onto Monks Cross Link (Alternative Country Park Option)
  - 13035/GA/01 Rev E - Proposed Southern Access onto Monks Cross Link
- 2) Fully detailed drawings illustrating all of the following matters (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4), and the development shall be carried out in accordance with such details:

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

In the case of any self-build or custom build plots forming part of the Phasing Strategy approved pursuant to Condition 4, the reserved matters may be submitted for individual plots.
- 3) Application for the first reserved matters shall be made to the Local Planning Authority not later than the expiration of two years beginning with the date of this permission. Application for approval of all reserved matters for the remaining phases shall be made to the Local Planning Authority not later than the expiration of eight years beginning with the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters in the first phase to be approved and in line with the approved Phasing Strategy.
- 4) No development shall commence until a detailed Phasing Strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the provisions of the approved Phasing Strategy and/or any subsequent amendment to it that has been submitted to and approved in writing by the Local Planning Authority.

The strategy will outline the key elements and projected timeline of each phase of development, and how they will be delivered. The strategy shall include the phasing of:

  - a) enabling works;
  - b) infrastructure (including all new junctions and accesses to the site, internal roads including how the development interfaces with the area of land positioned centrally within the site that is excluded from the red line boundary, pedestrian and cycle routes);
  - c) drainage and other utility works;

- d) primary school;
  - e) community hub;
  - f) playing pitches and amenity open space;
  - g) community facilities including retail shop(s);
  - h) country park;
  - i) play areas;
  - j) residential areas;
  - k) self and custom build housing; and
  - l) landscaping (hard and soft).
- 5) Prior to the approval of the first reserved matters application, a Development Framework Document including a revised masterplan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved Development Framework Document and masterplan.

The Development Framework Document and masterplan shall provide indicative locations for infrastructure and other key principles including:

- a) all new junctions and accesses to the site, internal roads and pedestrian and cycle routes, including:
  - i. a pedestrian and cycle link to Woodland Way,
  - ii. how the layout would limit the number of dwellings served from North Lane,
  - iii. how the layout would avoid a through route being created between North Lane and Monks Cross Link Road, and
  - iv. how the development would link to the area of land positioned centrally within the site that is excluded from the red line boundary;
- b) drainage and other utility works;
- c) primary school;
- d) community hub;
- e) playing pitches and amenity open space;
- f) community facilities including retail shop(s);
- g) country park;
- h) play areas;
- i) bus stops;
- j) residential areas, including indicative mix of type and size of dwellings for each area;
- k) self and custom build housing;



- l) landscaping (hard and soft) including retained trees and hedges and green corridors;
  - m) design principles having regard to the principles of a garden village; and
  - n) statement of crime prevention measures to be included within the design of the development, relating to the whole site and to each phase of the development.
- 6) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until landscape reserved matters for that phase have been submitted to and approved in writing by the Local Planning Authority. The landscape reserved matters shall include:
- a) a detailed landscaping scheme which shall show the number, species, height and position of trees and shrubs;
  - b) details of earthworks in connection with the formation of all landscaped areas, including the levels and contours to be formed and the relationship of the proposed earthworks to the surrounding landform;
  - c) details of the position, design and materials of all means of enclosure;
  - d) details of surface materials for all roads, footpaths and hard landscaped areas; and
  - e) a lighting scheme for ecologically sensitive areas, cycle routes, public footpaths and public areas.

Development shall be carried out in accordance with the approved landscape reserved matters.

- 7) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until an up to date (no more than 2 years old) Preliminary Ecological Appraisal for that phase has been submitted to and approved in writing by the Local Planning Authority.

If the Preliminary Ecological Appraisal recommends any further habitat or species surveys these shall also be submitted to and approved in writing by the Local Planning Authority. Any enabling or other works in that phase shall be undertaken in accordance with any recommendations set out in the approved Preliminary Ecological Appraisal.

- 8) Before or concurrently with the first application for the approval of reserved matters, a site wide Strategic Biodiversity Management Plan (SBMP) shall be submitted to and approved in writing by the Local Planning Authority. The site wide SBMP shall include the following:
- a) strategic aims and objectives of management, including securing biodiversity net gain using the most up to date DEFRA metric;
  - b) description and evaluation of the features to be managed;
  - c) framework of management options to achieve aims and objectives;
  - d) detail of the roles and responsibilities of personnel involved in delivery of the SBMP;

- e) framework for the monitoring of ecological features, target condition and remedial measures;
- f) framework for long term monitoring and management including funding.

The approved SBMP shall be adhered to and implemented throughout the construction period.

- 9) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a detailed Biodiversity Management Plan (BMP) for that phase has been submitted to and approved in writing by the Local Planning Authority.

Each BMP shall demonstrate how it accords with the principles in the SBMP approved under Condition 8 including biodiversity net gain using the most up to date DEFRA metric.

Each BMP shall include details of the following:

- a) details of the ecological features to be monitored and managed;
- b) management prescriptions which demonstrate how aims and objectives can be met;
- c) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period);
- d) details of the body or organisation responsible for implementation of the plan, including evidence of relevant skills and experience;
- e) details of ongoing monitoring, reporting and remedial measures.

In addition, each BMP shall include details of the following in relation to the construction phase:

- f) risk assessment of potentially damaging construction activities;
- g) identification of biodiversity protection zones;
- h) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- i) the location and timing of sensitive works to avoid harm to biodiversity features including a plan and schedule of all trees and shrubs on the site along with the spread of each tree as well as identifying those trees and shrubs to be retained and those to be felled;
- j) the times during construction when specialist ecologists need to be present on site to oversee works;
- k) responsible persons and lines of communication;
- l) the roles and responsibilities on site of an ecological clerk of works or similarly competent person;
- m) use of protective fences, exclusion barriers and warning signs; and
- n) how trees and shrubs to be retained will be protected during the development of the site, including by the following measures:

- i. a chestnut pale 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 3 metres of the crown spread of any tree; and
- v. no services shall be routed under the crown spread of any tree without the express written permission of the Local Planning Authority.

Each BMP shall be adhered to at all times during the construction of that phase and thereafter shall endure for the lifetime of the development.

- 10) No development shall commence until an archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation (Prospect Archaeology 2018 Report No. RED06/02); provision has been made for analysis, publication and dissemination of results; archive deposition has been secured and a verification report confirming the steps that have been taken has been submitted to and approved in writing by the Local Planning Authority.

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

Where archaeological features and deposits are identified, proposals for preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings, shall be submitted to and approved in writing by the Local Planning Authority before development commences. Development shall be implemented in accordance with the approved proposals.

- 11) A bespoke Site of Alternative Natural Greenspace (SANG) Management Plan Scheme for the Country Park shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The aims and works required to deliver the bespoke SANG will be in broad accordance with the Draft SANG Management Plan produced by Brooks Ecological (Report Ref ER- 4509-09 May 2022). Unless otherwise agreed in writing with the Local Planning Authority, the Country Park will be made available for public use for the purposes outlined in the SANG Management Plan before the occupation of the first dwelling. The Country Park will be managed in accordance with the aims outlined in the agreed SANG Management Plan Scheme for the lifetime of the development.

- 12) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a Construction Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction period for that phase.

The CEMP shall include the following details:

- a) arrangements for parking of vehicles for site operatives and visitors;
- b) storage areas for plant and materials used in the construction of the development;
- c) the location of site compounds;
- d) HGV routes that avoid the main existing Huntington settlement and details of how HGV records are kept;
- e) facilities for cleaning the wheels of vehicles leaving the site;
- f) road sweeping measures;
- g) a programme of works including phasing and measures for the control of construction traffic to and from the site, and within the site, during construction;
- h) a scheme for recycling/disposing of waste resulting from demolition;
- i) a risk assessment of dust impacts in line with the guidance provided by the Institute of Air Quality Management together with mitigation measures commensurate with the risks identified in the assessment;
- j) hours of construction and deliveries;
- k) noise mitigation measures and monitoring arrangements;
- l) activities which may result in excessive vibration, such as piling, and details of monitoring arrangements and mitigation measures; and
- m) artificial lighting and measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

The CEMP shall provide a complaints procedure. The procedure shall include how a contact number will be advertised to the public, what will happen once a complaint had been received, monitoring arrangements, how the complainant would be kept informed and what would happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken shall be kept and forwarded to the Local Planning Authority every month.

- 13) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a noise survey and scheme of noise insulation measures for protecting the approved dwellings in that phase from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. The noise insulation measures shall be installed as approved and a noise report demonstrating compliance with the approved noise insulation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling in that phase.

- 14) Prior to the occupation of any non-residential building that requires installation of any machinery, plant or equipment which is audible outside of that building, details of that machinery, plant or equipment shall be submitted to and approved in writing by the Local Planning Authority. The details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be implemented and operational prior to the first occupation of any such building and shall be retained in accordance with the approved details for the lifetime of the development.
- 15) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until an additional investigation and risk assessment has been undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment shall be undertaken by a competent person and a written report of the findings shall be produced. No development shall take place in that phase until the report of the findings has been submitted to and approved in writing by the Local Planning Authority. The report of the findings shall include:
- a) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
  - b) an assessment of the potential risks to:
    - i. human health,
    - ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - iii. adjoining land,
    - iv. groundwaters and surface waters,
    - v. ecological systems,
    - vi. archaeological sites and ancient monuments; and
  - c) an appraisal of remedial options and proposal of the preferred option(s).

The investigation and risk assessment shall be conducted in accordance with DEFRA and the Environment Agency's *Model Procedures for the Management of Land Contamination* CLR 11.

- 16) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a detailed remediation scheme for that phase to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 17) Prior to first occupation or use of any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) the remediation scheme for that phase

approved pursuant to Condition 16 must be carried out as approved and a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

- 18) In the event that unexpected contamination is found at any time when carrying out the approved development, it shall be reported in writing to the Local Planning Authority immediately. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Following completion of the measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.
- 19) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 20) No development shall commence until a site-wide strategy for foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority.

No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until details of foul and surface water drainage for that phase have been submitted to and approved in writing by the Local Planning Authority.

All drainage works shall be carried out in accordance with the timescales in the Phasing Strategy approved pursuant to Condition 4 and in accordance with the strategy and details approved pursuant to this condition.

- 21) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until samples of each external material (including materials for walls and roofs) for each new building within that phase have been submitted to and approved in writing by the Local Planning Authority. The samples shall include the colour, texture and bonding of brickwork, mortar treatment and the colour and texture of render.
- 22) Prior to the occupation of any dwelling with in-curtilage car parking (or allocated off-plot parking), each dwelling shall incorporate sufficient capacity (including any necessary trunking/ducting) within the electricity distribution board for one dedicated radial AC single phase connection (minimum 32A) for electric vehicle charging.
- 23) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a scheme for the provision of electric vehicle charging facilities for non-allocated parking, shared off-plot parking, non-residential and commercial parking within that phase has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include the location, specification and timescales for installation of all active electric vehicle charging facilities and provide details of the passive provision proposed across the phase. Charging points shall be located in prominent positions and shall be for the exclusive use of electric vehicles. Where additional parking bays are identified for the future installation of electric vehicle charging

points (passive provision) they shall be provided with all necessary ducting, cabling and groundworks.

The scheme shall include a Management Plan detailing the management, maintenance, servicing and access/charging arrangements for each electric vehicle charging point for a minimum period of 10 years. The Management Plan shall be implemented as approved.

- 24) The total number of residential units shall not exceed 970.
- 25) Building heights shall not exceed 12m and shall be in general conformity with the Building Heights Parameter Plan (Ref: PL1377-VW-016-2 Issue 04).
- 26) All non-residential buildings hereby approved with a total internal floorspace of 100sqm or greater shall achieve BREEAM “*excellent*” or equivalent. Prior to the construction of any non-residential building, details of measures to secure compliance with this condition shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 27) Before or concurrently with the first application for the approval of reserved matters, a strategy for the development of at least 5% self or custom build plots across the whole site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include a design code setting out the following details:
  - a) appearance
  - b) landscaping
  - c) layout
  - d) scale

The self and custom build plots shall be provided with services (access to a public highway and connections for electricity, water and waste water) to the extent that they can be defined as serviced plots, as defined in The Self-build and Custom Housebuilding Regulations 2016.

The development of the self and custom build dwellings hereby approved shall not be carried out unless as “*self-build or custom-build*” development as defined in the Glossary in Annex 2 of the National Planning Policy Framework or any subsequent replacement document.

All applications for approval of reserved matters for the self or custom build dwellings shall be in accordance with the approved strategy.

- 28) No development shall commence until a scheme for the provision of sports pitches and open spaces has been submitted to and approved in writing by the Local Planning Authority. The scheme shall set out details of the size, location, type, design and specification of the sports pitches, changing facilities and open spaces as well as their management and maintenance. The sports pitches and open spaces shall be provided in accordance with the Phasing Strategy approved pursuant to Condition 4, shall be completed in accordance with the scheme approved under this condition and shall thereafter be managed and maintained in accordance with that scheme for the lifetime of the development.

- 29) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until details of the equipped play areas within that phase have been submitted to and approved in writing by the Local Planning Authority. The details shall include the on-site management and maintenance of the play areas. The play areas shall be provided in accordance with the Phasing Strategy approved pursuant to Condition 4, shall be completed in accordance with the details approved under this condition and shall thereafter be managed and maintained in accordance with those details for the lifetime of the development.
- 30) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until details of the location, design and materials of covered and secure cycle parking for all dwellings and other buildings in that phase have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall accord with guidance within Local Transport Note 1/20 *Cycle Infrastructure Design*. It shall be implemented in accordance with the approved details prior to the first occupation of the dwelling or building to which it relates.
- 31) Prior to the commencement of works to North Lane, which shall be generally in accordance with plan 13035/GA/03 Rev C - *Proposed Site Access onto North Lane* hereby approved, further details of the works to pedestrian and cycling facilities to link to existing facilities to the west of the site and speed management measures to slow traffic to the proposed 30mph speed limit (including signage, lighting, drainage and other related works) shall be submitted to and approved in writing by the Local Planning Authority. The works to North Lane shall be carried out in accordance with the details approved pursuant to this condition and the Phasing Strategy approved pursuant to Condition 4.
- 32) Prior to the commencement of works to Monks Cross Link Road, which shall be generally in accordance with plan 13035/GA/01 Rev E - *Proposed Southern Access onto Monks Cross Link* hereby approved, further details of the works to pedestrian and cycling facilities along Monks Cross Link Road to Monks Cross Drive including signage, lighting, drainage and other related works shall be submitted to and approved in writing by the Local Planning Authority. The pedestrian and cycle facilities along Monks Cross Link Road shall be carried out in accordance with the details approved pursuant to this condition and the Phasing Strategy approved pursuant to Condition 4.
- 33) Details of the internal design of the spine road (tree-lined boulevard) together with modal filters to preclude vehicular access through the site between North Lane and Monks Cross Link Road, other than for emergency access, pedestrian or cycle access, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) which includes part of the spine road (tree-lined boulevard). The modal filters shall accord with the Development Framework Document approved pursuant to Condition 5. Any modal filters so approved shall be installed before the occupation of the phase in which they are located and shall thereafter be retained as approved for the lifetime of the development.
- 34) Details of how access is to be provided to the area of land in the western part of the site that is excluded from the red line boundary shall be submitted to and



- approved in writing by the Local Planning Authority prior to the commencement of development on any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) which includes part of the access route to the said land. The access details shall accord with the Development Framework Document approved pursuant to Condition 5. Any access details so approved shall be completed before the occupation of the phase in which they are located and shall thereafter be retained as approved for the lifetime of the development.
- 35) The indicative mix of type and size of dwellings included in the Development Framework Document approved pursuant to Condition 5 shall include an indicative dwelling mix for each residential area and shall demonstrate how the mix of dwellings across the site will contribute to meeting the housing needs of the city, taking account of up to date information on housing needs including evidence in the most recent Strategic Housing Market Assessment. Reserved matters for each phase (as defined in the Phasing Strategy approved pursuant to Condition 4) shall demonstrate how they conform to the Development Framework Document, with regard to housing mix, having regard to any other relevant evidence of housing needs at that time.
  - 36) No part of the primary school site shall be occupied until a scheme of community use has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of what facilities will be made available for community use and at what times, booking arrangements and management responsibilities. The school shall be operated in accordance with the approved scheme of community use.
  - 37) A scheme for community facilities and social infrastructure to be provided on site, including retail provision, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, location, type(s), design and specification of any community facilities as well as their on-site management and maintenance. The community facilities and social infrastructure shall be provided in accordance with the Phasing Strategy approved pursuant to Condition 4 and in accordance with the scheme approved under this condition and shall thereafter be maintained and managed in accordance with that scheme for the lifetime of the development.
  - 38) A three stage road safety audit shall be carried out in line with advice set out in GG119 Road Safety Audit for all new junctions and access points, the improvements to pedestrian and cycle facilities along North Lane, the pedestrian and cycle facilities along Monks Cross Link Road and the pedestrian and cycle link to Woodland Way. Reports for Stages 1 and 2 shall be submitted to and approved in writing by the Local Planning Authority prior to highway works commencing on site. The Stage 3 report shall be submitted to and approved in writing by the Local Planning Authority prior to the highway works becoming operational.
  - 39) All existing vehicular crossings on North Lane not shown as being retained on the approved plans shall be removed and a matching surface introduced to correspond with adjacent levels within six months of such crossings becoming redundant.

*End of schedule of conditions*

## **Annex C Shadow Habitats Regulation Assessment**

### **Shadow Habitat Regulations Assessment (sHRA)**

## **Land North of Monks Cross**

Redrow Homes Ltd

Report Reference: ER-4509-07-C

19/05/2022

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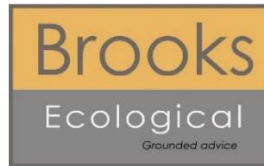
Report Title:	HRA Screening Report Land North of Monks Cross
Report Reference:	ER-4509-07-C
Written by:	Christopher Shaw BSc (Hons) MCIEEM Senior Ecologist
Technical Review:	Rob Weston BSc MSc MCIEEM Technical Director
QA:	Joanna Cornfield BA (Hons) MSc MCIEEM Senior Advisor
Approved for Issue:	Rob Weston BSc MSc MCIEEM Technical Director
Date:	Written 30/10/2020 Amended 16/02/2021 Amended 11/05/2022 Amended 19/05/2022

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*Brooks Ecological Ltd has prepared this report for the sole use of Redrow Homes Ltd. The information which we have prepared and provided is in accordance with the CIEEM's Code of Professional Conduct. We confirm that the opinions expressed are our true and professional bona fide opinions. This report does not constitute legal advice. The report is in accordance with the agreement under which our services were performed. No warranty, express or implied, is made as to the advice in this report or any other service provided by us. This report may not be relied upon by any other party except the person, company, agent or any third party for whom the report is intended without the prior written permission of Brooks Ecological Ltd. This report presents a snapshot of the site at the date it was surveyed; the conditions and the species recorded present, or likely absent, can change rapidly. Resurvey is recommended to any third-party seeking reliance on this report. The content of this report may, in part, be based upon information provided by others and on the assumption that all relevant information has been provided by those parties from whom it has been requested. Information obtained from any third party has not been independently verified by Brooks unless otherwise stated in the report. This report is the copyright of Brooks Ecological Ltd. Unauthorised reproduction or usage by any person is prohibited.*

Department for Levelling Up, Housing & Communities  
Phil Barber, Decision Officer  
Planning Casework Unit  
3rd Floor Fry Building  
2 Marsham Street  
London SW1P 4DF

Email: [PCC@levellingup.gov.uk](mailto:PCC@levellingup.gov.uk)



Unit A, 1 Station Road, Guiseley,  
Leeds, LS20 8BX  
**01943 884451**  
[admin@brooks-ecological.co.uk](mailto:admin@brooks-ecological.co.uk)  
[www.brooks-ecological.co.uk](http://www.brooks-ecological.co.uk)  
Registered in England Number 5351418



Department for Levelling Up, Housing & Communities  
Phil Barber, Decision Officer  
Planning Casework Unit  
3rd Floor Fry Building  
2 Marsham Street  
London SW1P 4DF

Email: [PCC@levellingup.gov.uk](mailto:PCC@levellingup.gov.uk)

**Introduction**

1. Brooks Ecological Ltd. were commissioned by Redrow Homes Ltd to carry out a Habitat Regulation Assessment (HRA) Screening report for their proposed development Site known as Land North of Monks Cross in Huntington, York (see Figure 1), in order to assess whether the proposed activities associated with the Site's development are likely, under the Habitat Regulations, to have a significant effect on Strensall Common SAC or its qualifying interests.

The Need for this Assessment

2. The Local Planning Authority now request a HRA Screening report for any development that falls within a 5.5km zone of influence around Strensall Common SAC. The Site is situated approximately 2.3km - 3.2km southwest of Strensall Common SAC (see Figure 2) and thus falls within its zone of influence.

**Figure 2** Relationship between the Site & Strensall Common SAC (1-5km radii shown).



**Figure 1** The Site boundary - red line



## Principles of Habitat Regulation Assessments

The Habitat Regulations Directive (92/43/EEC) established a network of Natura 2000 sites, with the goal of protecting sites of exceptional ecological importance. These include Special Protection Areas (SPA's), Special Areas of Conservation (SAC) and (according to national planning policy) Ramsar sites.

The Habitat Regulations Directive (92/43/EEC) is transposed into UK law as the Conservation of Habitats and Species Regulations (Amendment) (EU Exit) Regulation 2019. Following the UK's exit from the EU, SAC's and SPA's in the UK no longer form part of the EU's Natura 2000 ecological network and instead fall within the new National Site Network (NSN).

Under the Habitats Regulations the granting of approval for developments is restricted if they are likely to have a significant effect on an SAC, SPA or Ramsar site. Guidance on undertaking assessment of plans or projects that may impact upon designated European sites recommends a staged approach. These stages are:

1. Screening- to check if the proposal is likely to have a significant effect on the site's conservation objectives. If not, you do not need to go through the appropriate assessment or derogation stages.

2. Appropriate assessment- to assess the likely significant effects of the proposal in more detail and identify ways to avoid or minimise any effects.

3. Derogation- to consider if proposals that would have an adverse effect on a European site qualify for an exemption.

### **Stage 1 – Screening**

This stage is a simple assessment to check or screen if a proposal is (i) directly connected with or necessary for the conservation management of a European site, (ii) risks having a significant effect on a European site on its own or in combination with other proposals. This stage considers the effects of development in the absence of mitigation. Mitigation measures are only considered if the assessment progresses to Stage 2 – Appropriate Assessment.

#### Assess the likely significant effect

Stage 1 seeks to assess if the proposal could have a significant effect on a European site that could affect its conservation objectives. This should only consider the risk or possibility of a significant effect based on evidence, not hypothetical risks.

The following should be considered: (i) the area over which the proposed activity would take place, (ii) any overlaps or interaction with the protected features of a site in a direct or indirect way, and (iii) the effect of any essential parts of the proposal, such as its location, timing or design.

Only where the risk of the proposal having a significant effect can not be ruled out, does the assessment progress to Stage 2.

#### In combined effects:

It must be checked if this effect could combine with any other proposal planned or underway and affects the same site, that on its own also does not have a significant effect. If, in combination, the proposal could have a significant effect on the European site, the assessment will then progress to Stage 2.

To assess in combination effects, the following will be reviewed:

- applications for a new permission
- applications to change an existing permission
- granted permissions that have not begun or been completed
- granted permissions that need renewing
- plans that have been drafted but not yet adopted

A proposal, alone or in combination with other proposals, could cause a significant effect on a European site if there's:

- a reduction in the amount or quality of designated habitats or the habitats that support designated species
- a limit to the potential for restoring designated habitats in the future
- a significant disturbance to the designated species
- disruption to the natural processes that support the site's designated features
- only reduction or offset measures in place

If there's no likely significant effect on the site, either alone or in combination, then the assessment does not need to progress to Stage 2.

## **Stage 2 – Appropriate Assessment (AA)**

Where there is a risk of a likely significant effect occurring, or there is not enough evidence to rule out a risk, then a more detailed and thorough assessment is required, which is appropriate for the nature and complexity of the proposals. The AA should:

- assess the likely significant effects of a proposal on the integrity of the site and its conservation objectives
- consider ways to avoid or reduce (mitigate) any potential for an 'adverse effect on the integrity of the site'

The AA appropriate assessment aims to demonstrate whether an adverse effect on the integrity of the site from the proposal can be ruled out or not. As part of the assessment, any mitigation measures that have been included as part of the proposal to remove or reduce potential adverse effects should be considered.

### Test the Integrity of a European Site

The integrity of the site will be adversely affected if a proposal could, for example:

- destroy, damage or significantly change all or part of a designated habitat
- significantly disturb the population of a designated species, for example, its breeding birds or hibernating bats
- harm the site's ecological connectivity with the wider landscape, for example, harm a woodland that helps to support the designated species from a nearby European site
- harm the site's ecological function, or its ability to survive damage, and reduce its ability to support a designated species
- change the site's physical environment, for example, by changing the chemical makeup of its soil, increasing the risk of pollution or changing the site's hydrology
- restrict access to resources outside the site that are important to a designated species, for example, food sources or breeding grounds
- prevent or disrupt restoration work, or the potential for future restoration, if it undermines the site's conservation objectives

If mitigation measures are needed to avoid adverse effects, the Competent Authority should attach conditions or take other necessary steps to make sure the measures are carried out.



**Baseline Information - Summary**

Application Site Location

3. The Site is located along the eastern edge of Huntington, immediately north of Monks Cross. It encompasses a large area of mixed farmland, as shown previously in Figure 1 above.
4. Farmland abuts the Site's northern and eastern boundaries, with retail development to the south (Monks Cross) and a mix of farmland and residential development to the west (Huntington).
5. The Site is located between 2.3km and 3.2km southwest of Strensall Common SAC, with farmland separating the two.

Brief description of proposals

6. Proposals are for a large-scale residential development, with a school and associated public open space (POS) and sustainable urban drainage system (SUDS). This can be seen in the illustrative masterplan shown opposite.

Public Open Space Provision

7. A large amount of POS will be incorporated into the proposals, with green infrastructure and play areas scattered throughout the residential development itself, whilst a single large area of POS will be created to the east, with a dual function of drainage and recreation. This area will be fitted with a network of footpaths that are well connected to the residential development.

**Figure 3** Illustrative masterplan





## Strensall Common SAC

### Description

8. Strensall Common is a 570ha site supporting extensive areas of wet and dry heath. The site is represented predominantly by *Erica tetralix* – *Sphagnum compactum* wet heath, although its extent has been reduced by drainage. It is a noted locality for marsh gentian *Gentiana pneumonanthe*, narrow buckler-fern *Dryopteris carthusiana* and the dark-bordered beauty moth *Epione vespertaria* as it is associated with creeping willow *Salix repens* on the wet heath. There is also a complex mosaic of wet heaths with *Erica tetralix* and dry heath elements. The *Calluna vulgaris* – *Deschampsia flexuosa* dry heath is noted for petty whin *Genista anglica* and bird's-foot.

### Qualifying Habitats

9. Annex I habitats that are a primary reason for selection of this site:
- 4010 Northern Atlantic wet heaths with *Erica tetralix*
  - 4030 European dry heaths

### Current threats

10. The site is used for training by the MOD, but this is not thought to compromise the interest of the site. The main issue currently affecting habitats is a lack of management and hence scrub encroachment; this is being controlled through management agreements with the MOD and their tenants.
11. Public access via PRoWs and Permissive Paths is permitted when training is not taking place and is subject to an integrated management plan agreed between the MOD, NE and Yorkshire Wildlife Trust. The absence of open access limits the exposure of the interest features to effects associated with visitor pressure.

**Figure 4** Strensall Common SAC



**Screening Stage: Test of Likely Significant Effect (TOLSE)**

12. The following table provides Stage 1 of the shadow Habitats Regulations Assessment - the Test of Likely Significant Effects (TOLSE) for each of the NSN sites to be assessed – in this case Strensall Common SAC.

**Table 1** Screening Assessment

Sensitive Interest Feature:	Potential hazard:	Potential exposure to hazard and mechanism of effect/impact if known:
Northern Atlantic wet heath & European dry heath	Direct physical loss or damage to habitat	<p>The Site is well separated from Strensall Common SAC by at least 2.3km of farmland. Direct physical damage or loss of habitat will therefore not occur.</p> <p><u>Significant effect likely to occur:</u> <b>No</b>  <u>Progress to Appropriate Assessment:</u> <b>No</b></p>
	Damage to habitats resulting from increased recreation pressure.	<p>Strensall Common has limited Public Access, due to its use by the MOD; however, access is still permitted.</p> <p>A visitor survey undertaken by Footprint Ecology (2019), identified the zone of influence around Strensall Common SAC to be 5.5km. Data collected suggests relatively low levels of use by members of the public, with dog walking being one of the main reasons for visiting. Some of the key issues at the site include disruption to the grazing as a result of dogs off leads and dog fouling. Dog walkers come from local villages and a marked or step increase in housing in those areas may result in increased recreation pressure. In the absence of mitigation, residential development within 5.5km poses a risk of impacting on Strensall Common.</p> <p>The Visitor Survey predicted that the Site in isolation would result in a <u>2% increase in access</u> to the common. A minor increase in recreational pressure is therefore predicted.</p> <p><u>Significant effect likely to occur:</u> <b>Potentially</b>  <u>Progress to Appropriate Assessment:</u> <b>Yes</b></p>
	Contamination eg. introduction of heavy metals, pesticides, nutrients, air and water pollution, introduction of non-native species etc	<p>Strensall Common is over 2.3km from the Site entrance, where most traffic related air pollution would occur. Site is also too far away (over 200m) to be affected by any dust generated by the development.</p> <p>There are no watercourses linking the development site to Strensall Common which could transport contamination.</p> <p>Strensall Common is too far from the Site for invasive species to colonise it as a result of escapes of non-native species from landscape planting.</p> <p>Strensall Common is considered too far away for new residents to be likely to deliberately visit the site to release non-native species.</p> <p><u>Significant effect likely to occur:</u> <b>No</b>  <u>Progress to Appropriate Assessment:</u> <b>No</b></p>

Sensitive Interest Feature:	Potential hazard:	Potential exposure to hazard and mechanism of effect/impact if known:
	Changes to Hydrology	<p>There is no hydrological link between the Site and Strensall Common SAC. All drainage ditches on Site will eventually flow southwards towards the River Foss and River Ouse, which will then discharge into the Humber Estuary. Strensall Common is located upstream of the Site.</p> <p><u>Significant effect likely to occur:</u> <b>No</b>  <u>Progress to Appropriate Assessment:</u> <b>No</b></p>

## Appropriate Assessment

13. As outlined in Table 1, most significant adverse effects on Strensall Common SAC can be scoped out at the Screening Stage. However, the Visitor Survey has identified the potential for any new development within a 5.5km radius to express an effect on Strensall Common SAC through increased recreational pressure.
14. Damage to Qualifying habitats at Strensall Common, resulting from increased recreation, is therefore taken through to Appropriate Assessment.

### **Damage to Habitats from Increased Recreation**

#### Summary of Visitor Survey results

15. Following submission of the Local Plan in May 2018, the Council received correspondence from Natural England regarding their HRA. Natural England stated that in reference to the threat posed by recreational pressure on Strensall Common, that they 'did not agree that adverse effects on integrity can be ruled out based on the evidence available'.
16. Accordingly, the Council commissioned Footprint Ecology to undertake a robust and comprehensive visitor assessment survey. The Visitor survey was undertaken in August and September 2018. Key findings included the following:
17. Virtually all of the visitors surveyed (95%) had undertaken a day trip / short visit directly from home that day. Nearly two-thirds of those interviewed (63%) brought at least 1 dog and most of those interviewed (70%) cited dog walking as their main reason for visiting. Other reasons being walking (14%), outing with family (6%), jogging (5%), cycling (2%) and meeting with friends (2%).
18. Around a third (32%) of all interviewees were visiting daily, with dog walkers visiting the most frequently, with 43% visiting daily and a further 21% visiting most days. Most of these visits were short, with 73% spending less than an hour at the site. Most interviewees (78%) indicated that they visited Strensall Common equally all year round.
19. The rural feel/wild landscape was the most common given reason underpinning site choice (52% of interviewees). Close to home was also important (51% of interviewees) and was the most commonly given single main reason for choosing Strensall Common as a destination.

#### Impacts of recreation at Strensall Common

20. The Visitor Survey highlighted the following potential impacts of recreational pressure on Strensall Common:
  - Trampling, leading to vegetation wear, soil compaction, erosion;
  - Increased fire incidence;
  - Disturbance to grazing livestock, resulting in grazing animals avoiding areas of the Common and potential difficulties achieving the right levels of types of grazing;
  - Nutrient enrichment from dog fouling;
  - Contamination of ponds;
  - Contamination from fly tipping, litter etc.; and
  - Damage to infrastructure (gates etc.), whether through wear and tear or direct damage from vandalism.
21. A habitat survey undertaken in September 2018 indicates that recreational impacts are currently evident at Strensall Common, although these are mostly limited in extent and severity and are generally in found in fairly close proximity to the car parks.
22. The most concerning impact is worrying of livestock by dogs, which is already resulting in loss of animals and may jeopardise future grazing. Appropriate grazing will be a vital tool in restoring the SAC to favourable condition.
23. The allocations within the submission version of the York Local Plan include 6653 dwellings within 7.5km of Strensall Common. This represents approximately a 14% increase in the amount of housing. Based on the postcodes of interviewed visitors and the distribution of the housing allocations the Visitor Survey predicts a 24% increase in access at Strensall Common, when the Queen Elizabeth Barracks at Strensall is included. With this removed, the predicted increase is only 7% for all other applications.
24. Given the scale of increase in access predicted, the proximity of new development and concerns relating to current impacts from recreation, adverse integrity on the SAC cannot be ruled out, as a result of the quantum of development proposed.

Potential Approach to Mitigation

25. The Visitor Survey Report provided the following recommendations for mitigation. Some of which can be incorporated into the layout of new developments – but most of which would require action directly from the Local Planning Authority, setting up a Strategic Strensall Common Mitigation Strategy, aimed at addressing the effects of all developments cumulatively within a 7.5km radius of Strensall Common.

*(i) Alternative Greenspace*

26. Diverting visitors away from the SAC by providing alternative greenspace is one mitigation option. Suitable Alternative Natural Greenspace (SANGs) are a key component of mitigation approaches around other heathlands, and are considered as suitable mitigation for developments set back from the European site boundary (beyond 400m).

27. The visitor survey results indicate that visitors to Strensall Common undertake relatively long routes, with a median route length of 2.5km when clipped to the SAC boundary. Significant areas of green space would be necessary to accommodate routes of this length. The rural/wild landscape was a key factor determining interviewee's choice of site, again suggesting that any alternative green space provision would have to be significant and have a semi-natural feel.

28. For new development that is set well back from the SAC, such that the main means of access is by car, provision of suitable alternative natural greenspace of a suitable size and quality could work to absorb access, particularly if the new greenspace was targeted towards dog walkers.

*(ii) Wardens*

29. Wardens or Rangers can provide a presence on site, able to directly talk to visitors and deal with any problems. At Strensall Common such a role could involve:

- Facilitating the grazing management through liaison with visitors, highlighting where grazing animals are and acting as a 'looker';
- Deterring anti-social behaviour such as motorbikes around the carparks, fire, graffiti etc;
- Dealing with any issues, such as gates left open, bins needing emptying, damage to infrastructure and on-hand to direct the emergency services in the case of a fire;
- Talking to visitors to make them aware of the conservation interest and any particular issues (e.g. fire risks, training, livestock presence);

- Directly influencing the behaviour of any visitors likely to cause problems, for example dogs off leads around livestock;
- Positively engaging with the local community through attending events, hosting guided walks, encouraging wildlife recording and volunteer involvement etc.

*(iii) Decreasing drainage*

30. Reducing the amount of drainage, with the potential to restore the site so that it is much wetter. This is likely to be beneficial to the SAC habitats and will reduce the risk of fire. Decreasing drainage would help revert wet heath, mire and transitional vegetation communities towards wetter forms that would once have characterised Strensall Common. It would not affect the dry heath habitat that is on raised ridges.

*(iv) Signage*

31. Signage and updated interpretation will play a role in directing visitors and helping explain the issues. Changes to the drainage and the provision of boardwalks and such infrastructure may deter cyclists and horse riders and it may be necessary to review these particular activities and provide some kind of dedicated routes for these activities. These would not necessarily need to be within the SAC.

32. Some of the particular nature conservation interest at Strensall Common is associated with ponds and some of the key ponds are directly adjacent to well-used paths. It is clear from the automated counter images that many of the dogs leaving the site are wet and muddy, suggesting that even during dry conditions they were finding water to splash in. In the key pools, low fencing and signage may be necessary to deter dogs from entering the water or limiting the areas that become turbid.

Summary

33. Recreational impacts are already evident at Strensall Common, although these are currently limited in extent and severity.

34. Based on the Visitor Survey Report, if all allocations within 7.5km of Strensall Common were developed (excluding Queen Elizabeth Barracks at Strensall which has now been removed for the Allocation Plan), it is predicted that there would be a 7% increase in access to Strensall Common. If The Land North of Monks Cross were to be removed, the increase in access would reduce to 5%, meaning that the Land North of Monks Cross would account for only a 2% increase in access to Strensall Common in isolation.



**Mitigation**

- 35. The development at Land North of Monks Cross would account is predicted to result in a c.2% increase in access to Strensall Common SAC.
- 36. In isolation, the Site is not expected to result in significant adverse effects on the qualifying habitats at Strensall Common SAC. However, in combination with all other developments locally, there is a risk of adverse effects. The following mitigation is therefore proposed, in keeping with the recommendations outlined in the Footprint Ecology Visitor Survey Report.

Creation of a SANG

- 37. A large block of greenspace will be created to the east of the Site, primarily for the purpose of water attenuation. Under the scheme originally submitted, this was proposed as a Country Park.
- 38. This land could readily fulfil the requirements of a SANG, in line with Natural England guidelines for SANG creation (i.e. size, footpath routes, parking provision, etc.).
- 39. Plans for the SANG have been draw up to demonstrate that this is achievable (see figure opposite). SANG is a tried and tested mitigation strategy for alleviating recreational pressure from new developments on SAC/SPA's, and was recommended as a suitable mitigation strategy in the Visitor Survey report.
- 40. With this mitigation in place, no significant effect would be anticipated from the proposed development, either in isolation or in combination with other allocation sites locally.

**Figure 4** New Country Park designed to meet criteria for SANG



## Evaluation & Conclusion

41. This shadow HRA has assessed whether the proposed development at Land North of Monks Cross will have a significant effect on Strensall Common SAC or its qualifying interests.
42. This assessment has been informed by ecological survey, review of available information and a desk-based survey undertaken by Brooks Ecological. The Visitor Survey undertaken by Footprint Ecology has also been referenced.
43. The first part of this assessment (Screening Stage) took the form of a Test of Likely Significant Effect (TOLSE). Due to the proposed development type the following potential impact pathway has been identified that could potentially impact the identified NSN site.
  - (i) Direct physical loss or damage to habitat
  - (ii) Contamination e.g. introduction of heavy metals, pesticides, nutrients, air and water pollution, introduction of non-native species etc
  - (iii) Changes to Hydrology
  - (iv) Damage to habitats resulting from increased recreation pressure.
44. This concluded that, without mitigation, there will not be a significant effect on habitats associated with Strensall Common SAC - from impacts (i), - (ii), both alone or in-combination.
45. However, from the Visitor Survey, it is stated that any development within 5.5km of Strensall Common SAC could have an effect from increased recreational pressure. This was therefore taken through to Appropriate Assessment (Stage 2).
46. The Visitor Survey predicts that if all allocation sites within 7.5km of Strensall Common were developed (this being in the region of 6,000 houses), this would lead to a 7% increase in access to the Common. For the application site in isolation, the increase in footfall at Strensall Common was predicted to be 2%, which in isolation is not expected to be a significant effect.
47. However, in-combination with all other residential developments locally, a significant effects on Strensall Common is possible. As such, mitigation will be required on this, and all other residential developments within the zone of influence for Strensall Common, to reduce the in-combination effects of increased visitor pressure.
48. As mitigation, a large county park, which can also function as a SANG is proposed. This could be detailed in a SANG Management Plan, which could be secured through a Condition of planning.
49. Similar mitigation will be required on all other residential allocation schemes locally.
50. It is presumed that York City Council will act on the recommendations outlined in the Visitor Survey and are in the process of designing a Strategic Mitigation Strategy (or SAMM) for Strensall Common to deal with the cumulative impacts of recreation pressure from all other allocations within the SAC's Zone of Influence. Where this has been done by other Authorities, (for example Bradford Council and South Pennine Moors SAC, SPA), a fund has been set up, into which developers can contribute (through S106) to the funding of the mitigation, commensurate to the scale of the development (no. of residential Units) and the scale of the proposed impact (distance to the SAC).
51. Should a similar Authority Scale mitigation scheme be implemented for Strensall Common SAC, the developer could contribute to its funding through a S106.
52. With this proposed SANG in place, a neutral effect on Strensall Common SAC is predicted from the proposed development at Land North of Monks Cross, both in isolation and in combination with other allocation sites. Progression to Stage 3 (Derogation Tests) is therefore not required.

# Appendix 1 Strensall Common SAC Citation

## EC Directive 92/43 on the Conservation of Natural Habitats and of Wild Fauna and Flora

### Citation for Special Area of Conservation (SAC)

**Name:** Strensall Common  
**Unitary Authority/County:** York  
**SAC status:** Designated on 1 April 2005  
**Grid reference:** SE651598  
**SAC EU code:** UK0030284  
**Area (ha):** 569.63  
**Component SSSI:** Strensall Common SSSI

#### Site description:

Strensall Common is an example of acidic lowland heath represented predominantly by *Erica tetralix* – *Sphagnum compactum* wet heath, although its extent has been reduced by drainage. It is a noted locality for marsh gentian *Gentiana pneumonanthe*, narrow buckler-fern *Dryopteris carthusiana* and the dark-bordered beauty moth *Epione vespertaria* as it is associated with creeping willow *Salix repens* on the wet heath.

There is also a complex mosaic of wet heaths with *Erica tetralix* and dry heath elements. The *Calluna vulgaris* – *Deschampsia flexuosa* dry heath is noted for petty whin *Genista anglica* and bird's-foot *Ornithopus perpusillus*.

**Qualifying habitats:** The site is designated under **article 4(4)** of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

- European dry heaths.
- Northern Atlantic wet heaths with *Erica tetralix* (wet heathland with cross-leaved heath).

This citation relates to a site entered in the Register of European Sites for Great Britain.  
Register reference number: UK0030284  
Date of registration: 14 June 2005  
Signed: *Trevor Salmon*  
On behalf of the Secretary of State for Environment,  
Food and Rural Affairs



Strensall Common SAC UK0030284  
Compilation date: May 2005 Version: 1  
Designation citation Page 1 of 1





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# Report to the Secretary of State

by **David Prentis BA BPI MRTPI**

an Inspector appointed by the Secretary of State

Date 17 March 2022

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**TOWN AND COUNTRY PLANNING ACT 1990**

**CITY OF YORK COUNCIL**

**APPEAL BY REDROW HOMES (YORKSHIRE) LIMITED**

**REGARDING**

**SITE TO THE WEST OF THE A1237 AND SOUTH OF NORTH LANE,  
HUNTINGTON, YORK**

Inquiry held on 25 to 28 January 2022

Site to the west of the A1237 and south of North Lane, Huntington, York

File Ref: APP/C2741/W/21/3282969

**File Ref: APP/C2741/W/21/3282969****Site to the west of the A1237 and south of North Lane, Huntington, York**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Redrow Homes (Yorkshire) Limited against the Council of the City of York.
- The application Ref 18/00017/OUTM is dated 4 January 2018.
- The development proposed is:  
*Residential development of circa 970 dwellings with associated demolition, infrastructure works, open space, primary school, community facilities and convenience store (use class A1; not exceeding 200sqm floorspace) on land west of Monks Cross Link Road and a country park with drainage infrastructure east of Monks Cross Link Road.*

**Summary of recommendation: that the appeal be allowed, and planning permission be granted, subject to conditions****CONTENTS**

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## PRELIMINARY MATTERS

1. The Inquiry sat for four days from 25 to 28 January 2022. My visit to the site and surrounding area was carried out on 31 January 2022. By agreement with the parties the visit was unaccompanied.
2. The application was submitted on 4 January 2018 incorporating ownership Certificate B, confirming that notice had been served on various owners. An amended Certificate B was submitted on 12 January 2022 because an additional owner had been identified. Confirmation was provided that the additional owner was aware of the appeal and did not wish to comment on it. No prejudice therefore arises as a result of the amended certificate.
3. The application was submitted in outline. The means of access is to be determined at this stage. Appearance, landscaping, layout and scale would be reserved matters. The application documents included an illustrative masterplan and parameters plans which provided information about the potential layout and scale of the development, including indicative landscaping. I have taken account of these documents in making my assessments, with due regard to their illustrative status.
4. The appeal was recovered for determination by the Secretary of State because it relates to significant development in the Green Belt. The Council's statement of case indicated that the Council opposed the appeal on the basis that there were unresolved transport, highways and access issues, such that the benefits of the scheme would not outweigh the harm to the Green Belt.
5. Discussions continued between the Council and the appellant in the period leading up to the Inquiry and during the event. This resulted in a significant narrowing of the matters in dispute. One matter that was agreed was that there would be a small car park to serve the proposed country park. This resulted in an amendment to one of the application plans. A proposed roundabout on Monks Cross Link Road (MCLR), one of the main accesses to the scheme, was amended by the addition of a fourth arm leading into the country park. I was satisfied that this would be a minor change that would be unlikely to result in any significant impacts on people or the environment that had not already been assessed. Accordingly, I indicated that I would report on the appeal on the basis of the amended plan<sup>1</sup>.
6. The application was accompanied by an Environmental Statement (ES). Shortly before the Inquiry, further environmental information was provided in response to a request under Regulation 25<sup>2</sup>. A further request was made following receipt of that information, so it was necessary to allow a period following the Inquiry for a further response to be provided. The additional information was subsequently

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<sup>1</sup> Northern Roundabout Site Access 13035-GA-05-Rev A (ID.01)

<sup>2</sup> Town and Country Planning (Environmental Impact Assessment) Regulations 2017 – the request sought information about aspects of the project definition; consideration of alternatives; baseline data; assessment methodologies for flood risk, ecology and ground conditions; conclusions on likely significant effects for flood risk, ground conditions, agricultural land, lighting, demolition and cumulative effects.

submitted<sup>3</sup>. I have taken the environmental information into account in my assessment and recommendation.

7. Discussions continued on a s106 Agreement (the Agreement) during the Inquiry. These were concluded at a late stage, so it was necessary to allow a period following the Inquiry for a signed Agreement to be submitted. The version that was discussed at the Inquiry was in its final agreed form. The signed Agreement is dated 10 February 2022<sup>4</sup>.
8. The Agreement contains obligations relating to education, highways and transport, affordable housing and open space. Many of the obligations are subject to phasing mechanisms relating to stages in the implementation of the appeal scheme. The education provisions include:
  - contributions to early years/nursery provision off-site;
  - contributions to additional secondary school places off-site;
  - contributions to additional places for those with special educational needs and disabilities (SEND); and
  - contributions to SEND transport.
9. The appellant and the Council intend that a primary school be built within the appeal site. To this end, the Agreement provides for the transfer of the school land to the Council and a financial contribution equating to the cost of building a 1.5 form entry school, which would include early years/nursery provision. The arrangements include a review mechanism. If the need for the school is not established at the appropriate stage of the development, then there would be contributions to early years/nursery provision on site<sup>5</sup> and to additional primary school places at other schools in the locality.
10. The highways and transport provisions include:
  - contributions to improving a bus service to serve the development over a five year period;
  - contributions to support sustainable transport choices by new residents;
  - contributions towards implementing and monitoring a travel plan;
  - contributions to works at four roundabout junctions to mitigate increased traffic flow, in the event that improvements to these junctions have not already been secured as part of the York Outer Ring Road (YORR) Dualling Scheme;

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<sup>3</sup> Inspector's note – the additional information related to ground conditions, contamination and statements of expertise for the authors of some ES chapters. It did not touch on any matters that had been discussed at the Inquiry and it was not necessary to seek further views. The Inquiry was closed in writing on 22 February 2022

<sup>4</sup> The final draft is at ID.17, the signed Agreement is at ID.18 and there is a summary of the main obligations at ID.10

<sup>5</sup> Inspector's note – this would be in addition to the contribution for off-site early years/nursery provision

- contributions to off-site cycleway provision and speed management measures; and
  - a contribution to the improvement of the Malton Road/Stockton Lane/Heworth Green roundabout junction.
11. With regard to affordable housing, 24% of the dwellings would be provided as social rented dwellings and 6% as discount sale dwellings (30% of all dwellings would therefore be affordable). There would be contributions to the provision of off-site travellers' pitches. Schemes for the future management and maintenance of the open spaces that would be created, including the country park, would be submitted for the approval of the Council. Finally, there would be a waste collection contribution towards the cost of new waste containers.
12. The Council provided a Compliance Note<sup>6</sup> which considered the obligations in the light of Regulation 122 of the Community Infrastructure Levy Regulations 2010, concluding that the relevant tests would be met. The need for the obligations was not controversial and no party argued that any of the obligations would fail the tests. The appellant expressed no opinion in relation to the travellers' pitches contribution. I see no reason to disagree with the conclusions of the Council's note and I have therefore taken the obligations into account in my assessments and recommendation.
13. The proposal could affect the Strensall Common Special Area of Conservation (SAC). The Secretary of State will be the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). Information to support a Habitats Regulations Assessment is attached at Annex D.

## **THE SITE AND SURROUNDINGS**

14. The appeal site extends to around 59ha of land on either side of MCLR. It mainly comprises agricultural fields, subdivided by hedgerows which include some trees, and is generally flat and open in character. There is a group of farm buildings in the northern part of the site. MCLR runs generally north/south, linking the extensive retail and commercial areas at Monks Cross to the YORR. The YORR is subject to significant levels of congestion. There are proposals for a dualling scheme which would increase the capacity of the YORR and various roundabouts along it, including the MCLR roundabout
15. North Lane runs generally east/west, linking Huntington to the YORR, passing to the north of the appeal site. There is further open countryside to the east and north of the site. Huntington lies to the west, although the proposals would leave some undeveloped land between the proposed development and the existing built up area. To the south there are business parks and other commercial and leisure premises around the Monks Cross Shopping Park. Beyond Monks Cross is Vangarde Park, which includes large retail units and leisure facilities, a community stadium and the Monks Cross park and ride site, which provides frequent bus services to the city centre.
16. There are two areas of land, shown as open space on the illustrative masterplan, which are not included within the application site boundary. To the east of MCLR

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<sup>6</sup> CD2.02.02

there is a triangular area adjacent to the course of a former railway. This has the effect of breaking this part of the site into two separate parcels. There also is a rectangular area which is excluded from the western part of the appeal site. Barratt and David Wilson Homes (BDW) state that they have an option over this land. For convenience I shall refer to this as the BDW land. The BDW land is linked to Garth Road, to the west of the appeal site, by a farm track which appeared overgrown and unused at the time of my visit.

17. Although there is some planning history, relating to a proposal for employment development in the southern part of the site, the Council and the appellant agree that this is not relevant to consideration of this appeal. I share that view.

## **PLANNING POLICY**

18. The development plan comprises the saved policies of the otherwise revoked Yorkshire and Humber Plan Regional Spatial Strategy (2008) (RSS) and the Huntington Neighbourhood Plan (2021) (HNP). Saved RSS Policy Y1(C)1 states that plans for York should define the outer boundary of the York Green Belt about six miles from York city centre. Saved RSS Policy YH9(C) states that:

*"The detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city."*

19. Thus the development plan has established the general extent of the Green Belt around York. However, the inner boundary has yet to be defined in an adopted plan. The Council and the appellant agree that the appeal site should be treated as Green Belt for the purposes of this appeal. I agree. The appeal site comprises an extensive area of mainly open land which is within the general extent of the Green Belt. It is plainly not within the built-up area of York. To my mind, treating the site as Green Belt would be consistent with the findings in *Wedgewood*<sup>7</sup>. In that case the Court found that, in the absence of a defined inner boundary, the decision maker should apply the high-level RSS policy rationally, having regard to site-specific features (amongst other considerations).
20. The HNP notes a strategic housing allocation, ST8 *Land North of Monks Cross*, in the emerging Local Plan. The residential elements of the appeal scheme fall within this site allocation. However, the HNP does not itself allocate strategic housing sites, that being a matter for the Local Plan. In advance of the adoption of a Local Plan, Policy H14 of the HNP states that decisions on whether land should be treated as falling within the Green Belt should follow the approach supported in *Wedgewood*.
21. HNP Policy H1 sets out criteria for new residential development. These include providing for a mix of housing sizes, tenures and types to meet housing need, providing for recreational, community and education facilities and providing safe pedestrian and cycle links to Huntington Village, local schools and the existing network of pedestrian and cycle routes. Policy H2 requires a mix of housing types and tenures, taking account of up to date evidence of housing needs. Policy H3 seeks to ensure that affordable housing is provided, with a focus on the provision of social housing and affordable homes that are suited to the needs of older

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<sup>7</sup> *Wedgewood v City of York* [2020] EWHC 780 (Admin) (CD5.04)

- people, young people and families. Policy H4 states that development proposals should respect the character of their local environment having regard to scale, density, massing, height, landscape, layout, materials and access.
22. The Publication Draft City of York Local Plan (2018) (eLP) was submitted for examination in May 2018. The first examination hearings took place in December 2019. Since then, the Council has completed further work requested by the Inspectors. It has also consulted on a series of modifications and new evidence, with the consultation period expiring in July 2021. At the time of the Inquiry, further examination hearing sessions were set to commence in February 2022.
23. As noted above, the appeal site is identified as a strategic housing site (ST8). The area to the east of MCLR is allocated as open space (OS8). The National Planning Policy Framework (the Framework) states that draft policies can be afforded weight, having regard to the stage of preparation of the plan and the extent to which there are unresolved objections. Policy SS10 applies to allocation ST8 and sets out criteria that are to be applied to development proposals. There are a number of unresolved objections to Policy SS10. These relate to whether it is appropriate to leave a green wedge between the allocation and Huntington, traffic generation and cumulative impacts. There are three unresolved objections from residents to the principle of the site.
24. The Council and the appellant agree that the following draft policies are also relevant to the appeal scheme:
- SS1 Delivering Sustainable Growth for York
  - SS2 The Role of York's Green Belt
  - H2 Density of Residential Development
  - H3 Balancing the Housing Market
  - H10 Affordable Housing
  - HW2 New Community Facilities
  - HW3 Built Sport Facilities
  - HW4 Childcare Provision
  - HW7 Healthy Places
  - D1 Placemaking
  - D2 Landscape and setting
  - D6 Archaeology
  - GI1 Green Infrastructure
  - GI2 Biodiversity and Access to Nature
  - GI3 Green Infrastructure Network
  - GI4 Trees and Hedgerows



25. The Draft Local Plan 2005 incorporating the Fourth Set of Changes was approved by the Council for development management purposes in April 2005. This draft plan included an employment allocation covering the southern half of the appeal site. The Council and the appellant agree that very limited weight should be attached to this plan. I agree because the plan is not being taken forward towards adoption and has been overtaken by the eLP.

## **THE PROPOSAL**

26. The proposal is for around 970 dwellings on land to the west of MCLR. Land to the east would become a country park. This area would include ponds forming part of the surface water drainage system. The proposal would also include a primary school, a convenience store (maximum of 200sqm), public open spaces, play areas and sports pitches. The illustrative masterplan shows the location for the school, areas for self-build/custom build housing, open spaces and a tree-lined boulevard linking the various residential areas. All matters of design and appearance would be reserved matters, although there is a parameters plan which indicates that the proposal would be mainly of two storeys with some slightly higher buildings along the boulevard and at points of arrival to the scheme.
27. There would be two roundabout junctions to MCLR, linked by the boulevard. This layout is designed to enable an improved bus service to run through the centre of the site. There would also be a vehicular access to North Lane, although measures are proposed to ensure that this does not become a through route for vehicular traffic. Pedestrian and cycle routes would be provided along the site frontages, from the southern roundabout to Monks Cross and from the North Lane access towards Huntington. These links would connect with off-site cycleways into Huntington and along Monks Cross Drive that would be funded through contributions under the Agreement. A pedestrian/cycle route would be created in the south west corner of the site linking to Woodland Way. This would provide access to services and facilities in Huntington. A comprehensive package of highways and transport measures would be secured through the Agreement.
28. The supplementary ES includes a phasing plan with seven development phases. The appellant considers that first occupation of dwellings would be in April 2024 with subsequent occupations over a 10 year period thereafter.

## **AGREED MATTERS**

29. The Council and the appellant agreed a Statement of Common Ground and a Supplementary Statement of Common Ground<sup>8</sup>. The planning policy context, as described above, was agreed. The following are key points of agreement on other matters:
- a) The proposal would amount to inappropriate development in the Green Belt. It would be harmful to the openness of the Green Belt and would conflict with the purposes of including land within it, including the purposes of checking the unrestricted sprawl of large built-up areas, safeguarding the countryside from encroachment and preserving the setting and special character of historic towns.

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<sup>8</sup> CD2.01.00 and ID.04



- b) The Council is unable to demonstrate a five year supply of housing sites, as required by the Framework. Based on a recent appeal decision, the current housing land supply is agreed to be between 2.79 years and 3.45 years.
- c) The appeal site is included in the Council's draft housing trajectory as a strategic site.
- d) The delivery of 30% affordable housing would be a significant benefit and would be compliant with eLP Policy H10.
- e) Housing mix has not been indicated at this stage and would be determined as part of the reserved matters.
- f) The proposal includes self-build and custom build housing, consistent with the eLP.
- g) Whilst design and appearance would be determined at reserved matters stage, it is agreed that 970 dwellings is an appropriate amount of development and that the Garden Village principles set out in eLP Policy SS10 are suitable for this site.
- h) Mitigation to deal with air quality impacts could be secured by conditions.
- i) Subject to further noise surveys and mitigation, which could be controlled through conditions, the site is suitable for residential occupation. The residual impacts of construction noise would not be significant.
- j) There are no designated heritage assets within the site, nor is it within the setting of any such assets.
- k) There is potential for prehistoric and Romano-British archaeology. Further evaluation and mitigation could be secured by a condition.
- l) The site is within the zone of influence of Strensall Common SAC and Site of Special Scientific Interest (SSSI). The Council's Habitats Regulations Assessment identified a likelihood of increased recreational impact on the SAC/SSSI as a result of development. Open space would be delivered as part of the appeal scheme in order to mitigate the potential impact.
- m) Great crested newts are present on site, water voles are present in adjacent ditches and otters were noted at the south eastern corner of the site. The site also provides a range of suitable habitats for nesting birds and commuting and foraging habitats for bats.
- n) There are opportunities to provide Biodiversity Net Gain within the proposed residential areas and the country park. Protection during construction and management and maintenance of mitigation measures could be secured by conditions.
- o) The site is within Flood Zone 1. An appropriate drainage strategy could be secured by conditions.

- p) Measures to mitigate risks relating to contamination and/or ground conditions could be secured by planning conditions.
- q) Mature trees and hedgerows that have been identified for retention could be protected by planning conditions and at reserved matters stage.
- r) The inputs to traffic modelling, including the scope of the study, baseline flows, trip rates and distribution of development traffic have been agreed. The Council's agreement to trip rates is dependent on certain pedestrian/cycle links being secured, as discussed below.
- s) The proposals include safe and satisfactory access to the appeal scheme.
- t) There would be access to a small car park within the country park via a fourth arm to the northern roundabout junction on MCLR.
- u) Measures to support walking and cycling would be secured through the Agreement.
- v) In circumstances where the outstanding highway mitigation, access issues and education contributions are resolved, it is agreed that the proposal would represent sustainable development and that the very special circumstances required to mitigate any Green Belt harm could be demonstrated.

## **THE CASE FOR REDROW HOMES (YORKSHIRE) LIMITED<sup>9</sup>**

### ***Introduction***

30. The appellant and the Council have a shared objective of bringing the appeal scheme forward, so that much needed housing is built. This would help to meet the Council's dire housing need which Mr Massey (the Council's planning witness) accepted was both genuine and urgent.
31. When the application was submitted, it was anticipated that the local plan would have been adopted by now, allowing planning permission to be granted soon after adoption. However, due to the glacial progress of the local plan and the lack of progress on the application, the landowners and developers decided that an appeal had become necessary. That galvanised all of the parties into assessing how the scheme could be properly progressed. Since then, Council officers, the Parish Council and the appellant's consultants have cooperated closely.
32. A very substantial level of agreement has now been reached. By the start of the Inquiry, the only outstanding matter was whether two pedestrian/cycle links, at Garth Road and Alpha Court, are necessary (as the Council argues) for the appeal scheme to be considered to be sustainable development. The appellant accepts that the two links would be a positive addition. However, although they would be nice to have, they could not plausibly be said to be necessary.
33. The proposal would be next to a very large retail area. It would include a nursery, a primary school and a convenience store in the heart of the development and there would be a country park next to it. Moreover, there would

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<sup>9</sup> This is a summary of the closing submissions, which are at ID.16

- be a bus service running through the centre of the development to major locations around the city. There would also be three direct, high quality walking and cycling links to the existing urban area together with hundreds of thousands of pounds of contributions to improve off-site pedestrian and cycling links. This is a highly sustainable proposal, in conformity with eLP Policy SS10.
34. There is no functional development plan, other than a residue of the RSS which only establishes the broad extent of the Green Belt. This has been the case since the creation of the Council as a unitary authority in 1996, despite numerous attempts to promote city-wide plans. The consequence of the lack of a functional development plan since 1956 is that the Council is unable to meet its immediate and medium term needs for market and affordable housing. The need is acute and is the foundation for this appeal.
  35. The Council is promoting a city-wide plan which includes a number of large scale allocations to meet immediate and future needs. The appeal site has been included as a sustainable urban extension since the first iteration of the draft plan. Had things gone to plan, this would have provided a solution to this long standing and grave failure of the plan-led system. However, although the RSS has identified the strategic location of the Green Belt, no inner boundary has been established in any adopted plan. That will be the role of the eLP, which was submitted for examination on 25 May 2018. Phase 1 hearings took place in December 2019 and the Phase 2 to 4 hearing sessions will be commencing from February 2022. It is agreed that polices in the eLP can be afforded weight in accordance with paragraph 48 of the Framework. The appellant considers that only limited/little weight should be attached<sup>10</sup>.
  36. In theory, the decision-maker could treat the site as not being in the Green Belt. Paradoxically, had the plan been adopted and the inner boundary established, then this site would never have been in the Green Belt. However, despite the uncertainty over the inner boundary, the appellant has taken the cautious approach of treating the site as being within the Green Belt. On that basis, the proposal comprises inappropriate development and the decision-maker must assess whether very special circumstances have been demonstrated.
  37. Although this starting point may seem like an insurmountable challenge, in this case the principle of development has long been conceded by the Council and the Parish Council. This is clear from the officer's report. All parties consider that the appeal should be allowed provided that the decision-maker concludes that appropriate provision is made for transport and education infrastructure. The Council agrees that very special circumstances are proven. The only area of dispute is whether an additional two links are required to make this site even more accessible.
  38. A huge amount of work has gone into drafting the s106 Agreement. The significant benefits that would be provided include contributions towards nursery, primary and secondary education, all to be paid at agreed times. The appellant's strongly preferred approach is that both a 1.5 form entry primary school and nursery provision would be made on site, rather than additional places being funded off-site. That preference is now reflected in the Agreement. There would also be significant transport contributions, including a bus service through the

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<sup>10</sup> Mr Johnson's proof, paragraph 4.35 (CD2.08.00)

appeal site. The provision of open space, affordable housing (at 30%), a waste collection contribution and contributions to travellers' pitches are all agreed, albeit that the appellant has no view on whether the contributions to travellers' pitches are necessary.

39. The only disputed matter is very narrow and entirely surmountable. Mr Johnson (the appellant's planning witness) has pointed out that the Council is relying on delivery of units from the appeal site, starting this year, as part of its latest housing trajectory (January 2022)<sup>11</sup>. Clearly, the Council regards rapid housing delivery from this site as essential to meeting its short-term housing needs. Subject to the minor issue of the two pedestrian/cycle links, the Council and the appellant agree that very special circumstances exist and that the appeal should be allowed.
40. If the Secretary of State agrees with the Council, then the agreed triggers for providing the links would be 200 units (for Garth Road) and 260 units (for Alpha Court). If the Secretary of State agrees with the appellant, then no such restriction should be imposed. Even so, the appellant would continue to seek to secure these links through negotiation because there would be good commercial reasons to do so. However, it does not follow that, without these links, the site could be described as unsustainable.

### ***Sustainable development***

41. It is common ground that:

*"in circumstances where the outstanding highway mitigation and access issues.....are resolved, both parties agree the appeal proposals represent sustainable development and that the very special circumstances required to mitigate any Green Belt harm can be demonstrated and delivered through the implementation of appropriately worded conditions and s106 Planning Agreement..."<sup>12</sup>.*

42. Mr Johnson's evidence considers the three main elements of sustainable development, demonstrating that the proposal mitigates any environmental harms and provides a significant range of both social and economic benefits. He concludes that the appeal scheme represents sustainable development<sup>13</sup>. Subject to the outstanding issue of the pedestrian/cycle links at Garth Road and Alpha Court, the Council agrees with this conclusion.

43. In terms of highways and transport, it is agreed that:

- the Agreement would provide sufficient sums to mitigate the impacts of the proposed development upon the wider road network;
- the Agreement would provide sufficient contributions to off-site sustainable travel, in the form of pedestrian/cycleway improvements, traffic management and enhanced bus provision;
- controlled access to the proposed country park would be achieved; and

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<sup>11</sup> Mr Johnson's rebuttal proof, paragraph 2.1 (CD2.13)

<sup>12</sup> Statement of Common Ground, paragraph 2.64 (CD2.01.00)

<sup>13</sup> Mr Johnson's proof, section 7 (CD2.08.00)

- suitable triggers have been defined for the five sustainable pedestrian/cycle links to the adjacent urban area that have been sought by the Council.
44. Three of the links, (Woodlands Way, North Lane and MCLR), would be in place prior to occupation in the relevant part of the site. Two of the links, (Garth Road and Alpha Court), are not in the control of the appellant. Suitable triggers have been identified, such that these links could be provided at an appropriate time in the event that the Secretary of State concludes that they are necessary.
45. Highway officers first indicated that the Garth Road and Alpha Court links would be required last Autumn, when providing comments to inform the officer's report. Since then, the appellant has approached the relevant owners with a view to securing the links, notwithstanding the appellant's view that neither link is necessary for planning permission to be granted. The Council has made it clear that it will consider using Compulsory Purchase powers if the appellant is not able to secure the rights needed to create the links by private treaty. Thus, while there is a live issue as to whether the links are needed, there is clear evidence that they would be deliverable at the appropriate point in time, either through the private or the public law route.
46. The appellant considers that the approach of the Council is one of an aspirational desire, not a necessity. As discussed in more detail below, the provision of these links is not necessary to make the appeal scheme sustainable and there is no policy or evidential basis for making them a requirement.

### ***Whether or not the Garth Road and Alpha Court links are necessary***

47. The starting point is that, as noted above, the site is adjacent to a large retail area and has excellent access to the city centre through existing bus services and cycling accessibility. Moreover, a primary school, nursery facilities and convenience store would form part of the development and a bus service would be provided through the centre of the site. The Council's approach is that the links are necessary to "*maximise*" sustainable transport solutions to ensure compliance with policy and guidance, including the Framework<sup>14</sup>.
48. Mr Owen (the appellant's transport witness) compares the walking distances to various facilities with and without the Garth Road and Alpha Court links<sup>15</sup>. This comparison does not account for the provision of a primary school and convenience store on site. His evidence shows that the Alpha Court link would make no difference to walking distances from the site to the Monks Cross Shopping Park. Only if the destination is defined as Sainsburys, rather than the whole shopping park or Asda, would the Alpha Court link perhaps make the distance marginally shorter. On any view, the link using Alpha Court is nice to have but not necessary.
49. The Garth Road link would reduce the walking distance from the northern part of the site to Huntington Primary School by 355m, to the secondary school by 275m and to the Garth Road Medical Centre by 340m. The maximum reduction in travel time would be around five minutes, which Mr Owen considers to be immaterial.

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<sup>14</sup> The Framework, paragraphs 9, 104 and 112(a)

<sup>15</sup> Mr Owen's proof, tables 4.4 and 4.5 (CD2.09.00) and Appendix P (CD2.09.06)

That conclusion is reinforced when account is taken of the provision of a primary school, a nursery and retail facilities on site.

50. Ms Vergereau (the Council's transport witness) criticised Mr Owen's approach of measuring distances from centroids in the northern and southern halves of the site<sup>16</sup>. Although his approach was asserted to be "*non-standard*", no guidance on this point was identified. In the particular circumstances of this extensive site, it is logical to adopt reasonable and proportionate site-specific centroids. Use of a single centroid would be unrepresentative of actual travelling distances. Moreover, Ms Vergereau's evidence took no account of the provision of facilities on site.
51. As noted above, provision would be made for a bus service through the centre of the site. The disputed links would have no impact on the accessibility of that service to new residents. The Council emphasised the importance of access to other bus services in the locality, as part of maximising access generally. Services 5 and 5a run through Huntington. However, Mr Owen's evidence shows that the Garth Road link would not be necessary to access these services because there would be convenient access via North Lane in any event<sup>17</sup>. Moreover, the only additional destinations served by service 5 are the villages of Strensall and Acomb. All the other bus services could be accessed more easily via MCLR. The provision of either link would make no material difference to the ability to access bus services.
52. Manual for Streets 2 (MfS2) states that the preferred approach to accommodating pedestrian movement is on multifunctional streets<sup>18</sup>. Consistent with that approach, the appeal scheme would provide pedestrian/cycle links along North Lane and MCLR. Part of the suggested Garth Road link would pass between back gardens and a paddock. Ms Vergereau accepted that this would not be the preferred form of link envisaged by national policy, as set out in MfS2. The Council's approach to the need for the two disputed links, in order to maximise sustainable transport solutions, is unsupported by evidence and wholly undermined by the careful analysis of Mr Owen.
53. The Council relied on criteria (x) to (xiii) contained in eLP Policy SS10. However, there is nothing in Policy SS10 that requires either link to be provided. It is only in criteria (xii) and (xiii) that reference is made to "*maximising*". In both cases this relates to pedestrian and cycle routes. For the reasons set out above, the proposal achieves this expectation. Bullet point (xi) anticipates that 15% of trips would be undertaken by public transport. The Council suggests that, if additional walking and cycle routes are provided, that would make up for a likely deficit in the 15% bus modal share for travel to work. That is not a logical approach. The Garth Road link would only improve the sustainability of travel to work for those who live in the centre of the appeal site and work at the secondary school or the Garth Road Medical Centre.
54. Mr Owen concluded his evidence by stating that the proposal is:

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<sup>16</sup> Mr Owen's Appendix K (CD2.09.04)

<sup>17</sup> Mr Owen's Appendix M (CD2.09.05)

<sup>18</sup> CD4.04, paragraph 5.1.3



*“fully compliant with the Framework and SS10, delivering pedestrian and cycle provision that will provide satisfactory access, that ...is without touching on the fact that facilities are being provided on site...”*

55. The Council’s approach to “*maximising catchment areas*” and “*maximising options*” extends beyond both local and national policy. It is an unreasonable approach that could be used to require access links to the *n*th degree, each additional link contributing to the claimed requirement to maximise accessibility. The correct approach is one of reasonableness and proportionality. The professional opinion of Mr Owen is unequivocal and persuasive. Whilst the Council would like to see these additional links, they would be an attractive addition to the development rather than a necessity. Whether or not the links are provided has no material impact on the overall sustainability of the appeal scheme, which would represent sustainable development in any event.
56. Should the Secretary of State conclude that either or both of the links are necessary, he can be satisfied that they can be delivered. There is therefore no bar to concluding that the appeal proposal is sustainable development.

### ***Planning balance***

57. It is accepted that the appeal proposal constitutes inappropriate development in the Green Belt and that very special circumstances will have to be demonstrated in order for the appeal to succeed<sup>19</sup>. This means that the totality of any harm identified must be clearly outweighed by the material considerations relied upon in favour of the proposal. It is not the material considerations themselves that must amount to very special circumstances. They can indeed be very ordinary when considered individually, but when considered cumulatively they must clearly outweigh the harm identified, such that overall the very special circumstances necessary for the grant of planning permission in the Green Belt exist.
58. The proposal would have a significant impact on the openness of the Green Belt as well as giving rise to definitional harm by reason of inappropriateness. However, for such a large greenfield site, the range of other harms is remarkably limited. Set against those is a range of material considerations which are described in the evidence of Mr Johnson<sup>20</sup>:
- a failure to deliver a development plan in the last 65 years;
  - a general expectation from successive draft Local Plans since 2011 that the appeal site is a location for residential growth;
  - the continued slippage of the strategic sites in housing trajectory updates;
  - a general public expectation of housing on the appeal site that is manifested in a low level of objection;
  - the appearance of the draft allocation in the made HNP;

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<sup>19</sup> The Framework, paragraphs 137, 138, 147 and 148

<sup>20</sup> Mr Johnson’s proof, section 8 generally and paragraph 8.9 in particular (CD2.08.00)

- the lack of a five-year land supply and the significant benefit that is to be attached to the delivery of housing;
  - the significant benefit associated with the delivery of affordable housing;
  - the failure of the plan-led system to resolve the urgent need for housing generally and for affordable housing;
  - the delivery of land and monies for a primary school to meet local educational needs – without this, capacity in local schools would continue to be stretched; and
  - the provision of green space and new footpaths through the site and into a new country park, going beyond the needs of the appeal scheme for open space, such that it would lessen the impact of recreational pressures on Strensall Common SAC/SSSI.
59. These matters were endorsed by Mr Massey (the Council’s planning witness), although he applied different weightings to Mr Johnson. Nevertheless, the Council accepts that very special circumstances exist and that the issue of Garth Road/Alpha Court only affects whether additional controls should be applied, not whether the appeal should be allowed.
60. The Council has not suggested that prematurity is a determinative issue.
61. Education is an important element of the appellant’s case. Matters that were disputed have now been resolved through discussions. For example, it is now agreed that there is no need for temporary primary school accommodation at existing primary schools. In summary, the Agreement provides for:
- Plan A, whereby a site and funding would be provided for a new primary school and nursery within the appeal site;
  - A review mechanism to determine whether a new school on site is necessary at the appropriate time, or whether Plan B is engaged;
  - Plan B, whereby a smaller site (and funding) would be provided for a nursery within the appeal site and s106 funds would be used to provide primary school places elsewhere;
  - Contributions to additional secondary school places, which would be provided off-site at defined stages of the development subject to a review mechanism; and
  - Contributions to school places and transport for additional SEND pupils.
62. The approach to Plan A/Plan B would balance the need to ensure that sums are properly available with a requirement for further assessment and review at a point in time, possibly some years hence, when the extent of need would be better known. There is no development plan policy to establish a formula for education contributions. The agreed approach has been arrived at from first principles, by assessing likely land use consequences and trying to mitigate them. It is considered that the Agreement would achieve that objective.
63. Policy SS10 of the eLP includes a requirement for a primary school on site. Provision on site is also the appellant’s preferred approach. The proposal is for a



- 1.5 form entry school, although this would accommodate more children than are predicted to come from the appeal scheme. Alternatively, the Council could choose to start with a single form entry school, which could then be expanded in a modular way. The agreed size of the school site would be enough to accommodate a two form entry school, should that be required later on. As well as providing for an essential community service, providing a primary school on site is preferable from a planning perspective because it would contribute to sustainable travel patterns and place-making.
64. Under Plan A, £8 million would be paid towards the construction of a new 1.5 form entry primary school, 20% before any occupation of dwellings, 40% at occupation of 100 dwellings and 40% at occupation of 200 dwellings. This would enable the school to be delivered at no cost to the public purse. The review arrangements would begin at the occupation of 200 dwellings with a decision to be made at the occupation of 300 dwellings. If, at that stage, there were insufficient pupils coming forward for a new school, the Council could opt for Plan B. This would involve a contribution of up to £909,306 towards an early years/nursery facility on site and up to £5.7 million towards the provision of additional places at existing primary schools in the locality.
65. The Agreement would provide for a contribution of £909,306 to off-site nursery places, to be paid on the occupation of 100 dwellings. There would also be contributions of up to £5 million towards additional off-site school places at existing local secondary schools. These contributions would be staged, with payment triggers at the occupation of 399, 599 and 799 dwellings. They would also be subject to a review mechanism, to ensure that payments would only be made if there were insufficient places to meet the need arising from the appeal scheme.
66. Finally, there would be a contribution of £823,944 which would provide additional places for SEND pupils at schools in York. This would have the same payment triggers as the secondary education contributions, although without the review mechanism. There would be a further contribution of £180,000 towards associated transportation costs.
67. In summary, the principle of development is accepted by the parties. The proposal would deliver significant benefits in terms of meeting the urgent need for housing in York, where there has been a long term failure of the plan-led system. It would also make a significant contribution to the provision of affordable housing in an area which has a long history of serious under provision. There would be significant economic and social benefits, not least the education provision which would assist the capacity problems in local schools.
68. With regard to the planning balance, the tilted balance is engaged by paragraph 11(d) of the Framework, due to the virtually non-existent development plan being out of date, as well as the absence of a five year housing land supply. The issue is whether it should be disengaged by the fact that the appeal proposals comprise inappropriate development in the Green Belt, even if very special circumstances are demonstrated.

69. In a recent appeal decision relating to development in the Bradford Green Belt<sup>21</sup>, the Secretary of State took the approach that the tilted balance was not disengaged where very special circumstances were demonstrated. However, in this case the appellant does not rely on the tilted balance. Even without the tilted balance, Mr Johnson is firmly of the view that very special circumstances exist, as agreed between the parties.

### **Conclusions**

70. For a scheme of this scale, in the putative Green Belt, the level of objection is remarkably low. There is no opposition to allowing the appeal from any elected local body at Parish or District level. Indeed, the appeal site features prominently in the HNP as an expected allocation. Nor is there any unresolved objection from any statutory or internal consultee. The site has been identified as a draft allocation in the eLP. Whilst that has limited weight as policy, the level of opposition to the draft allocation is remarkably low.

71. There is a general expectation locally that this site will be developed. The Parish Council has commended the appellant's positive engagement. Furthermore, this is a scheme which does not duck its responsibilities. The Agreement would deliver over £18 million worth of benefits of which £15,033,946 would be directed towards education. In addition, a site for a two form entry school would be provided at no cost. There would be highways contributions of £2,850,000, not including the cost of works along North Lane and MCLR which would be subject to a s278 agreement. A huge new country park would be provided. New Homes Bonus would amount to £7,760,000.

72. Whilst the approach should be to treat the site as being in the Green Belt, the merits of the case are overwhelming. The appeal should be allowed, subject to the Agreement and conditions.

### **THE CASE FOR THE COUNCIL OF THE CITY OF YORK<sup>22</sup>**

73. This is an important site for meeting the housing needs of York. It is allocated as a strategic site in the eLP and has been proposed for residential development since 2011. The Council wants this site to come forward for much needed homes to be delivered. By the start of the Inquiry, the single issue between the Council and the appellant was ensuring that the proposal maximises its sustainability credentials and prioritises cyclists and pedestrians, in accordance with national and emerging local policy.

74. When proofs of evidence were exchanged, there was another area of dispute relating to education. That issue has since been resolved. The Agreement provides for:

- a payment of £909,306 towards off-site early years/nursery provision;
- a payment of up to £5,120,696 towards the expansion and/or reconfiguration of secondary school infrastructure to provide additional places at Huntington School and/or Joseph Rowntree School, payable in 3 instalments;

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<sup>21</sup> Appeal relating to Burley in Wharfedale (CD5.05)

<sup>22</sup> This is a summary of the closing submissions, which are at ID.15

- a payment of up to £823,944 towards the provision of 11 school places for additional SEND pupils;
- a payment of up to £180,000 towards the costs of transport for SEND pupils to educational facilities;
- a payment of £8 million towards the construction of a 1.5 form entry primary school with adjoining early years facility and the transfer of land for the school to be constructed on site.

75. The Agreement also makes provision for Plan B, which would entail an early years/nursery facility on the site and the off-site expansion of primary education facilities. There is a presumption in favour of Plan A. Plan B would only be engaged after a review if there were “*compelling factors*” such as there not being enough children for a new primary school.

### ***Whether it is necessary to provide pedestrian/cycle links at Garth Road and Alpha Court***

76. The links are shown on the illustrative masterplan submitted with the application<sup>23</sup>.

#### *Accessibility and connectivity for pedestrians and cyclists*

77. The Garth Road link would provide a direct route from the heart of the site. It would run along Garth Road with the rear gardens of properties in Keith Avenue to the left, and a pony paddock to the right, for a distance of around 140m. Then the route would have residential properties on both sides. It would provide a mainly traffic free route to Huntington Village, including the shops, post office, pharmacy, GP surgery, library and primary school. It would provide more direct access to the existing walking and cycling routes to two local secondary schools (Huntington School and Joseph Rowntree School)<sup>24</sup>. Without the Garth Road link, new residents would need to use North Lane or Woodland Way.

78. The Alpha Court link would provide a direct, mainly traffic free route between the site and the employment, shopping and leisure opportunities at Monks Cross Shopping Park and Vangarde. Without the Alpha Court link, new residents would need to travel to the eastern boundary of the site to use the proposed shared cycle and pedestrian route alongside MCLR.

79. The test the Secretary of State must apply is whether these links are necessary. Mr Owen agreed that necessity should be considered in the context of national and local policy, informed by relevant guidance<sup>25</sup>. Having regard to the Framework, the following points can be made:

- The promotion of walking, cycling and public transport is a primary aim of sustainable transport policy (paragraph 104).
- Choice of transport modes is key and sustainable solutions should be maximised (paragraph 105). Whilst the Framework recognises a difference in opportunities to promote sustainable travel between urban

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<sup>23</sup> CD1.04

<sup>24</sup> The routes to various facilities are shown in Mr Owen’s Appendix K, figure 9 (CD2.09.04)

<sup>25</sup> Inspector’s note – agreed by Mr Owen, in answer to questions from Mr Robson

and rural areas, it is agreed that the appeal site is in a suburban location. Indeed, the number of bus stops within walking distance suggests that the site should be considered to be an urban location, for the purposes of this policy.

- Sites should provide attractive and well-designed walking and cycling networks (paragraph 106(d)). There is a marked difference between the attractiveness of cycling and walking down busy roads such as MCLR, compared with illuminated shared spaces passing through the public open space that would be provided by the appeal scheme.
- Applications for development should prioritise pedestrian and cycle movements, both within the site and with neighbouring areas (paragraph 112(a)).
- Layouts should maximise the catchment for bus services (paragraph 112(a)).

80. It is clear from national policy that development must maximise opportunities for sustainable travel, not do the minimum. Maximising the catchment area for buses means giving the greatest opportunity for users to reach as many services as they can. The eLP is still at a relatively early stage. However, much of the work on Policy SS10 has been undertaken in close consultation with the appellant because both parties are working towards bringing this site forward. Paragraphs (x) to (xiii) of Policy SS10 require:

- enhanced safe and integrated pedestrian and cycle routes to maximise the sustainable location;
- strategic connections for pedestrians and cyclists, in addition to existing road infrastructure; and
- maximum pedestrian and cycle integration and connectivity to the city and surrounding areas, creating well connected internal streets and walkable neighbourhoods.

Emerging policy may not name Garth Road and Alpha Court, but these are the only options for additional connections (other than Woodland Way) that would be in addition to the existing road infrastructure.

81. The parties agree that limited weight should be applied to the eLP. However, Mr Johnson recognises that the allocation weighs in favour of the proposal<sup>26</sup>. Whilst there are outstanding objections to Policy SS10, these objections do not relate to the provisions that seek to maximise sustainable transport opportunities<sup>27</sup>. The lack of such objections, including from the appellant, emphasises the importance that both parties attach to maximising the opportunities for sustainable transport. The Council considers that the Garth Road and Alpha Court links are key to this.

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<sup>26</sup> Mr Johnson's proof, paragraphs 4.35 to 4.38 (CD2.08.00)

<sup>27</sup> CD2.05.01

82. The guidance on walkable neighbourhoods and cycling infrastructure supports the provision of these additional links. Ms Vergereau<sup>28</sup> and Mr Owen<sup>29</sup> refer to the same guidance. There is a broad consensus that a comfortable walking distance for a walkable neighbourhood is 800m<sup>30</sup>. There is a general propensity to walk for journeys up to 1.6km to 2km<sup>31</sup>. Planning for Walking shows that walking comprises 80% of the modal split for journeys shorter than one mile (1.6km), dropping rapidly to 25% at one to two miles and less than 10% at two to five miles<sup>32</sup>. If schemes are to prioritise pedestrians, then shortening walking distances where possible is a requirement of national and local policy.
83. Mr Owen's evidence includes his calculation of the effect of the Garth Road and Alpha Court links on walking distances<sup>33</sup>. At the Inquiry, he accepted that this evidence is a starting point for the decision-maker's assessment, not the end. His evidence demonstrates walking distances from the centroids of the northern and southern halves of the site. The limitations of this approach must be understood.
84. This is an enormous site that would accommodate around 970 houses and significant areas for public open space. For those living in the centre of the site, the Garth Road link would shorten distances to services in Huntington and provide a more direct link. For those living in the south, the Alpha Court link would shorten distances, and provide a more direct route, to the shopping, employment and leisure facilities in and around Monks Cross<sup>34</sup>. Mr Owen's plan and table tells the decision-maker the distances to various destinations from just two points in the site. For the 970 households that would live within the site, the plan and table tell the decision-maker nothing. The decision-maker must exercise planning judgement on the basis of the whole site, not just two fixed points.
85. Furthermore, the routes used in Mr Owen's evidence are based on an indicative layout, with pedestrians following the site roads. Good place-making would require additional pedestrian routes that could shorten distances to the Alpha Court and Garth Road links.
86. Distance is not the only consideration. The guidance documents highlight the importance of the safety and attractiveness of pedestrian and cycle routes<sup>35</sup>. The Planning for Walking document refers to the five Cs – connected, convivial, conspicuous, comfortable and convenient. New residents walking to services in North Moor Road would have a choice between walking alongside the road, at North Lane, or through a public open space, past a children's play space and through a residential area. The latter would certainly be a more attractive route. Similarly, the Alpha Court route would be more attractive than being alongside the traffic on MCLR.

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<sup>28</sup> Ms Vergereau's proof, paragraphs 3.24 to 3.27 (CD2.12.00)

<sup>29</sup> Mr Owen's proof, paragraphs 4.2.1 to 4.2.6 (CD2.09.00)

<sup>30</sup> Planning for Walking (CD 4.12); Manual for Streets (CD 4.04); National Design Guide (CD 4.03)

<sup>31</sup> Providing for Journeys on Foot (CD 4.08)

<sup>32</sup> CD4.12, figure 1

<sup>33</sup> Mr Owen's proof, table 4.5 (CD2.09.00) and his Appendix P, figures 14 and 15 (CD2.09.06)

<sup>34</sup> Ms Vergereau's proof, table 1 (CD2.12.00). For example, the distance from the centre of the site to the leisure centre would be reduced from 1.9km to 1.4km

<sup>35</sup> Cycle Infrastructure Design, Local Transport Note 1/20 (CD 4.11)

87. At the Inquiry, the appellant raised a point about the safety of the Garth Road route. The focus was on the section between a pony paddock and the gardens of houses in Keith Road. It is difficult to conceive of a safety risk along such a short stretch of route that would have the benefit of houses on one side and a clear line of sight towards the residential area ahead, consistent with MfS2<sup>36</sup>. The relevant guidance must be read as a whole. In certain circumstances it may be appropriate to provide pedestrian routes next to roads. In other circumstances, keeping users away from traffic should be preferred.
88. Fundamentally, the necessity of the Garth Road and Alpha court links in national and local policy terms is about whether this large strategic site should provide the minimum, or whether it should maximise and prioritise the opportunities for cycling and pedestrian access.

*Relationship between pedestrian/cycle links and trip rates for vehicles*

89. The Council considers that the Garth Road and Alpha Court links are also necessary to achieve the stated aim of changing modal split. The journey to work data used for the transport assessment shows that, in 2011, 9.2% of journeys were undertaken by bus, 14.4% by bike and 12.26% by foot. The projected modal split used in the assessments was adjusted to 15% by bus, 15% by bike and 12.5% by foot. The proportion of trips by car was to go from 54.94% to 48.3%<sup>37</sup>. This would be a significant change from established transport patterns. The census data covers only journeys to work. However, the reduced trip rates, and the modal splits on which they rely, were for all trips generated by the scheme, not just work trips.
90. It is agreed that the provision of a bus service into the site will be the primary contributor to achieving the target modal split for bus journeys. However, the role of other bus services<sup>38</sup> cannot be discounted if a significant increase in bus use is to be achieved. Providing the most direct and attractive links for the most possible residents through Garth Road and Alpha Court would give residents choice and decrease the risk of the target modal split not being achieved. Other bus services serve different destinations<sup>39</sup> as well as offering alternative services to some of the same destinations.
91. There is also work to be done to get the modal split for walking and cycling up to the agreed levels for the reduced trip generation. Although the increase is less than for the bus modal split, it would still represent a significant number of actual trips. The links would provide more opportunities for residents to walk or cycle to shops and services, either in Huntington or Monks Cross. This would be needed to achieve the target modal split.

*Deliverability of the Garth Road and Alpha Court links*

92. The Council and the appellant agree on the legal and policy approach to the use of Grampian conditions<sup>40</sup>. Such conditions can be imposed to secure off-site works unless there is no prospect of the works being delivered. It is agreed that

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<sup>36</sup> CD4.04, paragraph 5.1.3, second bullet point

<sup>37</sup> Mr Owen's proof, tables 5.4 and 5.5 (CD2.09.00)

<sup>38</sup> CD2.09.05

<sup>39</sup> CD1.37, pages 18 to 19

<sup>40</sup> Agreed note on Grampian conditions (ID.14)



there is a reasonable prospect of both links being provided, whether this is by private sale or, if necessary, by Compulsory Purchase. The owner of the land required for the Alpha Court link wrote to the Inspector confirming their willingness to negotiate with the appellant. Moreover, they would not object to a Compulsory Purchase Order subject to a valuation being agreed. The appellant is confident of reaching an agreement in relation to Garth Road. There is no legal or policy barrier to including the necessary Grampian conditions to deliver the links if they are deemed necessary by the Secretary of State.

#### *Conclusions on the Garth Road and Alpha Court links*

93. We know from the evidence of Mr Owen that if:

- residents live at either of the centroids; and
- the scheme is built out as per the indicative layout; and
- they walk only on pavements next to estate roads or cycle only on the roads; and
- they walk next to the busy MCLR or North Lane;

then the walking distance to services along these circuitous routes would all be more than the 800m which represents a comfortable walk. They would however be less than 1.6km, except for the secondary school which would be over 2km away. Mr Owen concludes that this is "*a satisfactory level of accessibility*". Most dwellings would not be at the centroids. Future residents would have no choice but to follow Mr Owen's "*satisfactory*" routes, whether or not they wanted to take a more direct route or to avoid walking next to a busy road. For some, the distances on Mr Owen's routes may be shorter, but still less attractive. For others, these routes would be both longer and less attractive than Garth Road or Alpha Court.

94. Making walkable neighbourhoods must be about giving residents the best opportunities to walk or cycle rather than take the car. This means providing the greatest choice of routes for the largest number of people. Maximising and prioritising walking and cycling must be about providing the best available links, not just the satisfactory ones.

#### ***Planning balance***

95. The site is within the Green Belt, so it is necessary to demonstrate very special circumstances. It is agreed that there would be harm to the Green Belt by virtue of inappropriateness, and harm to the openness and purposes of the Green Belt. The Framework states that substantial weight must be given to these harms.

96. In terms of the benefits of the proposal, there is broad agreement with the appellant:

- significant weight to market housing;
- significant weight to affordable housing;
- substantial weight to the provision of a strategically important site that is being supported by the Council through the local plan process;
- moderate weight to the provision of the country park;

- positive weight to the provision of the primary school, considering that some pupils would be drawn from outside the site; and
- positive weight to the economic benefits.

97. When those benefits are weighed against the harms to the Green Belt, and any other harms, it is the Council's very firm view, with the provision of the Alpha Court and Garth Road links, that the benefits clearly outweigh the harms and very special circumstances exist. On that basis, the Council submits that the appeal should be allowed.

## **OTHER PARTIES WHO APPEARED AT THE INQUIRY**

### ***Councillor Keith Orrell***

98. Councillor Orrell is one of those representing Huntington Ward on the Council of the City of York. The eLP was agreed by Councillors in 2018 and there is frustration that it has not yet been adopted. There are many reasons why York has not had an adopted plan for such a long time. Most recently, Covid has affected the process. The HNP was agreed by 87% of residents and has now been agreed by the Council.

99. Any development in this area can affect flooding and it is essential that effective mitigation measures are provided. Although Redrow have provided opportunities for public consultation, local people have not been fully listened to. They consider that vehicular access to North Lane would be unsafe. Roads in the locality have become increasingly congested since the opening of Vangarde. It is important to maximise opportunities for walking and cycling and to reduce traffic. Redrow has met with the Parish Council and said that it is working to provide the Garth Road and Alpha Court links. If these links are not provided, there would be more pressure on the Woodland Way route.

100. There must be no HGV traffic through Huntington during the construction phase. Biodiversity should be protected and enhanced. The new houses should become an exemplar of sustainability standards. It is essential that the primary school is built on site. There are already significant traffic problems at existing primary schools. The affordable housing agreement should be tightly drawn to avoid provision being reduced later on. Roads should be completed to adoptable standards as soon as possible once houses are occupied.

101. No other interested parties appeared at the Inquiry.

## **WRITTEN REPRESENTATIONS**

### ***Huntington Parish Council***

102. The Parish Council acknowledges the need for residential development within Huntington Parish. This area is identified for such use in the HNP. The Parish Council wants the development to benefit both existing and future residents. It should be well designed, future-proofed and sensitive to its environment. No objection is raised but the following comments are made:

- a) There is concern about traffic congestion on MCLR and in the wider Monks Cross/Hopgrove area, given that this is already recognised as the tenth most congested road in the UK. The traffic flow study dates from



2014 and does not take into account the new Vangarde development and the community stadium.

- b) There should be no access from North Lane because this road is very narrow.
- c) The existing sewers on Southdown Road and Woodland Way were not designed to take this extra volume of waste and a new separate system or upgraded system should be installed.
- d) Whilst the intention of storing surface water in the country park is supported, there is concern that, should the ponds become overwhelmed, water would then enter the drainage system adjacent to the A1237 which would lead to flooding.
- e) There should be two new footpaths installed to tie the development to the wider community, one from Garth Road and the other from Woodland Way, with a drop off/turning point at the end of Woodland Way.
- f) The new school must be provided on the site, once 50% of the housing has been built.
- g) There should be a drop off point/one-way system for the new school.
- h) There should be a small car park in the country park and a bus stop to allow users from the wider community to access this area without causing traffic issues.
- i) Pedestrian access to the country park via a zebra crossing would be very dangerous due to the speed and volume of vehicles on the MCLR. Footbridges should be installed.
- j) The housing mix must reflect need within the community, including one and two bedroomed houses, apartments and bungalows as well as three and four bedroom houses.
- k) Affordable housing must be 30% of the total number of dwellings.
- l) The location of the self-build houses next to the school is questioned as these will probably be the last units to be completed and would be a physical and noise hazard for school children.
- m) Play areas need to be visible from dwellings.
- n) It is not clear if rear access would be available to terraced houses, for bin collection.
- o) It is not agreed that there would be negligible impact on health care facilities.
- p) The illustrative masterplan is wrong to show land that belongs to another developer as open space.
- q) The play area to the north of the site is not ideally located, being close to North Lane with limited opportunities for natural surveillance from surrounding houses.

- r) There are concerns about local wildlife, in particular the barn owl population and great crested newts, which should be protected.

***Barratt Homes and David Wilson Homes Limited***

103. The application site excludes land over which BDW has an option. This represents piecemeal development and fails to address the principles set out in the proposed allocation, most notably that the whole allocation should be master planned to maximise the full potential of the site. The illustrative masterplan shows the BDW land as open fields. It should be updated to demonstrate how the two parcels of land would sit together, such that the strategic allocation could be developed in a comprehensive manner. If permission is granted, there should be a condition requiring a vehicular access up to the site boundary to ensure the remaining section of the strategic allocation can be delivered.

***Portakabin Limited***

104. Portakabin occupies a 20ha site, adjacent to the south west corner of the appeal site, which facilitates the design and construction of modular and portable buildings. Portakabin is an extremely important local business and a major employer. It has an annual turnover in excess of £300 million and employs around 650 people in York. The noise surveys are out of date and not sufficiently robust to establish the noise climate from the Portakabin site. It is unlikely that the surveys recorded the operation of a brass band that practises at a building close to the site boundary. The noise assessment does not allow for potential 24 hour working.

105. The Framework indicates that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. Portakabin wishes to continue operating from its existing site and may have to change the nature of its operations over time, or expand, as the needs of the business dictate. The proposal has the potential to introduce sensitive development close to a source of noise and light pollution.

106. Portakabin does not object to the principle of the development but it is essential that an up to date noise assessment is undertaken to inform the appeal process. This should reflect Portakabin's potential future use of its site. Further surveys should be undertaken when a detailed scheme is produced for each phase of development in order to ensure that the internal and external noise climates are acceptable. Any updated noise assessment should inform the specification for noise attenuation in the form of acoustic fencing and glazing to ensure that adequate amenity can be provided. Portakabin welcomes the area of open space shown on the illustrative masterplan separating its premises from the new housing. A condition should be imposed to ensure that this open space is created.

***Shepherd Group Brass Band***

107. The Shepherd Group Brass Band rehearses in a building at the north east corner of the Portakabin site. Sound leakage will always occur, especially when the doors are open for extra ventilation. There are more than 150 playing members in five bands and the organisation has received an award for the musical education work it does in the community. There is concern that band playing and associated educational activities may be prejudiced by noise complaints from new

residents. A further noise survey should be carried out and any significant noise outcomes should be dealt with by sound attenuation measures.

**Christopher Smith and Dawn Young**

108. Mr Smith and Ms Young own land at Garth Road adjacent to the appeal site. They became aware of a possible link to Garth Road, over part of their land, at a consultation exhibition in 2017. However, the first approach they had from Redrow about purchasing their land was not until November 2021. This approach was declined. In January 2022 Redrow supplied them with a letter from the Council entitled "*Monks Cross CPO – Letter of Intent*". Mr Smith and Ms Young are confused as to whether their land is actually involved in this appeal. They are aggrieved that the Council has been discussing their land with the developers without involving them. They consider that, if their land does form part of the appeal scheme, then they should have received formal notice of the appeal, together with plans showing the layout of the proposed link.
109. North Lane is a high speed rat-run. The 3m pedestrian/cycleway along North Lane now shown on the plans would be vital in terms of highway safety. Probably 200 new homes would make the North Lane junction their main entry/exit point and anyone accessing the local shops, sports club, football field, GP surgery and pub would use North Lane. The proposed pedestrian/cycle route along North Lane makes the "*Monks Cross CPO – Letter of Intent*" redundant as there would be excellent cycle links to all parts of the site.

**Monks Cross LLP**

110. Monks Cross LLP is part owner of commercial developments to the north of Monks Cross Shopping Park, including the roads at Alpha Court and the land that would be needed for the Alpha Court link. There is no objection to the scheme in principle. The Alpha Court link is necessary to ensure pedestrian and cycle integration. The access adjacent to Alpha Court is suitable to provide the necessary connection, which would facilitate integration of the proposal into the Monks Cross neighbourhood.
111. Redrow has only been in touch once regarding the possibility of acquiring the land. There has been no meaningful engagement, although Redrow has provided a letter from the Council confirming its willingness to use Compulsory Purchase powers. Despite this unhappy start, Monks Cross LLP would welcome discussions with Redrow or the Council with a view to securing the link. If such discussions were unsuccessful, there would be no objection to the use of compulsory powers. Any issue over valuation could be referred to the Upper Tribunal and would not delay the scheme.

**Thomas Varlow**

112. Mr Varlow is a local resident. The proposal would remove views of open fields from his home on the edge of Huntington. North Lane is a rat run to the A1237 and many cars do not observe the speed limit when entering the village. It is often congested at weekends with parked cars. Roads and sewers are already inadequate for the demands placed on them. Development of this scale is out of proportion with the village of Huntington. The noise and disruption during construction would be immense. The proposals would be harmful to wildlife, including owls which are seen flying around the area. There are several

brownfield sites around the city which would be better places to accommodate development of this scale.

### ***Representations to the Council at application stage***

113. The officer's report records that there were 13 letters of objection from local residents and businesses. Some of those parties have also submitted representations on the appeal, which are referred to above. Other matters raised included:

- the need to improve highway infrastructure;
- the need to extend the footpath and 30mph speed limit along North Lane;
- pedestrian and cycle links to Monks Cross at McDonalds and Taco Bell;
- impacts on the high water table;
- the secondary school would be oversubscribed;
- the proposals have little architectural merit;
- lack of self-build plots; and
- the need for electric vehicle charging points.

There were two letters of support which referred to the opportunity to provide much needed housing and the designation of the site in recent iterations of the local plan.

### **CONDITIONS**

114. There was much agreement between the Council and the appellant on the conditions that should be imposed if the appeal is allowed. The suggested conditions are set out in schedules<sup>41</sup> which also include notes on points of disagreement and suggested alternative drafting. I have considered the suggested conditions in the light of the policy tests for conditions in the Framework, Planning Practice Guidance and discussion at the Inquiry. Other than where indicated below, the recommended conditions set out in Annex E are substantially the same as those discussed at the Inquiry. In some cases I have adjusted detailed wording, mindful of the Guidance and in the interests of clarity and internal consistency. Some conditions require matters to be approved before development commences. The appellant is in agreement with the pre-commencement conditions. These are necessary either because they address impacts that would arise during construction or because they may affect the design in a way that would need to be settled at an early stage.

115. Condition 1 requires development to be in accordance with the approved access plans, in the interests of clarity and certainty. Conditions 2 and 3 are based on the standard conditions for reserved matters. These have been adapted to enable reserved matters to be submitted in phases over a period of years. This is appropriate due to the scale of the development, which would take around 12 years to be built out. Condition 4 requires the approval of a phasing strategy.

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<sup>41</sup> ID.06 and ID.13

This would ensure that infrastructure and community facilities would be provided at the right time as the development of new housing proceeds. Closely linked to this is Condition 5, which would require the approval of a Development Framework Document and revised masterplan. This would enable the site to be developed in a comprehensive manner. It would provide the framework in which reserved matters applications for individual phases could be considered. This is necessary in the interests of achieving good design across the site as a whole.

116. Condition 6 sets out landscape details that would require approval. It is necessary in the interests of achieving good design and enhancing biodiversity. Conditions 7, 8 and 9 require submission of a further Preliminary Ecological Appraisal, a site-wide Strategic Biodiversity Management Plan and detailed Biodiversity Management Plans for each phase. These conditions are necessary to protect habitats and species within the site and in order to achieve biodiversity net gain. Condition 10 requires implementation of a scheme of archaeological investigation and evaluation, in order to protect the significance of as yet unidentified archaeological remains which may exist on the site, as recommended in the ES. Condition 11 requires the submission of a scheme for the proposed country park. This is necessary to meet the recreational needs of new residents and to provide mitigation for potential impacts on Strensall Common SAC, as described in Annex D.
117. Condition 12 requires the submission of a Construction Environmental Management Plan in the interests of highway safety and managing impacts on the environment and the living conditions of nearby residents during construction. Condition 13 requires further noise surveys and a review of mitigation for each phase. This is necessary to protect the living conditions of new residents and to ensure that the activities of an existing employment use and an established community facility are not unduly constrained by the introduction of new noise sensitive development. Condition 14 requires details of noise output and mitigation for any plant or equipment required by new non-residential buildings. This is necessary to protect the living conditions of future residents of the site and existing residents nearby.
118. Conditions 15, 16, 17 and 18 contain measures to ensure that any contaminated land is identified, assessed, remediated and made fit for its new use. They are necessary in the interests of controlling risks of pollution. Condition 19 requires separate systems for foul and surface water drainage. Condition 20 requires approval of a site-wide drainage strategy and details of foul and surface water drainage within each phase. These conditions are necessary in the interests of managing risks of pollution and flooding. Condition 21 requires approval of materials, in the interests of the character and appearance of the area. Conditions 22 and 23 relate to the provision of facilities for charging electric vehicles, in the interests of sustainable development. Conditions 24 and 25 limit the total number of dwellings and building heights. This is to ensure that the scheme remains within the parameters that have been assessed in the ES. Condition 26 requires non-residential buildings to achieve a BREEAM "excellent" rating in the interests of sustainable development.
119. Condition 27 requires submission of a site-wide strategy for the provision of 5% self or custom build plots. This is necessary to meet the needs of people wishing to commission or build their own homes, consistent with the Framework and the eLP. Condition 28 requires submission of a scheme for the provision and

management of sports pitches and open spaces and Condition 29 requires submission of details of play areas. These conditions are necessary in the interests of meeting the needs of new residents for outdoor recreation and in the interests of achieving good design across the site as a whole. Condition 30 requires submission of details of cycle parking, in the interests of sustainable transport. Conditions 31 and 32 require further details of the pedestrian and cycling facilities to be provided along North Lane and Monks Cross Link road, in the interests of highway safety and promoting sustainable transport choices.

120. Condition 33 requires details of measures to avoid the creation of a vehicle route through the site from North Lane to Monks Cross Link road, in the interests of highway safety and protecting the environmental quality of the new residential areas. Condition 34 requires submission of details of how access is to be provided to a parcel of land in the western part of the site that is excluded from the red line boundary. This is necessary in the interests of securing the comprehensive development of the site as a whole and achieving good design. Condition 35 requires the dwelling mix to be considered in the context of the site-wide development framework and again for each successive phase. This is necessary in the interests of meeting housing needs as they evolve over the long construction period.
121. Condition 36 requires a scheme of community use in relation to the primary school and condition 37 requires a scheme for the provision of social infrastructure, including retail facilities. These conditions are necessary in the interests of meeting the needs of new residents. They would also contribute to the objectives of place-making, community identity and promoting sustainable transport choices. Conditions 38 and 39 relate to road safety audits to support detailed highway design and the closure of accesses that would become redundant as a result of the proposed development. These conditions are necessary in the interests of highway safety.

*Suggested conditions that are not recommended*

122. A suggested condition sought to achieve higher environmental standards than those contained in the current Building Regulations. This condition would serve no purpose because the Building Regulations will have changed, requiring higher standards, by the time the first houses could be constructed. A suggested condition sought further details of junctions. However, access is not a reserved matter. To the extent that further safety audits are required, that would be addressed by Condition 38. A suggested condition would require submission of an updated travel plan. However, this would duplicate the provisions of the Agreement, which include a Travel Plan Contribution. This contribution is to be used by the Council to provide, implement and monitor a travel plan<sup>42</sup>. A suggested condition would require pre-commencement condition surveys of the highways adjoining the site. This condition relates to the management and maintenance of the public highway, rather than land use planning, so is not necessary for the grant of planning permission.

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<sup>42</sup> ID.18, Definitions section and Schedule 1, paragraphs 2.4 and 2.5



## INSPECTOR'S CONCLUSIONS

*The numbers in square brackets [n] refer to earlier paragraphs in this report*

123. Taking into account the oral and written representations, the Secretary of State's reasons for recovering the appeal and my observations on site, the main issues are:

- a) the effect of the proposal on the Green Belt, including any effects on openness and the purposes of including land within the Green Belt;
- b) the effect of the proposal on transport networks and the extent to which it would support the objective of promoting sustainable transport;
- c) the nature and extent of any economic, social and environmental benefits which would result from the proposal; and
- d) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such as to provide the very special circumstances required to justify development in the Green Belt.

### Policy Context

124. The development plan comprises the saved policies of the Yorkshire and Humber Plan Regional Spatial Strategy (2008) (RSS) and the Huntington Neighbourhood Plan (2021) (HNP). The general extent of the Green Belt around York has been established by saved RSS Policy Y1(C)1. The detailed inner boundaries will be defined through the local planning process, in order to establish long term development limits that safeguard the special character and setting of the historic city as required by saved RSS Policy YH9(C). However, the inner boundaries have not yet been defined in any adopted local plan. I comment below on how the appeal site should be treated in these circumstances. [18]

125. The HNP does not itself allocate strategic housing sites because that is a matter for the Local Plan. The HNP notes that there is a strategic housing allocation, *ST8 Land North of Monks Cross*, in the emerging Local Plan. If adopted, this allocation would include the residential elements of the appeal scheme. In advance of the adoption of a Local Plan, HNP Policy H14 states that decisions on whether land should be treated as falling within the Green Belt should follow the approach supported in *Wedgewood*. [19, 20]

126. I consider that the HNP Policies that are of most relevance to the appeal are:

- H1 - criteria for new residential development;
- H2 - mix of housing types and tenures;
- H3 - affordable housing; and
- H4 - proposals should respect the character of their local environment.

[21]

127. The Publication Draft City of York Local Plan (2018) (eLP) was submitted for examination in May 2018. The residential element of the appeal scheme would be within an area allocated as a strategic housing site (ST8). The proposed country park would be in an area to the east of Monks Cross Link Road (MCLR) which is

allocated as open space (OS8). Policy SS10 of the eLP applies to allocation ST8 and sets out criteria that are to be applied to development proposals. [22, 23]

128. The examination of the eLP is continuing and, at the time of the Inquiry, further hearing sessions were set to commence in February 2022. There are unresolved objections to allocation ST8, albeit that some objections relate to matters of detail rather than the principle of development. In these circumstances, I consider that only limited weight can be attached to the eLP as a statement of emerging policy. Nevertheless, the fact that this site has been identified as a suitable location for a strategic housing development is a material consideration that weighs in support of the proposal. [22]

129. The Draft Local Plan 2005 incorporating the Fourth Set of Changes was approved by the Council for development management purposes in April 2005. I consider that very little weight should be attached to this plan because it is not being taken forward towards adoption and has been overtaken by the eLP. [25]

### **The effect of the proposal on the Green Belt, including any effects on openness and the purposes of including land within the Green Belt**

130. The appeal site lies well within the general extent of the Green Belt, which extends about 6 miles from the city centre. The *Wedgewood* case indicates that, in the absence of a defined inner boundary, the decision-maker should apply the high-level RSS policy rationally, having regard to site-specific features. The appeal site comprises an extensive area of mainly open land. On the ground, the distinction between the built-up areas of Huntington and Monks Cross and the predominantly open agricultural land on either side of the MCLR, including the appeal site, is readily apparent. I consider that the appeal site has the characteristics of Green Belt and should be treated as such for the purposes of this appeal. My conclusion on this matter is consistent with the HNP and the views of the Council and the appellant, as recorded in the Statement of Common Ground (SoCG) and their respective submissions to the Inquiry. [19, 20, 29(a), 36, 95]

131. The proposed dwellings, primary school and convenience store would be new buildings in the Green Belt. There was no dispute that this would amount to inappropriate development and no suggestion from any party that any of the exceptions set out in paragraph 149 of the National Planning Policy Framework (the Framework) would apply. The proposed country park would be a change of use of land for the purposes of outdoor recreation. The proposed sustainable drainage infrastructure that would be created within the country park would amount to engineering operations. Having regard to paragraph 150 of the Framework, these elements of the proposal would not in themselves amount to inappropriate development because they would preserve the openness of the Green Belt and would not conflict with the purposes of including land in it. Nevertheless, looked at in the round, the proposal as a whole would represent inappropriate development. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. [29(a), 36, 95]

132. The appeal site is predominantly open agricultural land, with a group of farm buildings accessed from North Lane. As a result of the proposal the land to the west of MCLR would become a built-up area, mainly comprised of two storey housing, albeit with some areas of open space. The site would be very much



more built-up than it is now, resulting in significant harm to the openness of the Green Belt.

133. In its current condition, the site contributes to two of the five purposes of Green Belt set out in paragraph 138 of the Framework. These are checking the unrestricted sprawl of large built-up areas and assisting in safeguarding the countryside from encroachment. The Council and the appellant agreed that the proposal would conflict with these purposes. I share that view. [29(a)]
134. The Council and the appellant also consider that there would be conflict with the purpose of preserving the setting and special character of the historic city. However, no party has identified any views of the historic city, or specific historic features within it, that would be harmed. The experience of approaching the historic city from the north is already affected by the presence of extensive commercial development around Monks Cross. Although the urban area would be extended northwards, I do not consider that the experience of arriving at the historic city from this direction would be significantly affected. To my mind this is not a matter that weighs against the appeal.
135. In conclusion, the proposal would amount to inappropriate development in the Green Belt. It would also result in significant harm to the openness of the Green Belt and the purposes of including land within it, namely checking the unrestricted sprawl of large built-up areas and assisting in safeguarding the countryside from encroachment. In accordance with paragraph 148 of the Framework, substantial weight should be given to these harms. The proposal would conflict with saved Policy Y1(C)1 which establishes a Green Belt around York.

### **The effect of the proposal on transport networks and the extent to which it would support the objective of promoting sustainable transport**

#### *Effect on the highway network*

136. The A1237 York Outer Ring Road (YORR) adjoins the north eastern part of the appeal site. Traffic to and from the appeal scheme would access the YORR by the roundabout junction with MCLR and North Lane. The YORR is subject to significant congestion at peak times, with lengthy queues at four roundabout junctions. There are proposals for a dualling scheme which would improve the capacity of the YORR and its associated roundabouts. [14]
137. The application was supported by a Transport Assessment (TA). Other than the question of trip rates, which I shall return to below, there was a significant level of agreement between the Council and the appellant on the inputs to the TA, including the scope of the study, baseline flows and the distribution of generated traffic. The TA shows that queue lengths at the YORR roundabouts would increase due to traffic growth on the network, even without the traffic that would be generated by the appeal scheme. Without mitigation, the appeal scheme would add further to congestion at these junctions. The Council and the appellant agreed that, with the dualling scheme in place, the traffic generated by the appeal scheme could be accommodated. [29(r)]
138. The scale of the appeal scheme is such that it would take several years to be built out, by which time it is anticipated that the dualling scheme will have been implemented. However, the s106 Agreement (the Agreement) includes provisions

to address the possibility that this does not happen. Mitigation works have been identified at each of four roundabout junctions, including the MCLR junction, such that the traffic generated by the appeal scheme would not add to the levels of congestion that would otherwise be experienced. The Agreement would provide for financial contributions to those works, which would only become payable in the event that either the dualling scheme had not commenced before first occupation of the 350<sup>th</sup> dwelling or the dualling scheme was amended to exclude any of the roundabouts in question<sup>43</sup>.

139. The Agreement would also provide for a proportionate contribution to improvements to the Malton Road/Stockton Lane/Heworth Green roundabout junction. This would mitigate the impact of traffic resulting from the appeal scheme on this junction<sup>44</sup>.
140. The primary accesses to the appeal scheme would be from two roundabout junctions with MCLR. No technical concerns have been raised in connection with these junctions. As noted above, the northern roundabout would also incorporate a fourth arm providing access to the country park. The design of the roundabout would include facilities for pedestrians crossing MCLR to access the park safely. Whilst it is to be expected that most visitors to the park from the appeal site would walk or cycle, it may be that some visitors, including some from Huntington, would choose to drive. I consider that the proposed access point, linked to a modest level of parking provision, would accommodate those visitors in a safe and suitable way. Further details of the visitor car park could be controlled by a condition. [5]
141. A third vehicular access is proposed from North Lane. A local Councillor and Huntington Parish Council have objected to this aspect of the proposal, on highway safety grounds. Access is not a reserved matter and a plan of the proposed priority junction has been submitted for approval at this stage<sup>45</sup>. The plan shows that appropriate visibility splays could be provided within the highway boundary. A 3.0m shared footway/cycleway, with a 0.5m verge, would be provided on the south side of North Lane between the proposed access and the edge of the built-up area of Huntington. The 30mph speed limit would be extended from the existing edge of the built-up area to a point east of the new access. No technical objections have been raised to the proposed access. Having regard to the design features described above, I see no reason to think that this aspect of the proposal would be harmful to highway safety. [27, 99, 102(b)]
142. The Council's agreement to the trip rates used in the TA was dependent on the provision of pedestrian and cycle links at Garth Road and Alpha Court. The need for those links is discussed further below. In this part of the report I shall comment only on the Council's contention that, without the links, the modal share assumed in the TA may not be achieved, resulting in more vehicle trips being generated. The Council did not make any other criticism of the trip rates used, nor were any alternative trip rates suggested. The modal shares assumed in the TA are based on Census data<sup>46</sup> with some projected changes relating to

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<sup>43</sup> The Agreement (ID.18), Schedule 1, paragraph 2.6

<sup>44</sup> The Agreement (ID.18), Schedule 1, paragraph 6.1

<sup>45</sup> CD1.39.01 North Lane Access, 13035/GA/03 Revision C

<sup>46</sup> Inspector's note – in answer to my questions it was confirmed that the Census data from 2011 is for journeys to work

proposed transport measures. The most significant of these changes is an increase in the share by bus from 9.2% to 15%. Having regard to the proposed measures to improve access to bus services, which are described in more detail below, that seems to me to be a reasonable approach. Notwithstanding other measures that would support sustainable transport choices, the TA makes the robust assumption that there would be only minor changes in the modal shares for walking and cycling as compared with the baseline. In my view, the modal shares that have been used in the TA, together with the trip rates, have been justified. This would be the case whether or not the Secretary of State decides that it is necessary to require provision of pedestrian and cycle links at Garth Road and Alpha Court. [51, 53, 89, 90, 91]

143. Subject to the mitigation measures provided for in the Agreement, I conclude that the proposal would not result in any unacceptable impacts on the highway network, either in terms of safety or capacity.

#### *Public transport*

144. There are frequent bus services between the city centre and Monks Cross, serving both the park and ride site and Monks Cross Shopping Park. It is proposed to extend an existing bus route to pass through the centre of the appeal site along a spine road linking the two proposed roundabouts on MCLR. The service improvements have been discussed with the bus operator. The Agreement would provide funding for an improved service for a period of five years<sup>47</sup>, by which time it is anticipated that the service would become self-sustaining. I consider that these aspects of the proposals would make bus transport a convenient and attractive option for trips to the city centre and other locations within York. [15, 27, 47]
145. There are also bus services passing through Huntington. For most new residents these would be less convenient than the bus route through the site. However, the proposed new pedestrian routes at Woodland Way and North Lane would provide access to bus stops for any new residents wishing to use these services. [51, 80]

#### *Walking and cycling*

146. In general terms, the appeal site is well located to enable walking and cycling trips to be made for a wide range of purposes. Within the adjoining settlement of Huntington there are primary and secondary schools, two medical practices, a library, a post office and convenience store, a sports pitch and community facilities. To the south of the appeal site there is a large retail park, including supermarkets, comparison shopping and food outlets. A little further away is a community stadium, further large scale retail premises and leisure facilities. [15]
147. It is also important to take into account the facilities that would be provided within the site itself. The proposal includes a primary school, an early years facility, a convenience store, open spaces and sports pitches. The proposed country park would also be close by. The application is in outline so walking and cycling routes within the site are not fixed at this stage. However, walking and cycling routes would be considered in more detail in a proposed Development

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<sup>47</sup> The Agreement (ID.18), Schedule 1, paragraph 2.1

Framework Document and revised masterplan, which would be submitted for approval pursuant to a suggested condition. Those documents would provide a comprehensive design framework as a basis for detailed reserved matters submissions for individual phases. Subject to this design process, the facilities within the site should be reasonably accessible to new residents by walking and cycling. [26]

148. The appeal scheme would include three pedestrian/cycle links to the site. These would be along the site frontage from the North Lane access to the edge of Huntington, along the site frontage from the southern MCLR roundabout to Monks Cross Drive and from the south west corner of the site to Woodland Way. There would also be off-site works to create improved links to the local area. These would comprise an upgraded pedestrian/cycle facility from the edge of the appeal site along North Lane to the junction with North Moor Road and an extension to pedestrian and cycling facilities along Monks Cross Drive from the appeal site, past Alpha Court to an existing pedestrian crossing near Sainsburys. An existing 20mph zone and associated traffic calming measures near a primary school in Huntington would be extended southwards, past Woodland Way to Hambleton Way, and there would be mitigation measures at the junction of North Moor Road/North Lane/Keswick Way<sup>48</sup>. The Agreement would provide for contributions to fund the off-site works<sup>49</sup>. [27]
149. Two additional links were discussed at the Inquiry, at Garth Road and Alpha Court, to the west and south respectively. The Council argued that these links are necessary to provide the degree of connectivity that is required by local and national policy. The appellant considers that the links would be an attractive addition to the development but does not agree that they are necessary to make the development as a whole acceptable in planning terms. [44 to 46, 88]
150. The Council and the appellant provided evidence regarding the distances to various facilities with and without the two further links, albeit with some differences in methodology and the facilities considered. The distances that would be saved by the introduction of either link, to any facility, were generally in the range 300m to 500m. This scale of change is unlikely to be significant to the travel choices of those wishing to cycle, so I consider that the case for the additional links turns on their effect on walking trips.
151. The guidance documents reviewed by both parties indicate that around 80% of all journeys of one mile (1.6km) or less are made on foot. As journey length increases, the proportion of journeys made on foot reduces. A comfortable walking distance for a walkable neighbourhood is thought to be around 800m. The documents note that the distance people will walk is affected by the destination. For schools, 1000m is regarded as an acceptable distance with 2000m being a preferable maximum. Distance is not the only matter to consider because travel choices will also be affected by factors such as the attractiveness and safety of walking routes. [82, 86]
152. The additional links would require the use of third party land which is not in the control of the appellant. The appellant states that it has approached the

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<sup>48</sup> Inspector's note – the locations of the various links and off-site works are shown on a plan at Appendix I of Mr Owen's proof of evidence (CD2.09.03)

<sup>49</sup> The Agreement (ID.18), Schedule 1, paragraph 2.7

relevant owners with a view to securing the necessary rights by agreement. The Council has indicated that it would be willing to consider the use of Compulsory Purchase powers if agreement cannot be reached. The Council and the appellant agree that there is a reasonable prospect of the links being delivered, such that a Grampian condition requiring delivery could properly be imposed if the Secretary of State considers that such a condition would meet the relevant tests. If the Secretary of State concludes that the additional links should be secured by such a condition, then the Council and the appellant agree that the triggers for providing them should be 200 units (for Garth Road) and 260 units (for Alpha Court). [40, 45, 92]

#### Garth Road

153. The link to Garth Road would follow a private track that currently serves a paddock. Christopher Smith and Dawn Young state that the Garth Road link would cross their land. They say that they have declined an approach from the appellant regarding their land. They do not think that a link to Garth Road is necessary because the proposed pedestrian/cycleway along North Lane would provide a good link to the site. [108, 109]
154. The Garth Road link would primarily benefit those living in the northern part of the site. For those living in the southern part, Woodland Way would provide a more direct route to facilities in Huntington. The appellant's analysis shows that those visiting facilities towards the northern end of Huntington, such as a GP surgery and the post office/convenience store, would be likely to use the route along North Lane whether or not there was a link at Garth Road. The Garth Road link would however reduce the walking distances to Huntington Primary School by 355m, to Huntington Secondary School by 275m and to a medical centre at Garth Road by 340m. The savings in walking time would be three to five minutes. [49]
155. The Council criticised the appellant's approach of measuring distances from two centroids, one in the northern part and one in the south. I take into account that the actual walking distances and the potential reductions in such distances would vary across the site. However, the northern centroid would be reasonably representative of a significant proportion of the proposed units and I do not think that the Council's criticism undermines the broad conclusions to be drawn from the appellant's assessment. In any event, the Council's assessment, which used a single measurement point in the centre of the site, did not produce results that differed widely from the appellant's assessment. [50, 84, 85]
156. The Council suggested that the Garth Road link would be more attractive to pedestrians. I note that walking the short stretch alongside the paddock would be a pleasant experience which may attract some to use the route. However, the North Lane route would offer a safe, flat and direct walking route to Huntington, passing adjacent to a newly landscaped area forming part of the proposed development. Some pedestrians may prefer a route that is overlooked by housing. I see no reasons to think that this route would be unattractive to pedestrians. [52, 86]
157. Without the Garth Road link, the distance to Huntington Secondary School (from the northern centroid) would be 2035m, slightly above the 2000m which is regarded as a preferred maximum. Even so, I saw that the route is flat, safe and



attractive. I do not think that a saving of 275m would result in a significant change in the propensity for secondary pupils to walk to school.

158. With or without the Garth Road link, the distances to the medical centre and primary school would be below 1.6km. I do not consider that the scale of reduction in walking time or distance resulting from the link would be sufficient to bring about a significant change in the likelihood of people walking to these facilities. Moreover, it is important to take into account that a primary school is proposed on the site itself. This would significantly improve the potential for school trips to be made on foot. To my mind the Garth Road link would be a useful facility which would offer an additional travel choice to new residents. However, having regard to the alternative walking routes that would be provided, I do not think it would bring about a significant change in the proportion of trips made on foot.

### Alpha Court

159. The existing road at Alpha Court ends just short of the boundary with the appeal site. From what I saw, there are no obvious physical constraints to creating a pedestrian/cycleway into the site at this point. Monks Cross LLP has stated that it is a part owner of the roads at Alpha Court and the land that would be needed. Monks Cross LLP considers that the link would be necessary to ensure pedestrian and cycle integration into the Monks Cross neighbourhood. It states that there has not yet been any meaningful engagement with the appellant but it would welcome discussions with a view to securing the link. [110, 111]
160. Alpha Court would provide an alternative route into the Monks Cross area. The Monks Cross Shopping Park provides a range of comparison goods as well as a supermarket, all of which would be walkable from the appeal site. The appellant's assessment shows that the shortest walking route from either of the centroids would be along MCLR, whether or not the Alpha Court link was provided. Having regard to the plans that supported the assessment, I consider that the same conclusion would be reached for most of the new dwellings, other than for a small group in the south west corner of the site. The Alpha Court link would result in a small reduction in the walking distance for these dwellings. [48]
161. The Council suggested that the Alpha Court link would be more attractive to pedestrians than a route beside MCLR. However, as at North Lane, the route would be adjacent to a landscaped area forming part of the new development. The introduction of roundabouts along MCLR would have a traffic calming effect and this section of the road would have become part of the extended built-up area. To my mind this would be a safe and attractive route to the retail park which is likely to be well used by pedestrians. [86]
162. The Council's evidence also considers distances to a Sainsburys supermarket, a leisure centre, community stadium, Vangarde Park and the park and ride site. In each case the walking distance from the centre of the appeal site would be reduced by around 500m. For example, the walking distance from the centre of the site to the leisure centre would be reduced from 1.9km to 1.4km. This reduction would be likely to result in some impact on the number of trips to these destinations on foot. However, in terms of an overall assessment, it seems likely that commercial leisure facilities would be visited less frequently than facilities such as schools and convenience shops. [84]

163. My overall assessment is that the Alpha Court link would be a useful facility which would offer an additional travel choice to new residents. However, having regard to the alternative route that would be provided, and the wide range of facilities available to new residents, I do not think that it would bring about a significant change in the proportion of trips made on foot.

*Other transport measures*

164. The Agreement would provide for a contribution to sustainable transport measures. These would include incentives for the first occupiers of each dwelling to choose sustainable modes of transport. There would also be a contribution to implementing and monitoring a travel plan for the development<sup>50</sup>.

*Conclusions on transport*

165. The Framework states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Safe and suitable access to the site should be achieved for all users. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Opportunities to promote walking, cycling and public transport use should be identified and pursued. Planning policies should provide for attractive and well-designed walking and cycling networks and applications for development should prioritise pedestrian and cycling movements<sup>51</sup>.

166. The appeal site is well located to enable walking and cycling trips to be made for a wide range of purposes. There are frequent bus services between the city centre and Monks Cross. The proposal would extend an existing bus route to pass through the centre of the appeal site. The Agreement would provide funding for an improved service for a period of five years. These aspects of the proposals would make bus transport a convenient and attractive option for trips to the city centre and other locations within York.

167. The proposal includes safe and suitable access to MCLR and North Lane. It is anticipated that improvements to the YORR will be carried out during the time in which the appeal scheme would be built out. This would enable the traffic generated by the proposal to be accommodated on the wider highway network in a satisfactory way. However, if those improvements do not come forward at the right time, the Agreement includes a contingency arrangement whereby mitigation works would be funded at roundabouts along the YORR. There would be a contribution to the improvement of the Malton Road/Stockton Lane/Heworth Green roundabout junction in any event. Subject to these mitigation works (to the extent that they may be required) the proposal would not result in any severe impacts on the road network.

168. I consider that the proposal has identified and pursued opportunities to promote walking, cycling and public transport use, through attractive and well-designed pedestrian and cycle links, off-site pedestrian and cycle facilities, off-site traffic calming and measures to support sustainable transport choices by new

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<sup>50</sup> The Agreement (ID.18), Schedule 1, paragraphs 2.2 to 2.5

<sup>51</sup> The Framework, paragraphs 104, 105, 106, 110, 111 and 112

- residents. Overall, I consider that the proposal accords with those policies of the Framework that seek to promote sustainable transport.
169. Policy H1 of the HNP sets out criteria for new residential development. These include providing safe pedestrian and cycle links to Huntington Village, local schools and the existing network of pedestrian and cycle routes and, more generally, promoting transport links for pedestrians, cyclists, and public transport. For the reasons given above, I consider that the proposal would accord with Policy H1, insofar as the policy relates to transport.
170. Policy SS10 of the eLP sets out key principles for site allocation ST8. The proposal would accord with these principles in various respects. It would provide access from the MCLR, address impacts on the wider highway network, deliver frequent and accessible bus services through the site and provide safe and attractive pedestrian and cycle routes to Monks Cross. The Council argued that the proposal would not provide the necessary strategic connections as required by criterion (xii), nor would it maximise pedestrian and cycle connectivity as required by criterion (xiii), unless the Garth Road and Alpha Court links were secured by a Grampian planning condition. [80, 81]
171. The Council and the appellant both consider that there is a reasonable prospect of the Alpha Court and Garth Road links being delivered. On that basis, they agree that a Grampian condition could be imposed if the Secretary of State finds it necessary for the grant of planning permission. I agree that there is a reasonable prospect of delivery in respect of the Alpha Court link, on the basis that the owners of the land in question appear to be supportive. The owners of the Garth Road link are opposed to the use of their land. Even so, such conditions can be imposed unless there is no prospect at all of the condition being fulfilled<sup>52</sup>. In this case, the Council has indicated that it would be prepared to consider the use of Compulsory Purchase powers<sup>53</sup>. There is, therefore, at least some prospect of the link being delivered. Accordingly, I agree with the Council and the appellant that it would be open to the Secretary of State to impose a Grampian condition, in respect of either or both links, if found to be necessary. [40, 56, 92, 108, 109, 110, 111]
172. However, whilst I have concluded that the Alpha Court and Garth Road links would be useful facilities which would offer additional travel choices to new residents, in my view neither link would bring about a significant change in the proportion of trips made on foot. Taking account of the totality of the transport measures proposed, I do not think that delivery of either link is necessary for the grant of planning permission.
173. The Council argued, by reference to paragraph 105 of the Framework, that there is a policy imperative to maximise sustainable travel solutions. I do not read the Framework in that way. To my mind, for decision making, the requirement is that "*appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location*"<sup>54</sup>. For the reasons given above, I consider that the proposal meets that

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<sup>52</sup> ID.14 – Note on Grampian conditions

<sup>53</sup> Inspector's note – it is not for me to comment on the likely outcome of such powers being used. That would be the subject of a separate statutory decision making process.

<sup>54</sup> The Framework, paragraph 110(a), read in context with the rest of section 9



requirement (with or without the disputed links) when all of the transport proposals are looked at in the round. [55, 79, 80]

174. I note that criterion (xii) of eLP Policy SS10 calls for “*further strategic connections*” (plural), other than those associated with existing roads. The Woodland Way link would be the only such connection. To this extent, there would be a conflict with the emerging policy. Moreover, the Council drew attention to criterion (xiii) of the same policy, which seeks to “*maximise pedestrian and cycle integration*”. To my mind this wording should not be applied too literally, but rather in a reasonable way. On that basis, the proposal would be in conformity. In any event, however the words are interpreted, the eLP is some way from being adopted. The Council and the appellant agree that limited weight should be attached to it at this stage. I agree. [53, 54, 55, 80, 81]
175. In my view a Grampian condition, which would have the effect of restricting housing delivery until such time as the disputed links had been secured, would not be necessary for the grant of planning permission. The Secretary of State may conclude, contrary to my recommendation, that such a condition would be necessary. I have included suggested wording at Appendix F which could be used in those circumstances.
176. My overall conclusion is that the proposal would not cause harm to the safety or the capacity of the highway network. Opportunities for travel on foot, cycle or bus have been considered and appropriate provision has been made, consistent with those policies of the Framework that seek to promote sustainable travel. The proposal would accord with HNP Policy H1, insofar as the policy relates to transport.

### **The nature and extent of any economic, social and environmental benefits which would result from the proposal**

#### *Housing and affordable housing*

177. The proposal is for about 970 dwellings. The site is not subject to significant constraints and the supplementary ES indicates that first occupations could take place from 2024, with the scheme built out over the following 10 years. It would therefore make an important contribution to housing delivery in York over an extended period. The Council is unable to demonstrate a five year supply of housing sites, as required by the Framework. Based on a recent appeal decision, the current housing land supply is agreed to be between 2.79 years and 3.45 years. There is an urgent need for housing in York and the Council wants to see this site brought forward to contribute to meeting that need. I consider that significant weight should be attached to the social and economic benefits of housing delivery. [28, 29(b), 30, 73]
178. The Agreement would secure 30% of the units as affordable housing. This would be consistent with Policy H10 of the eLP. It would be a further social and economic benefit to which I attach significant weight

#### *Primary school and early years facility*

179. The Agreement would secure the transfer of a site sufficient for a two form entry primary school together with an early years facility. There would also be a financial contribution that would be sufficient for a 1.5 form entry primary school. In some cases the provision of contributions to early years, primary, secondary

and special needs places would do no more than mitigate impacts on educational requirements arising from development. However, in this case, I consider that the provision of an early years facility and a primary school on site should be regarded as an important benefit. This is, in part, because a 1.5 form entry school would be slightly larger than the anticipated pupil yield from the scheme. Moreover, the site could be developed in a modular way, ultimately meeting the needs of an area wider than the appeal site. [9, 63, 74]

180. In addition, it is important to note that the proposal would do more than merely meeting the need for a given number of school places. Creating a school within the appeal site would contribute to place-making and community identity within this strategic housing proposal. In addition, both the primary school and the early years facility would be within a reasonable walking distance of all parts of the site. This would contribute to sustainable transport objectives and reduce car travel from the site to other schools in the locality. [63]

181. The Agreement makes provision for "*Plan B*", whereby the Council could elect not to build a new school in the event that there are insufficient pupils. However, the appellant, the Council and the Parish Council agree that the provision of a school on site is the preferred approach. This would also be consistent with Policy SS10(viii) of the eLP and Policy H1(5) of the HNP. I consider that Plan B is a sensible contingency arrangement, given the inevitable uncertainty involved in projecting needs some years ahead. If the school turns out not to be viable, the need for school places arising from the development would still be met in an appropriate way. However, based on the evidence before the Inquiry, the likelihood is that the school would be delivered on site. I have taken account of the significant social and economic benefits of providing the school and associated early years facility within the site on that basis. [9, 64, 75, 96]

#### *Country park*

182. The proposed country park would provide a substantial area of informal open space on the edge of the built up area. It would be readily accessible from the appeal site on foot or cycle. It would also be accessible from existing residential areas within Huntington. It would include green spaces, circular walking routes and areas for nature conservation. There would be a small car park with access from MCLR. This is likely to be attractive to visitors who choose to drive to open spaces, including those who drive because of restricted mobility or for exercising dogs, thereby reducing the impact of recreational pressures on Strensall Common Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Whilst the detailed design of the park would be approved at a later stage, the illustrative plans show how it could be laid out as an attractive space with a rural character. This would result in social and environmental benefits to which I attach moderate weight. [5, 29(l), 96]

#### **Other matters**

##### *Character and appearance of the area*

183. The appeal site comprises generally flat agricultural land with hedgerows and some mature trees. It is not subject to any landscape designations. Built-up areas at Monks Cross and Huntington are readily visible to the south and west respectively. The Environmental Statement (ES) included a landscape and visual impact assessment. Although some adverse visual effects were identified during

the construction phase, these would be temporary. The assessment concluded that landscape effects during the operational phase would be beneficial, due to a new residential character and country park, enhanced tree cover and a positive transition to the countryside edge. All matters of design and landscape would be considered at reserved matters stage.

#### *Flood risk and drainage*

184. The site is in Flood Zone 1 and is therefore currently at low risk of flooding. The ES found that development could result in a potential risk of shallow flooding on site. This would be managed by a new sustainable drainage system throughout the site. Surface water would be collected in ponds within the proposed country park, then discharged to an adjacent watercourse at a controlled rate. The ponds would be designed to retain all flows within the site for the 1 in 100 (plus climate change) flood event. The floor levels of the proposed dwellings would be set 150mm above ground level to mitigate any residual risks from blockage and/or exceedance events. A written representation has referred to the high water table and the Parish Council has raised a concern that the drainage ponds could be overwhelmed. However, the Council and the appellant agree that an appropriate drainage strategy could be secured by conditions. I share that view. [29(o), 102(d), 113]

#### *Biodiversity*

185. The Parish Council and interested parties have raised concerns about wildlife. The ES includes consideration of biodiversity, noting that much of the site is of low ecological interest. Hedgerows, mature trees and ponds represent areas of slightly better habitat but none are considered to be of greater than site level importance. Great crested newts are present on site, water voles are present in adjacent ditches and otters were noted at the south eastern corner. The site also provides suitable habitats for nesting birds and commuting and foraging habitats for bats. The Council and the appellant agree that there are opportunities to provide biodiversity net gain within the proposed residential areas and the country park. Protection of species and habitats during construction, and management and maintenance of mitigation measures, could be secured by conditions. Taking account of the proposed mitigation measures, the ES did not identify significant adverse effects on biodiversity. [29(m) and (n), 102(r), 112]
186. The site is within the zone of influence of Strensall Common SAC and SSSI. The Council's Habitats Regulations Assessment identified a likelihood of increased recreational impact on the SAC/SSSI as a result of development. I consider that the open spaces and pedestrian/cycle network that would be created within the site, together with the country park, would provide suitable alternative locations for informal outdoor recreation. This would mitigate the potential recreational impact on the SAC/SSSI. The Secretary of State will be the competent authority for the purposes of the Conservation of Habitats and Species Regulations. Information to support the Secretary of State's assessment is included at Annex D. [29(l)]

#### *Noise*

187. The ES included a noise assessment which found that internal noise levels would meet the relevant criteria for bedrooms and living rooms and that the road traffic noise impact on existing noise sensitive properties would be negligible.

Noise and vibration during the construction phase could be controlled through a Construction Environmental Management Plan, which could be secured by a planning condition. Portakabin Limited is a major employer operating from a 20ha site close to the south west corner of the appeal site. Portakabin considered that the noise survey information was out of date and did not take account of the potential need for it to move to 24 hour working. Concern was expressed regarding the potential for noise sensitive development to be introduced close to its operations. Shepherd Group Brass Band practises in a building within the Portakabin site, close to the boundary of the appeal site. Both Portakabin and the brass band are concerned that the educational and community activities of the band could be prejudiced by noise complaints. [104, 105, 106, 107]

188. An updated noise assessment was carried out for the Inquiry<sup>55</sup>. This included measurements at the boundary of the Portakabin site, including rehearsals of the Shepherd Group Brass Band. The updated assessment states that glazing and ventilation has been specified to allow internal sound levels to meet the relevant criteria for living rooms and bedrooms, taking account of the character of the sound (including gantry crane movement alarms) and allowing for future intensification of the Portakabin operations. The updated assessment concluded that the brass band would be audible in the gardens of some of the proposed dwellings, but unlikely to be significantly disturbing. Brass band rehearsals are unlikely to be audible within dwellings with windows closed.
189. The illustrative masterplan shows that there would be an area of open space between the Portakabin site and the nearest of the proposed houses. At this stage it seems unlikely that acoustic fencing or bunding would be required. However, the updated noise assessment recommends that the assessments are repeated when the layout and design of the proposed houses is considered. This would enable mitigation to be adjusted (if necessary) to ensure that appropriate sound levels could be achieved. I agree with that approach.

#### *Excluded land*

190. Barrett Homes and David Wilson Homes Limited state that they have an option over a block of land which is excluded from the western part of the appeal site (the BDW land). They commented that the masterplan should be updated to demonstrate how the BDW land could be developed together with the appeal site, so that the strategic allocation could be developed in a comprehensive manner. At the Inquiry, witnesses for the Council and the appellant stated that the BDW land could be served by a single access from the tree-lined boulevard shown on the illustrative masterplan<sup>56</sup>. The Council and the appellant have agreed wording within a suggested condition relating to the submission of a masterplan which would require details of links to the BDW land to be identified. No party at the Inquiry suggested that the exclusion of this land from the application site gave rise to any planning objections. [16, 103]

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<sup>55</sup> CD1.60.06

<sup>56</sup> Inspector's note – in answer to my questions, Ms Vergereau and Mr Owen both said that they thought that a single access would be sufficient, although Ms Vergereau suggested that an emergency access may also be needed.

### *Other matters raised by interested parties*

191. Other matters raised by interested parties, that have not already been discussed above, included provision for foul water drainage, the location of play areas, rear access to terraced houses, the need for more secondary school places, the design merits of the proposed houses, the location and number of self-build plots and the need for electric vehicle charging points. The Agreement would address the need for secondary school places. The other matters would be considered at reserved matters stage and/or pursuant to conditions.  
[102, 112, 113]

### *Conclusion - other matters*

192. Subject to appropriate conditions, the matters discussed in this section of the report do not weigh against the appeal.

### **Public Sector Equality Duty**

193. There was no formal equalities impact assessment before the Inquiry. However, the evidence included matters pertinent to equalities. The transport measures would include improvements to pedestrian routes and traffic calming that would improve accessibility for persons with a disability and persons with limited mobility. This would be a positive impact in that it would advance equality of opportunity for persons sharing relevant protected characteristics. No party identified any negative impacts.

### **Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such as to provide the very special circumstances required to justify development in the Green Belt**

194. The proposal would amount to inappropriate development in the Green Belt. It would also result in significant harm to the openness of the Green Belt and the purposes of including land within it, namely checking the unrestricted sprawl of large built-up areas and assisting in safeguarding the countryside from encroachment. In accordance with paragraph 148 of the Framework, substantial weight should be given to these harms.

195. Subject to the imposition of appropriate planning conditions, I have not identified any other harms that would weigh against the appeal.

196. In my view the most important considerations that weigh in favour of the appeal are:

- Housing delivery – the proposal would make a significant contribution to housing land supply over an extended period. Having regard to the scale of the shortfall in housing land supply, I attach significant weight to this factor.
- Affordable housing – the proposal would make a significant contribution to the delivery of affordable housing. I attach significant weight to this factor.
- Primary school and associated early years facility – in addition to meeting the numerical need for primary school and pre-school places, the delivery of these facilities within the appeal site would have

important benefits for place-making and sustainable transport objectives. I attach significant weight to this factor.

- Country park – the park would provide an extensive area of informal open space with a rural character that would be attractive to new residents as well as existing residents of Huntington. I attach moderate weight to this factor. [58, 96]

197. The saved policies of the RSS and the HNP comprise the development plan. However, there is no adopted development plan document that has the function of identifying housing sites in York. There has not been such a plan for many years. Although the eLP is now being examined, there is some way to go before that can be adopted. Consequently, there is not currently a plan-led route to meeting housing needs. In my view this is a factor which adds further to the weight to be attached to housing delivery. [58]

198. The appeal site is an allocated site in the eLP. That carries very little weight as a matter of planning policy because the eLP is part way through the examination process. Nevertheless, it is a material consideration. First, the fact that this site has been proposed for residential development since 2011 is a clear indication that there are no overriding planning constraints that would preclude housing here. Second, given the scale of the proposal, the level of objection to this appeal is unusually low. It is reasonable to infer that this reflects widespread (if not universal) acceptance that this land will be brought forward at some point to meet the need for housing in York. [58, 70, 73]

199. Drawing all this together, I find that the other considerations in this case clearly outweigh the harm to the Green Belt that I have identified. I have not identified any other harm. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

## **Conclusions**

200. The proposal is for development that requires Environmental Impact Assessment. I have taken the environmental information into account in reaching my conclusions on the appeal.

### *The development plan*

201. The proposal would conflict with saved Policy Y1(C)1 of the RSS which establishes a Green Belt around York.

202. I conclude that the proposal would:

- be well-related to the existing urban area of Huntington;
- provide recreational and sporting facilities;
- deliver new school provision;
- promote transport links for pedestrians, cyclists and public transport;
- provide safe pedestrian and cycle links to Huntington and to local schools; and
- include significant landscape and green areas.



203. In these respects it would accord with Policy H1 of the HNP. Other elements of the policy, relating to housing mix, design, tree protection, energy efficiency and sustainable drainage would be considered in more detail at reserved matters stage or pursuant to planning conditions. I consider that the proposal complies with Policy H1, as far as it can at this outline stage.
204. Policy H2 deals with housing mix, which would be considered at reserved matters stage. The Agreement would secure 30% of the development as affordable housing, consistent with Policy H3. Policy H4 relates to design principles. These are matters that would, in the main, be considered at reserved matters stage. However, based on the illustrative material submitted with the appeal and the Design and Access Statement, I see no reason to think that this outline proposal would not result in a satisfactory detailed design in due course.
205. These are the HNP policies that are of most importance to the determination of the appeal. I consider that the proposal is in accordance with the HNP. However, due to the conflict with RSS Policy Y1(C)1, the proposal should be regarded as being in conflict with the development plan as a whole.

*Other material considerations*

206. I have considered the policies of the eLP which were identified in the Statement of Common Ground. Other than the conflict with part of Policy SS10, as discussed above, no party at the Inquiry identified material conflict with the eLP. In any event, I attach only limited weight to the eLP.
207. The Council cannot demonstrate the five year supply of housing sites required by the Framework. Consequently, the approach to decision-taking set out in paragraph 11(d) of the Framework is engaged. Footnote 7 identifies policies in the Framework that are relevant to this approach, one of which is land designated as Green Belt. In this case I have found that very special circumstances exist, such that approving the proposal would be consistent with those policies of the Framework that relate to Green Belt.
208. The adverse effects and the benefits of the proposal are set out above in my discussion of the Green Belt balance. For the same reasons, I conclude that the adverse effects of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.
209. The approach to decision-taking set out in the Framework is a material consideration that outweighs the conflict with the development plan. Accordingly, I shall recommend that the appeal be allowed.

## **RECOMMENDATION**

210. I recommend that the appeal be allowed and planning permission be granted, subject to the conditions set out in Annex E.
211. I recommend that it is not necessary to impose a Grampian condition relating to the delivery of pedestrian and cycle links at Alpha Court and Garth Road. However, if the Secretary of State finds that such a condition is necessary, I have included suggested wording in Annex F.

*David Prentis*

Inspector



## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Philip Robson, of Counsel,

instructed by Ruhina Choudhury, Senior Solicitor  
to the Council

He called  
Helene Vergereau  
MA PGDip LLM  
Claire Tempest

Traffic and Highway Development Manager

PFI Contracts Manager, Education Support  
Services

Neil Massey  
BSc(Hons) DipTP  
DipUD

Planning Officer

### FOR THE APPELLANT:

Paul Tucker, Queen's Counsel,

instructed by Mark Johnson, Johnson Mowat

He called  
Philip Owen  
BEng(Hons) CEng  
MICE MIHT  
Heather Knowler  
BA(Hons) MA  
Mark Johnson  
MRICS MRTPI

Optima Highways and Transportation Ltd

EFM

Johnson Mowat

### INTERESTED PERSONS:

Councillor Keith Orrell

Huntington Ward Councillor

**Annex B – Abbreviations used in the report**

Agreement	The s106 Agreement dated 10 February 2022
BDW	Barratt Homes and David Wilson Homes Limited
eLP	Publication Draft City of York Local Plan 2018
ES	Environmental Statement
Framework	National Planning Policy Framework
Habitats Regulations	Conservation of Habitats and Species Regulations 2017 (as amended)
HNP	Huntington Neighbourhood Plan
MCLR	Monks Cross Link Road
MfS2	Manual for Streets 2
RSS	Yorkshire and Humber Plan Regional Spatial Strategy 2008
SAC	Special Area of Conservation
SoCG	Statement of Common Ground
SSSI	Site of Special Scientific Interest
SEND	Special Educational Needs and Disabilities
TA	Transport Assessment
YORR	York Outer Ring Road

**Annex C – Documents****Planning Application Documents**

<b>Core Doc Ref</b>	<b>Document Title</b>	<b>Drawing Reference</b>
CD1.01	Application cover letter	
CD1.02	Planning Application Form	
CD1.02.01	Amended Application Certificate B	
CD1.02.02	Amended Appeal Certificate B	
CD1.02.03	Landowner Response to Certificate B	
CD1.03	Red Line Plan/Location Plan	PL1377-VW-016-5-04
CD1.04	Illustrative Masterplan	PL1377-VW-016-03
CD1.05.00	Monks Cross Link Southern Access	13035/GA/01 Rev C
CD1.05.01	Monks Cross Link Northern Access	13035/GA/02 Rev C
CD1.05.02	North Lane Access	13035/GA/03
CD1.06	Planning Case Report	
CD1.07	Design and Access Statement	
CD1.08	Statement of Community Involvement	
CD1.09	Section 106 Heads of Terms	
CD1.10	ES Volume 1: Chapter 1	Contents and Introduction
CD1.11	ES Volume 1: Chapter 2	Methodology
CD1.12	ES Volume 1 :Chapter 3	Site and Development Description
CD1.13	ES Volume 1: Chapter 4	Construction Methodology and Phasing
CD1.14	ES Volume 1: Chapter 5	Socio Economics
CD1.15	ES Volume 2: Chapter 6	Transport Assessment and Travel Plan
CD1.16	ES Volume 2: Chapter 7	LVIA
CD1.17	ES Volume 2: Chapter 8	Flood Risk and Drainage
CD1.18	ES Volume 2: Chapter 9	Ecology Summary Report
CD1.19	ES Volume 2: Chapter 10	Air Quality
CD1.20	ES Volume 2: Chapter 11	Noise and Vibration
CD1.21	ES Volume 2: Chapter 12	Heritage
CD1.22	ES Volume 2: Chapter 13	Ground conditions
CD1.23	ES Volume 2: Chapter 14	Summary and Conclusions
CD1.24	ES Volume 3:	Non-Technical Summary
CD1.25	Tree Survey Report	
	<b>2020 updates</b>	
CD1.26	Preliminary Ecological Assessment 2020	Updated
CD1.27	Ecological Impact Assessment	Updated
CD1.28	Bat Activity Survey	Updated
CD1.29	Riparian Mammal Survey	Updated
CD1.30	Ecology Reptile Survey	Updated
CD1.31	Breeding Bird Survey	Updated

CD1.32	Great Crested Newt Survey	Updated
CD1.33	GCN DNA	Updated
CD1.34	Habitat Reg Assessment Screening Report	Updated
CD1.35	Traffic Impact Addendum	Transport Assessment Addendum ref 2306260
CD1.36	Transport Assessment Summary	Updated
CD1.37	Draft Travel Plan	
	ACCESS PLANS	
CD1.38.00	Proposed Northern Access onto Monks Cross Link	13035/GA/04 Rev A
CD1.38.01	Northern Site Access roundabout on Monks Cross Link	13035/GA/04 Rev B
CD1.39.00	Proposed Site Access onto North Lane	13035/GA/03 Rev B
CD1.39.01	Proposed Site Access onto North Lane	13035/GA/03 Rev C
CD1.40.00	Proposed Southern Access onto Monks Cross Link	13035/GA/01 Rev D
CD1.40.01	Proposed Southern Access onto Monks Cross Link	13035/GA/01 Rev E
	ES PARAMETER PLANS	
CD1.41	Figure 2 Development Area Parameter Plan	PL1377-VW-016-1 Issue No. 05
CD1.42	Figure 3 Land Use Parameter Plan	PL1377-VW-016-06 Issue No. 04
CD1.43	Figure 4 Movement and Access Parameter Plan	PL1377-VW-016-4 Issue No. 04
CD1.44	Figure 5 Green Infrastructure Parameter Plan	PL1377-VW-016-3 Issue No. 04
CD1.45	Figure 6 Building Heights Parameter Plan	PL1377-VW-016-2 Issue No. 04
CD1.46	Figure 7 Indicative Masterplan Parameter Plan	Illustrative Sketch Masterplan Sept 2020
CD1.47	Landscape Strategy Plan - Country Park area only	P20-2894.001 Rev A
CD1.48	Design and Access Statement – Rev A	
CD1.49	Number not used	
	<b>2021 updates</b>	
CD1.50	Landscape Strategy Plan	P20-2894.001 Rev C
CD1.51	Updated ES Chapter 8 Flood Risk Assessment	
CD1.52	Development Drainage Strategy	Ref 1012-010 Rev B
CD1.53	Ecology: Biodiversity Calculation	
CD1.54	Ecology: HRA Screening Report	
CD1.55	Highways Technical Note 1 – Response to Highways England Part 1	
CD1.56	Technical Note 1 – Response to Highways England Part 2	
CD1.57	Highways Technical Note 2 – Response to Highways England	
CD1.58	Figure 7 Indicative Masterplan Parameter Plan Rev A	Illustrative Sketch Masterplan Rev A

CD1.59	Woodlands Way Cycling and Walking Link Plan	13035/GA/20 Rev A
CD1.60.00	Supplementary Environmental Statement	
CD1.60.01	Appx 1 PINS Letter	
CD1.60.02	Appx 2 Updated Fig 6 Building Heights Plan	
CD1.60.03	Appx 3 Fig 9 Parameter Plan Demolition	NLMC-16-02-02
CD1.60.04	Appx 4 Earthworks Review Plan	1012-030
CD1.60.05	Appx 5 Fig 8 Parameter Plan Phasing – Dec 2021	
CD1.60.06	Appx 6 Supplementary Noise Assessment	
CD1.60.07	Appx 7 Air Quality Supplementary Statement	
CD1.60.08	Appx 8 Flood Risk & Drainage Supplementary Statement	
CD1.60.09	Appx 9 Agricultural Land Classification Technical Note	
CD1.60.10	Appx 10 Ecological Supplementary Information	
CD1.60.11	Appx 11 Supplementary Statement & updated LVIA Figures	
CD1.60.12	Appx 12 ES Non-Technical Summary Update January 2022	

### Appeal Documents

CD2.01.00	Statement of Common Ground
CD2.01.01	SoCG Appendix D
CD2.02.00	Draft Section 106 Agreement
CD2.02.01	Draft Section 106 Agreement
CD2.02.02	CIL Compliance Statement
CD2.02.03	Appx A.1 Strategic Housing Market Assessment 2016
CD2.02.04	Appx A.2 Strategic Housing Market Assessment Addendum 2016
CD2.02.05	1of2 of Appx B.1 Local Plan Viability Assessment Update 2018
CD2.02.06	2of2 of Appx B.1 Local Plan Viability Assessment Update 2018
CD2.02.07	Appx C.1 Primary and Secondary pupil yield background
CD2.02.08	Appx D.1 Monks Cross contribution calculation Final
CD2.02.09	Appx E.1 Waste Information for Developers 12 12 2021
CD2.03.00	Draft Conditions
CD2.03.01	Update by Inspector
CD2.04	Appeal Questionnaire
CD2.05.00	CYC Statement of Case
CD2.05.01	Appendix A - Schedule of Representations in Policy Order May 2018 - Policy SS10
CD2.05.02	Appendix B Composite Modifications Schedule - April 2021 - PM60 p11 - PM70 p17-21
CD2.05.03	Appendix C Topic Paper 1 Approach to defining Green Belt Addendum - January 2021
CD2.05.04	Appendix C.2 Topic Paper 1 Green Belt Addendum - January 2021 - Annex 3 - Inner Boundary - Part 2
CD2.05.05	Appendix D The High Court Judgment in Wedgewood v CYC (2020) EWHC 780 (Admin)
CD2.06	Appellant Statement of Case
CD2.07.00	Planning Committee Report - 18/00017/OUTM
CD2.07.01	Draft Minutes of Committee Meeting 04.11.2021
CD2.08.00	Appellant Proof of Evidence - Planning

CD2.08.01	Appellant Appendices 1-6
CD2.08.02	Appellant Summary Proof
CD2.09.00	Appellant Proof of Evidence – Highways
CD2.09.01	Highways Appendices A-C
CD2.09.02	Highways Appendices D-E
CD2.09.03	Highways Appendices F-J
CD2.09.04	Highways Appendices K-L
CD2.09.05	Highways Appendices M-O
CD2.09.06	Highways Appendices P-T
CD2.09.07	Highways Appendices U-AA
CD2.10	Appellant Proof of Evidence – Education
CD2.11.00	CYC Proof of Evidence – Planning and Education Statement
CD2.11.01	Education Annex (Excel)
CD2.11.02	Securing developer contributions for education
CD2.11.03	Local Authority Scorecard
CD2.11.04	National School Delivery Benchmark
CD2.11.05	Summary of CYC Proof
CD2.12.00	CYC Proof of Evidence - Highways
CD2.12.01	Summary of Highway Proof
CD2.13	Planning Rebuttal
CD2.14	Education Rebuttal
CD2.15	Highways Rebuttal

### Consultee responses

	<i>Statutory Consultee Responses</i>
CD3.01.00	Highways England including Appendix A
CD3.01.01	Highways England –Technical Memorandum from Systra
CD3.02	Highways England
CD3.03	Highways England
CD3.04	Highways England
CD3.05	Highways England dated 31/01/2020
CD3.06	Highways England dated 5/08/19
CD3.07	Highways England
CD3.8.01	Highways England
CD3.8.02	Highways England
CD3.8.03	Highways England Review Note
CD3.09	Highways England
CD3.10	North Yorkshire Police
CD3.11	Environment Agency
CD3.12	North Yorkshire Fire and Rescue
CD3.13	Natural England
CD3.14	Huntington Parish Council
CD3.15	Foss Internal Drainage Board
CD3.16	Foss Internal Drainage Board
CD3.17	Yorkshire Water
	<i>CYC consultation Responses</i>
CD3.18	Flood Risk Management Team
CD3.19	Flood Risk Management Team

CD3.20	Flood Risk Management Team
CD3.21	Archaeology
CD3.22	Landscape Architect
CD3.23	Landscape Architect
CD3.24	Housing Development Officer
CD3.25	Ecology
CD3.26	Rights of Way
CD3.27	Education Request Summary
CD3.28	Education Contribution
CD3.29	Environmental Health – Public Protection
CD3.30	Environmental Health – Public Protection
CD3.31	Forward Planning
CD3.32	Forward Planning Annex A
CD3.33	Forward Planning Annex C
CD3.34	Conservation Architect
CD3.35	Housing Strategy and Policy
CD3.36	Community Sports Development
CD3.37	Heritage Project Officer
CD3.38	Highways Network Management checklist
CD3.39	Highways – Network Management
CD3.40	Waste Services
	<i>Public Comments</i>
CD3.41	Jackie Stephenson
CD3.42	John Reeves
CD3.43	John Reeves
CD3.44	John Reeves, Helmsley Group
CD3.45	John Reeves
CD3.46	John Reeves, Helmsley Group
CD3.47	Anthony Reeves
CD3.48	DPP on behalf of Portakabin Ltd
CD3.49	Portakabin Ltd
CD3.50	Councillors Orrell, Runciman and Cullwick
CD3.51	Mr Ian Thornton
CD3.52	Suzanna Young
CD3.53	Alasdair Mcintosh
CD3.54	Mr Mike Watson
CD3.55	Mr Peter Ruane
CD3.56	Mr Stephen Fenton
CD3.57	Mr Stephen Fenton – Objection Withdrawal
	<i>Appeal Interested Party Representations</i>
CD3.58	DPP - Portakabin Limited
CD3.59	Shepherd Group Brass Band – David Gregg
CD3.60	Barratt Homes
CD3.61	T Varlow
CD3.62.00	Christopher Smith and Dawn Young
CD3.62.01	NYK Registry Plan

## Planning Policy

	<i>National Planning Policy</i>
CD4.01	National Planning Policy Framework
CD4.02	National Planning Policy Guidance
CD4.03	National Design Guidance
CD4.04	Manual For Streets
CD4.05	Securing Developer Contributions for Education
CD4.06.00	Area Guidelines for Mainstream Schools
CD4.06.01	Developer Contributions_Guidance_update
CD4.07	Extracts from Guidelines for Planning for Public Transport in Developments
CD4.08	Extracts from 'Guidelines for Providing for Journeys on Foot'
CD4.09	'Home to School Travel and Transport' statutory guidance document
CD4.10	Extracts from Local Transport Note 2/08
CD4.11	Cycle Infrastructure Design (LTN1/20)
CD4.12	Planning for Walking
	<i>Regional Planning</i>
CD4.13	Yorkshire and Humber Regional Spatial Strategy
CD4.14	Yorkshire and Humber SI 2013 No. 117
	<i>Neighbourhood Plan</i>
CD4.15	Huntington Neighbourhood Plan
	<i>Local Planning Policy</i>
CD4.16	City of York Draft Local Plan Incorporating the 4 <sup>th</sup> set of Changes
CD4.17.00	City of York Local Plan – Publication Draft (Regulation 19 Consultation)
CD4.17.01	Extract from City of York Local Plan – Publication Draft (Regulation 19 Consultation)
CD4.18	City of York Local Plan – Composite Modifications Schedule
CD4.19	Topic Paper 1 – Green Belt Addendum
CD4.20	Topic Paper 1 – Green Belt Addendum Annex 3 Inner Boundary Part 2. Section 5 – 6
CD4.21	Topic Paper 1 – Green Belt Addendum Annex 7 Housing Supply Update
CD4.22	Topic Paper 1 – Green Belt Addendum Annex 7 Housing Supply Update Trajectory
CD4.23	City of York Local Plan Infrastructure Delivery Plan
CD4.24	CYC Section 106 Agreements from June 2019 (pending review December 2019)'
CD4.25	Full Year Housing Monitoring Update
CD4.26	Affordable Housing Note Final February 2020
CD4.27	Education SPG 2019

## Appeal Decisions and High Court Judgments

CD5.01	APP/C2741/W/21/3271045 Boroughbridge Road, West of Trenchard Road, York – Yorkshire Housing Association, Karbon Homes Limited and Karbon Developments Limited
CD5.02	APP/C2741/W/19/3227359 Boroughbridge Road, south of Millfield Lane, York Miller Homes Ltd
CD5.03	APP/C2741/W/19/3233973 Moor Lane, Woodthorpe, York. Barwood Strategic Land



CD5.04	Wedgewood v City of York Council (March 2020)
CD5.05	APP/W4705/V/18/3208020 Land west of Burley in Wharfedale at Sun Lane and Ilkley Road. CEG Land Promotions Ltd
CD5.06	APP/B1930/W/20/3265925 and 3265926 Roundhouse Farm, off Bullens Green Lane, Colney Heath, St Albans.
CD5.07	APP/L3245/W/21/3267148 Land to south of the Meole Brace Retail Park, Shrewsbury
CD5.08	APP/G1630/W/20/3257625 Land off the A38, Coombe Hill, Gloucestershire. Bovis Homes

## Highways

CD6.01	A1237 York Outer Ring Road Study Executive Summary 2005
CD6.02	Buses in Urban Developments
CD6.03	Building Sustainable Transport into New Developments: A Menu of Options for Growth Points and Eco-towns
CD6.04	Checklist for Strategic Transport Assessments
CD6.05	Traffic Flow Diagrams
CD6.06	Updated TA addendum to include traffic growth assumptions, updated modelling outputs, etc
CD6.07.00	Monks Cross Link Proposed Junction Improvements - Highway Geometry
CD6.07.01	Monks Cross Link Proposed Junction Improvements - Highway Geometry
CD6.07.02	Email from Phil Owen to CYC re Junctions
CD6.08.00	Strensall Road/A1237 Ring Road Roundabout
CD6.08.01	Strensall Road/A1237 Ring Road Roundabout
CD6.09.00	Haxby Road/A1237 Ring Road Roundabout
CD6.09.01	Haxby Road/A1237 Ring Road Roundabout
CD6.10.00	Wigginton Road/A1237 Ring Road Roundabout
CD6.10.01	Wigginton Road/A1237 Ring Road Roundabout

## New Lane, Huntington Appeal Evidence

CD7.01	Proof of Evidence – J Kenyon on behalf of City of York Council
CD7.02	Proof of Evidence – R Wood on behalf of City of York Council
CD7.03	Proof of Evidence – Huntington Parish Council

## Documents submitted at the Inquiry

ID.01	Northern Roundabout Site Access – drawing 13035-GA-05-Rev A
ID.02	Opening submissions for the appellant
ID.03	Opening submissions for the Council
ID.04	Supplementary Statement of Common Ground
ID.05	Pedestrian/cycle links - Figure 20 – Rev A
ID.06	Schedule of suggested planning conditions - 25 January 2022
ID.07	Draft s106 Agreement - 26 January 2022
ID.08	Summary of s106 Agreement
ID.09	Letter from Helmsley Group – 27 January 2022
ID.10	Summary of s106 Agreement with Council's comments
ID.11	Draft s106 Agreement – 27 January 2022
ID.12	Appellant's agreement to pre-commencement conditions
ID.13	Appellant's suggestions for conditions 7, 8 and 12

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ID.14	Note on Grampian Conditions
ID.15	Closing submissions for the Council
ID.16	Closing submissions for the appellant
ID.17	Pre-engrossment s106 Agreement - 28 January 2022
	<i>Submitted after the end of the Inquiry:</i>
ID.18	S106 Agreement dated 10 February 2022
ID.19	Note of post-Inquiry corrections to s106 Agreement
ID.20	EIA update

## **Annex D - Information to inform the Secretary of State's Habitats Regulations Assessment**

### **INTRODUCTION**

The proposal is for around 970 dwellings on land to the west of the Monks Cross Link Road. Land to the east of the link road would become a country park. This area would include ponds forming part of the surface water drainage system. The proposal would also include a primary school, retail units (a maximum of 200sqm), public open spaces, play areas and sports pitches. The illustrative masterplan shows the location for the school, areas for self-build/custom build housing, open spaces and a tree-lined boulevard linking the various residential areas.

Article 6 of the Habitats Directive, which has been transposed into UK law through the Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (for plans and projects beyond UK territorial waters (12 nautical miles)), requires that where a plan or project is likely to result in a significant effect on a European site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (the Secretary of State in this instance) is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.

### **PROJECT LOCATION**

The appeal site extends to around 59ha of land on either side of Monks Cross Link Road, on the northern edge of York. It mainly comprises agricultural fields, subdivided by hedgerows which include some trees, and is generally flat and open in character. There is a group of farm buildings in the northern part of the site. There is further open countryside to the east and north of the site. Huntington lies to the west, although the proposals would leave some undeveloped land between the proposed development and the existing built-up area. To the south, there are business parks and other commercial and leisure premises around the Monks Cross Shopping Park. Beyond Monks Cross is Vangarde Park, which includes large retail units and leisure facilities, and the Monks Cross park and ride site.

The site is situated around 2.3km to 3.2km south west of Strensall Common Special Area of Conservation (SAC). Strensall Common is a 570ha site supporting extensive areas of wet and dry heath. The Annex 1 habitats that are the qualifying features of the site are:

- 4010 Northern Atlantic wet heaths with *Erica tetralix*; and
- 4030 European dry heaths

### **HRA IMPLICATIONS OF THE PROJECT**

There is no likelihood of direct physical loss or damage to habitat because the appeal site is well separated from the SAC. The separation is also sufficient to make it unlikely that there would be any contamination from site traffic or air pollution. There is no hydrological link between the appeal site and the SAC because drainage ditches

on the appeal site will flow southwards, away from the SAC, towards the River Foss and the River Ouse.

There is however potential for additional recreational pressure that could affect the habitats within the SAC.

## **PART 1 – ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS**

The SAC is used for training by the MOD, although this is not thought to compromise the interest of the site. The main issue is scrub encroachment, resulting from a lack of management. This is being controlled through management agreements. Public access is permitted via rights of way and permissive paths at times when military training is not taking place. The lack of open access limits the exposure of the qualifying habitats to visitor pressure.

Following submission of the Council's Local Plan in May 2018, Natural England advised that adverse effects on the integrity of the SAC resulting from developments proposed in the plan could not be ruled out. The Council commissioned a visitor assessment survey. This identified that 75% of visitors came from within 5.5km, with the median distance travelled being 2.4km. 73% of interviewed visitors brought their dogs. Recreational impacts were noted, typically comprising trampling, fires and eutrophication from dog fouling. These impacts were limited in extent and severity and generally found close to car parks. Worrying of livestock by dogs may jeopardise future grazing which could hinder the restoration of the SAC to favourable condition.

The assessment concluded that, without mitigation, adverse impacts on the integrity of the site could not be ruled out given the predicted increase in visitor pressure arising from the developments proposed in the plan.

The appeal site is 2.3km to 3.2km from the SAC. Having regard to the visitor surveys, it seems likely that some new residents would choose to travel to the SAC for recreation, including for the purposes of exercising dogs. Consequently, in the absence of mitigation, a likely significant effect cannot be ruled out.

## **CONSERVATION OBJECTIVES**

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring:

- the extent and distribution of the qualifying natural habitats;
- the structure and function (including typical species) of the qualifying natural habitats; and
- the supporting processes on which the qualifying natural habitats rely.

## **PART 2 – FINDINGS IN RELATION TO ADVERSE EFFECTS ON INTEGRITY**

The potential for an adverse effect on integrity arises from increased recreational pressure, relating to dog walking and walking generally. The proposed mitigation is the provision of open space within the development area together with a new country park to the east of Monks Cross Link Road.

Natural England was consulted on the planning application. No comments were made in relation to the SAC.

The illustrative masterplan shows that there would be extensive areas of public open space within the area proposed for development. These would be provided with footpaths and dog litter bins. Green corridors would provide attractive walking routes within the development area. These would link to the eastern side of the site, where safe crossing points to the country park would be provided at the two new roundabouts. This would make the country park readily accessible to new residents on foot and cycle.

The country park would extend to 14.4ha. The landscape strategy plan shows that this would be an attractive area of informal open space, with a rural character, well suited to recreational walking and exercising dogs. There would be circular walking routes providing walks of differing lengths. There would be a small car park with direct access from the proposed northern roundabout.

Taken together, the proposed open spaces would provide extensive areas for informal recreation, including exercising dogs. These would represent a convenient and attractive alternative to travelling to the SAC, not only for new residents but also for existing residents of Huntington who could walk or cycle to the country park through the development area. Some existing and future residents may choose to drive to the country park, perhaps for reasons of limited mobility or to transport dogs. The proposed car park would meet the needs of these visitors. The visitor surveys at the SAC show that visitor pressure is closely associated with the location of car parks.

Overall, I consider that the proposed public open space would provide mitigation. It would attract trips from new and existing residents, such that there would be no increase in residential pressure at the SAC. The proposal would not therefore hinder the achievement of the conservation objectives for the site.

The appellant submitted a HRA screening report which considered the potential for cumulative impacts. Two large potential housing sites were identified within the zone of influence of the SAC. The screening report concluded that each site would provide its own mitigation in the form of public open space. In any event, the appeal scheme would not add to any potential cumulative effect because it would address its own recreational needs and attract some recreational trips from existing residents of Huntington who might otherwise have travelled to the SAC.

The application is in outline and the masterplan and landscape strategy plan are illustrative. Detailed layouts and designs for the open spaces and country park would be subject to approval at reserved matters stage. There would be specific conditions dealing with the design of the country park (Condition 11) and a phasing strategy which would cover the timing for delivering the various elements of the proposed development (Condition 4). Under Schedule 1 (section 3) of the s106 Agreement, "*On-site Public Open Space and Landscaping Schemes*" would be submitted for the approval of the Council for each phase of the development. These would secure public access to the open spaces together with arrangements for management and maintenance.

## **HRA CONCLUSIONS**

These conclusions represent my assessment of the evidence presented to me but do not represent an Appropriate Assessment as this is a matter for the Secretary of State to undertake as the competent authority.

It is not possible to exclude the possibility of an adverse effect on the integrity of the SAC in the absence of mitigation. This is due to the potential for increased recreational pressure at the SAC as a result of new housing. Mitigation measures have been identified, in the form of public open space which would include a 14.4ha country park. These measures would provide a convenient and attractive alternative to travel to the SAC for informal recreation, both for future residents of the proposed development and for some existing residents of Huntington. The measures would be secured by planning conditions and a s106 Agreement.

With mitigation having been secured, it would be reasonable to reach a conclusion of no adverse effects on the integrity of the Strensall Common SAC.

### ***Appendix – relevant documents***

CD1.34 – HRA Screening Report – Strensall Common SAC (October 2020)

CD1.47 – Landscape Strategy Plan for Country Park

CD1.54 – HRA Screening Report - Strensall Common SAC (February 2021)

CD1.58 – Illustrative Masterplan (August 2021)

CD3.13 – Natural England’s response to consultation on the planning application, dated 14 February 2018

ID.18 - S106 Agreement dated 10 February 2022

## Annex E – Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following plans:-

PL1377-VW-016-5-04 – Location Plan

13035/GA/03 Rev C - Proposed Site Access onto North Lane

13035/GA/05 Rev A - Proposed Northern Access onto Monks Cross Link (Alternative Country Park Option)

13035/GA/01 Rev E - Proposed Southern Access onto Monks Cross Link

- 2) Fully detailed drawings illustrating all of the following matters (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4), and the development shall be carried out in accordance with such details:

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

In the case of any self-build or custom build plots forming part of the Phasing Strategy approved pursuant to Condition 4, the reserved matters may be submitted for individual plots.

- 3) Application for the first reserved matters shall be made to the Local Planning Authority not later than the expiration of two years beginning with the date of this permission. Application for approval of all reserved matters for the remaining phases shall be made to the Local Planning Authority not later than the expiration of eight years beginning with the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters in the first phase to be approved and in line with the approved Phasing Strategy.

- 4) No development shall commence until a detailed Phasing Strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the provisions of the approved Phasing Strategy and/or any subsequent amendment to it that has been submitted to and approved in writing by the Local Planning Authority.

The strategy will outline the key elements and projected timeline of each phase of development, and how they will be delivered. The strategy shall include the phasing of:

- a) enabling works;
- b) infrastructure (including all new junctions and accesses to the site, internal roads including how the development interfaces with the area of land positioned centrally within the site that is excluded from the red line boundary, pedestrian and cycle routes);
- c) drainage and other utility works;

- d) primary school;
  - e) community hub;
  - f) playing pitches and amenity open space;
  - g) community facilities including retail shop(s);
  - h) country park;
  - i) play areas;
  - j) residential areas;
  - k) self and custom build housing; and
  - l) landscaping (hard and soft).
- 5) Prior to the approval of the first reserved matters application, a Development Framework Document including a revised masterplan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved Development Framework Document and masterplan.
- The Development Framework Document and masterplan shall provide indicative locations for infrastructure and other key principles including:
- a) all new junctions and accesses to the site, internal roads and pedestrian and cycle routes, including:
    - i. a pedestrian and cycle link to Woodland Way,
    - ii. how the layout would limit the number of dwellings served from North Lane,
    - iii. how the layout would avoid a through route being created between North Lane and Monks Cross Link Road, and
    - iv. how the development would link to the area of land positioned centrally within the site that is excluded from the red line boundary;
  - b) drainage and other utility works;
  - c) primary school;
  - d) community hub;
  - e) playing pitches and amenity open space;
  - f) community facilities including retail shop(s);
  - g) country park;
  - h) play areas;
  - i) bus stops;
  - j) residential areas, including indicative mix of type and size of dwellings for each area;
  - k) self and custom build housing;
  - l) landscaping (hard and soft) including retained trees and hedges and green corridors;



- m) design principles having regard to the principles of a garden village; and
  - n) statement of crime prevention measures to be included within the design of the development, relating to the whole site and to each phase of the development.
- 6) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until landscape reserved matters for that phase have been submitted to and approved in writing by the Local Planning Authority. The landscape reserved matters shall include:
- a) a detailed landscaping scheme which shall show the number, species, height and position of trees and shrubs;
  - b) details of earthworks in connection with the formation of all landscaped areas, including the levels and contours to be formed and the relationship of the proposed earthworks to the surrounding landform;
  - c) details of the position, design and materials of all means of enclosure;
  - d) details of surface materials for all roads, footpaths and hard landscaped areas; and
  - e) a lighting scheme for ecologically sensitive areas, cycle routes, public footpaths and public areas.

Development shall be carried out in accordance with the approved landscape reserved matters.

- 7) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until an up to date (no more than 2 years old) Preliminary Ecological Appraisal for that phase has been submitted to and approved in writing by the Local Planning Authority.
- If the Preliminary Ecological Appraisal recommends any further habitat or species surveys these shall also be submitted to and approved in writing by the Local Planning Authority. Any enabling or other works in that phase shall be undertaken in accordance with any recommendations set out in the approved Preliminary Ecological Appraisal.
- 8) Before or concurrently with the first application for the approval of reserved matters, a site wide Strategic Biodiversity Management Plan (SBMP) shall be submitted to and approved in writing by the Local Planning Authority. The site wide SBMP shall include the following:
- a) strategic aims and objectives of management, including securing biodiversity net gain using the most up to date DEFRA metric;
  - b) description and evaluation of the features to be managed;
  - c) framework of management options to achieve aims and objectives;
  - d) detail of the roles and responsibilities of personnel involved in delivery of the SBMP;
  - e) framework for the monitoring of ecological features, target condition and remedial measures;

- f) framework for long term monitoring and management including funding.

The approved SBMP shall be adhered to and implemented throughout the construction period.

- 9) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a detailed Biodiversity Management Plan (BMP) for that phase has been submitted to and approved in writing by the Local Planning Authority.

Each BMP shall demonstrate how it accords with the principles in the SBMP approved under Condition 8 including biodiversity net gain using the most up to date DEFRA metric.

Each BMP shall include details of the following:

- a) details of the ecological features to be monitored and managed;
- b) management prescriptions which demonstrate how aims and objectives can be met;
- c) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period);
- d) details of the body or organisation responsible for implementation of the plan, including evidence of relevant skills and experience;
- e) details of ongoing monitoring, reporting and remedial measures.

In addition, each BMP shall include details of the following in relation to the construction phase:

- f) risk assessment of potentially damaging construction activities;
- g) identification of biodiversity protection zones;
- h) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- i) the location and timing of sensitive works to avoid harm to biodiversity features including a plan and schedule of all trees and shrubs on the site along with the spread of each tree as well as identifying those trees and shrubs to be retained and those to be felled;
- j) the times during construction when specialist ecologists need to be present on site to oversee works;
- k) responsible persons and lines of communication;
- l) the roles and responsibilities on site of an ecological clerk of works or similarly competent person;
- m) use of protective fences, exclusion barriers and warning signs; and
- n) how trees and shrubs to be retained will be protected during the development of the site, including by the following measures:
  - i. a chestnut pale 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 3 metres of the crown spread of any tree; and
- v. no services shall be routed under the crown spread of any tree without the express written permission of the Local Planning Authority.

Each BMP shall be adhered to at all times during the construction of that phase and thereafter shall endure for the lifetime of the development.

- 10) No development shall commence until an archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation (Prospect Archaeology 2018 Report No. RED06/02); provision has been made for analysis, publication and dissemination of results; archive deposition has been secured and a verification report confirming the steps that have been taken has been submitted to and approved in writing by the Local Planning Authority.

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

Where archaeological features and deposits are identified, proposals for preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings, shall be submitted to and approved in writing by the Local Planning Authority before development commences. Development shall be implemented in accordance with the approved proposals.

- 11) A scheme for the Monks Cross Country Park shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development of the park. The scheme shall include the provision of appropriate car parking and cycle storage, a range of routes (mown or naturally trodden), a main circular route that is suitably surfaced to accommodate wheelchairs and buggies, variety in the shapes of ponds, some large stand-alone trees and smaller tree groups.

The country park shall be implemented in accordance with the approved scheme and the Phasing Strategy approved pursuant to Condition 4 and shall thereafter be retained as such for the lifetime of the development.

- 12) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a Construction Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction period for that phase.

The CEMP shall include the following details:

- a) arrangements for parking of vehicles for site operatives and visitors;
- b) storage areas for plant and materials used in the construction of the development;
- c) the location of site compounds;
- d) HGV routes that avoid the main existing Huntington settlement and details of how HGV records are kept;
- e) facilities for cleaning the wheels of vehicles leaving the site;
- f) road sweeping measures;
- g) a programme of works including phasing and measures for the control of construction traffic to and from the site, and within the site, during construction;
- h) a scheme for recycling/disposing of waste resulting from demolition;
- i) a risk assessment of dust impacts in line with the guidance provided by the Institute of Air Quality Management together with mitigation measures commensurate with the risks identified in the assessment;
- j) hours of construction and deliveries;
- k) noise mitigation measures and monitoring arrangements;
- l) activities which may result in excessive vibration, such as piling, and details of monitoring arrangements and mitigation measures; and
- m) artificial lighting and measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

The CEMP shall provide a complaints procedure. The procedure shall include how a contact number will be advertised to the public, what will happen once a complaint had been received, monitoring arrangements, how the complainant would be kept informed and what would happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken shall be kept and forwarded to the Local Planning Authority every month.

- 13) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a noise survey and scheme of noise insulation measures for protecting the approved dwellings in that phase from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. The noise insulation measures shall be installed as approved and a noise report demonstrating compliance with the approved noise insulation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling in that phase.
- 14) Prior to the occupation of any non-residential building that requires installation of any machinery, plant or equipment which is audible outside of that building, details of that machinery, plant or equipment shall be

submitted to and approved in writing by the Local Planning Authority. The details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be implemented and operational prior to the first occupation of any such building and shall be retained in accordance with the approved details for the lifetime of the development.

- 15) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until an additional investigation and risk assessment has been undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment shall be undertaken by a competent person and a written report of the findings shall be produced. No development shall take place in that phase until the report of the findings has been submitted to and approved in writing by the Local Planning Authority. The report of the findings shall include:
- a) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
  - b) an assessment of the potential risks to:
    - i. human health,
    - ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - iii. adjoining land,
    - iv. groundwaters and surface waters,
    - v. ecological systems,
    - vi. archaeological sites and ancient monuments; and
  - c) an appraisal of remedial options and proposal of the preferred option(s).

The investigation and risk assessment shall be conducted in accordance with DEFRA and the Environment Agency's *Model Procedures for the Management of Land Contamination* CLR 11.

- 16) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a detailed remediation scheme for that phase to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 17) Prior to first occupation or use of any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) the remediation scheme for that phase approved pursuant to Condition 16 must be carried out as approved and a verification report that demonstrates the effectiveness of

the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

- 18) In the event that unexpected contamination is found at any time when carrying out the approved development, it shall be reported in writing to the Local Planning Authority immediately. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Following completion of the measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.
- 19) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 20) No development shall commence until a site-wide strategy for foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority.

No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until details of foul and surface water drainage for that phase have been submitted to and approved in writing by the Local Planning Authority.

All drainage works shall be carried out in accordance with the timescales in the Phasing Strategy approved pursuant to Condition 4 and in accordance with the strategy and details approved pursuant to this condition.

- 21) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until samples of each external material (including materials for walls and roofs) for each new building within that phase have been submitted to and approved in writing by the Local Planning Authority. The samples shall include the colour, texture and bonding of brickwork, mortar treatment and the colour and texture of render.
- 22) Prior to the occupation of any dwelling with in-curtilage car parking (or allocated off-plot parking), each dwelling shall incorporate sufficient capacity (including any necessary trunking/ducting) within the electricity distribution board for one dedicated radial AC single phase connection (minimum 32A) for electric vehicle charging.
- 23) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until a scheme for the provision of electric vehicle charging facilities for non-allocated parking, shared off-plot parking, non-residential and commercial parking within that phase has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include the location, specification and timescales for installation of all active electric vehicle charging facilities and provide details of the passive provision proposed across the phase. Charging points shall be located in prominent positions and shall be for the exclusive use of electric vehicles. Where additional parking bays are identified for the future installation of electric vehicle charging points (passive provision) they shall be provided with all necessary ducting, cabling and groundworks.



The scheme shall include a Management Plan detailing the management, maintenance, servicing and access/charging arrangements for each electric vehicle charging point for a minimum period of 10 years. The Management Plan shall be implemented as approved.

- 24) The total number of residential units shall not exceed 970.
- 25) Building heights shall not exceed 12m and shall be in general conformity with the Building Heights Parameter Plan (Ref: PL1377-VW-016-2 Issue 04).
- 26) All non-residential buildings hereby approved with a total internal floorspace of 100sqm or greater shall achieve BREEAM "excellent" or equivalent. Prior to the construction of any non-residential building, details of measures to secure compliance with this condition shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 27) Before or concurrently with the first application for the approval of reserved matters, a strategy for the development of at least 5% self or custom build plots across the whole site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include a design code setting out the following details:
  - a) appearance
  - b) landscaping
  - c) layout
  - d) scale

The self and custom build plots shall be provided with services (access to a public highway and connections for electricity, water and waste water) to the extent that they can be defined as serviced plots, as defined in The Self-build and Custom Housebuilding Regulations 2016.

The development of the self and custom build dwellings hereby approved shall not be carried out unless as "self-build or custom-build" development as defined in the Glossary in Annex 2 of the National Planning Policy Framework or any subsequent replacement document.

All applications for approval of reserved matters for the self or custom build dwellings shall be in accordance with the approved strategy.

- 28) No development shall commence until a scheme for the provision of sports pitches and open spaces has been submitted to and approved in writing by the Local Planning Authority. The scheme shall set out details of the size, location, type, design and specification of the sports pitches, changing facilities and open spaces as well as their management and maintenance. The sports pitches and open spaces shall be provided in accordance with the Phasing Strategy approved pursuant to Condition 4, shall be completed in accordance with the scheme approved under this condition and shall thereafter be managed and maintained in accordance with that scheme for the lifetime of the development.
- 29) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until details of the equipped play areas within that phase have been submitted to and approved in

- writing by the Local Planning Authority. The details shall include the on-site management and maintenance of the play areas. The play areas shall be provided in accordance with the Phasing Strategy approved pursuant to Condition 4, shall be completed in accordance with the details approved under this condition and shall thereafter be managed and maintained in accordance with those details for the lifetime of the development.
- 30) No development shall commence in any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) until details of the location, design and materials of covered and secure cycle parking for all dwellings and other buildings in that phase have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall accord with guidance within Local Transport Note 1/20 *Cycle Infrastructure Design*. It shall be implemented in accordance with the approved details prior to the first occupation of the dwelling or building to which it relates.
- 31) Prior to the commencement of works to North Lane, which shall be generally in accordance with plan 13035/GA/03 Rev C - *Proposed Site Access onto North Lane* hereby approved, further details of the works to pedestrian and cycling facilities to link to existing facilities to the west of the site and speed management measures to slow traffic to the proposed 30mph speed limit (including signage, lighting, drainage and other related works) shall be submitted to and approved in writing by the Local Planning Authority. The works to North Lane shall be carried out in accordance with the details approved pursuant to this condition and the Phasing Strategy approved pursuant to Condition 4.
- 32) Prior to the commencement of works to Monks Cross Link Road, which shall be generally in accordance with plan 13035/GA/01 Rev E - *Proposed Southern Access onto Monks Cross Link* hereby approved, further details of the works to pedestrian and cycling facilities along Monks Cross Link Road to Monks Cross Drive including signage, lighting, drainage and other related works shall be submitted to and approved in writing by the Local Planning Authority. The pedestrian and cycle facilities along Monks Cross Link Road shall be carried out in accordance with the details approved pursuant to this condition and the Phasing Strategy approved pursuant to Condition 4.
- 33) Details of the internal design of the spine road (tree-lined boulevard) together with modal filters to preclude vehicular access through the site between North Lane and Monks Cross Link Road, other than for emergency access, pedestrian or cycle access, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) which includes part of the spine road (tree-lined boulevard). The modal filters shall accord with the Development Framework Document approved pursuant to Condition 5. Any modal filters so approved shall be installed before the occupation of the phase in which they are located and shall thereafter be retained as approved for the lifetime of the development.
- 34) Details of how access is to be provided to the area of land in the western part of the site that is excluded from the red line boundary shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on any phase (as defined in the Phasing Strategy approved pursuant to Condition 4) which includes part of



- the access route to the said land. The access details shall accord with the Development Framework Document approved pursuant to Condition 5. Any access details so approved shall be completed before the occupation of the phase in which they are located and shall thereafter be retained as approved for the lifetime of the development.
- 35) The indicative mix of type and size of dwellings included in the Development Framework Document approved pursuant to Condition 5 shall include an indicative dwelling mix for each residential area and shall demonstrate how the mix of dwellings across the site will contribute to meeting the housing needs of the city, taking account of up to date information on housing needs including evidence in the most recent Strategic Housing Market Assessment. Reserved matters for each phase (as defined in the Phasing Strategy approved pursuant to Condition 4) shall demonstrate how they conform to the Development Framework Document, with regard to housing mix, having regard to any other relevant evidence of housing needs at that time.
- 36) No part of the primary school site shall be occupied until a scheme of community use has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of what facilities will be made available for community use and at what times, booking arrangements and management responsibilities. The school shall be operated in accordance with the approved scheme of community use.
- 37) A scheme for community facilities and social infrastructure to be provided on site, including retail provision, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, location, type(s), design and specification of any community facilities as well as their on-site management and maintenance. The community facilities and social infrastructure shall be provided in accordance with the Phasing Strategy approved pursuant to Condition 4 and in accordance with the scheme approved under this condition and shall thereafter be maintained and managed in accordance with that scheme for the lifetime of the development.
- 38) A three stage road safety audit shall be carried out in line with advice set out in GG119 Road Safety Audit for all new junctions and access points, the improvements to pedestrian and cycle facilities along North Lane, the pedestrian and cycle facilities along Monks Cross Link Road and the pedestrian and cycle link to Woodland Way. Reports for Stages 1 and 2 shall be submitted to and approved in writing by the Local Planning Authority prior to highway works commencing on site. The Stage 3 report shall be submitted to and approved in writing by the Local Planning Authority prior to the highway works becoming operational.
- 39) All existing vehicular crossings on North Lane not shown as being retained on the approved plans shall be removed and a matching surface introduced to correspond with adjacent levels within six months of such crossings becoming redundant.

*End of schedule of conditions*

## **Annex F – condition relating to Garth Road and Alpha Court links**

*The following wording is suggested in the event that, contrary to the Inspector's recommendation, the Secretary of State concludes that a condition such as this is necessary and otherwise consistent with the legal and policy tests for conditions.*

No development shall commence on the construction of any dwelling hereby approved until the detailed designs of pedestrian and cycle links to Garth Road and Alpha Court have been submitted to and approved in writing by the Local Planning Authority. The links shall be installed and completed in accordance with the approved details and the following trigger points:

- a) the Garth Road link shall be completed and available for use prior to the occupation of the 200<sup>th</sup> dwelling hereby approved; and
- b) the Alpha Court link shall be completed and available for use prior to the occupation of the 260<sup>th</sup> dwelling hereby approved.

*If the Secretary of State is minded to impose this condition, the following consequential changes are suggested to the conditions in Annex E:*

### In Condition 5(a)(i)

Amend to "pedestrian and cycle links to Woodland Way, Garth Road and Alpha Court"

### In Condition 39

Amend first sentence to "A three stage road safety audit shall be carried out in line with advice set out in GG119 Road Safety Audit for all new junctions and access points, the improvements to pedestrian and cycle facilities along North Lane, the pedestrian and cycle facilities along Monks Cross Link Road and the pedestrian and cycle links to Woodland Way, Garth Road and Alpha Court."



# Department for Levelling Up, Housing & Communities

[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

## SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

## SECTION 2: ENFORCEMENT APPEALS

### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

## SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

## SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

## Appendix 5 – Case Studies of Traveller Site Delivery through Development Plan Policy

A number of these examples are based on case studies by Alison Heine of Heine Planning. We are grateful for the ability to draw on Alison’s work.

Local Planning Authority	Type of Proposal	Have any pitches been delivered?	Key Events	Issues / Implications for Other Areas
Basingstoke & Dean	Policy CN5 of the Local Plan adopted 2016 requires provision for 16 pitches and 3 temporary stopping places to meet the need over the plan period, provided as part of four strategic housing allocations at East of Basingstoke, Manydown, Basingstoke Golf Course and Hounsome Fields.	No	<ul style="list-style-type: none"> <li>• Outline planning permission for Hounsome Fields submitted December 2015 (15/04503/out) and granted September 2017 subject to a s106 agreement. The site seeks to deliver 750 dwellings and two Traveller pitches. Various Reserved Matters applications for dwellings have been approved.</li> <li>• Application 18/00873 for the 2 Traveller pitches withdrawn October 2019 because of proximity to a high pressure gas pipeline and poor access. The application was resubmitted (April 2021 21/01197/ful) and remains undetermined (March 2023). The proposed site only includes provision for 2 single unit static caravans with no space for touring caravans with access off a narrow country lane.</li> <li>• Outline application 17/00818/out for 3520 homes and 5 Traveller pitches on the Manydown site was validated In March 2017 &amp; approved with the</li> </ul>	<ul style="list-style-type: none"> <li>• Pitches need to be large enough for Traveller families – we would suggest with space for a single static caravan, a small medium sized dayroom, 2 touring caravans, 2 vehicles, &amp; some private outdoor space -something like 400-450M<sup>2</sup>.</li> <li>• S.78 appeal Inspectors need to be robust on timing of 5-year supply.</li> <li>• Applicants will do what they can to avoid / minimise provision.</li> </ul>

			<p>signing of the s.106 agreement in December 2021. A phasing plan indicates the Traveller pitches would be provided at phase 2a/b when 2/3rds of the housing have been delivered. However, the phasing plans refer to <i>'provision of Gypsy and Traveller pitches or agreed alternative off-site provision'</i> implying the Developers are looking to make provision off site or through commuted payments. The precise location of the GT pitches has yet to be identified.</p> <ul style="list-style-type: none"><li>• In April 2019 Bloor Homes submitted outline application 19/00971/OUT for 1000 homes on the Basingstoke Golf Course site with 1 GT pitch. This was granted permission on 25.3.2021 with the signing of the s106 agreement. Details of the Traveller pitch provision was left to the reserved matters stage but Bloor Homes propose to only make 125 sqm available (12.5m x 10m) with space for one caravan 3m x 6m, a small amenity space and parking for one car! The legal agreement requires details to be set out in the RM application, with a marketing strategy within 12 months of development commencing, detailed specification prior to occupation of 100 dwellings and layout of the pitch prior to occupation of 250 dwellings. The pitch is to be leased. If no suitable offer is received the requirement will be lifted.</li><li>• When allocations can be considered deliverable was discussed in two Basingstoke appeals. In the decision issued 6.7.2022 for a site at Silchester the Inspector found:</li></ul>	
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			<p>64. Footnote 38 of the Framework states that the five year supply of deliverable sites for travellers should be assessed separately from that of other housing, in accordance with the planning policy for traveller sites. Footnote 4 of the planning policy for traveller sites states that sites with planning permission should be considered deliverable until permission expires. As an outline planning permission counts as a permission, the proposed eight pitches at the above sites must be considered deliverable within five years.</p> <p>65. For those reasons ... I conclude that the Council have been able to demonstrate a supply of specific deliverable sites sufficient to provide five years' worth of gypsy and traveller sites against their locally set targets.</p> <ul style="list-style-type: none"><li>• Through appeal for a site at Headley, 3251951 issued 11.11.2022 the Inspector disagreed with the Silchester appeal findings:</li></ul> <p>34. In terms of a 5 year supply of deliverable sites, the Inspector in the Silchester appeal indicated that the 5 year requirement is for 8 pitches. Having considered the conclusions of the GTNA and the other evidence before me such as that relating to the occupancy of the Silchester site, I consider that this figure would represent the minimum required. Taking into account permissions, some 6 pitches are currently deliverable. <b>As the application at Hounsome Fields is undetermined, I would not</b></p>	
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			<p><b><i>consider the site deliverable at present. Therefore, there is not a 5 year supply of deliverable sites.</i></b></p> <p><b><i>35. .... This conclusion differs from that of the Inspector in the Silchester appeal but I have explained why the Hounsome Fields site should not be considered deliverable. Moreover, the CoA judgement represents a material change in circumstances since July.</i></b></p>	
Broadland, Norwich City, South Norfolk	Potential site specific allocations	No	<ul style="list-style-type: none"> <li>• Greater Norwich Local Plan submitted to Sec of State, July 2021.</li> <li>• January 2022 Inspectors identify lack of allocations &amp; 5 year supply as an issue.</li> <li>• February 2022 Examination commences.</li> <li>• July – September 2022 correspondence between Inspectors &amp; LPAs over how to address G &amp; T issues.</li> <li>• October 2022 Examination suspended.</li> <li>• January – March 2023 Sites consultation – evaluated 14 sites, &amp; recommended 10 as suitable for allocation in the Local Plan. The sites are a mix of land which came forward through calls for sites, surplus Council owned land, &amp; extensions to established G&amp;T sites.</li> </ul>	<ul style="list-style-type: none"> <li>• Progress reflects Inspectors identifying lack of allocations as a soundness issue early.</li> <li>• Site identification relatively easier because the Plan covers a substantial, partly rural area, not in Green Belt with a number of existing sites suitable for extension.</li> </ul>
Buckinghamshire	Vale of Aylesbury Local Plan, adopted September 2021, contains strategic allocations with lists of uses	No	<ul style="list-style-type: none"> <li>• AGT1, South Aylesbury allocated for 1,000 dwellings, primary school, green infrastructure, Aylesbury South-East Link Road, Local centre, cycling &amp; walking routes. Provision of 5 G&amp;T pitches a 'site-specific requirement'.</li> </ul>	<ul style="list-style-type: none"> <li>• G&amp;T pitches are a site specific requirement, not an allocation – does that make a difference?</li> </ul>

			<ul style="list-style-type: none"> <li>• AGT1 SPD identifies a specific location for the pitches.</li> <li>• Application 18/00913/ADP approved November 2018 for 125 dwellings within AGT1, no Traveller provision</li> <li>• Application 19/01628/AOP for 750 dwellings etc for part of AGT1, validated April 2019, March 2023 not yet determined does not include G&amp;T pitches.</li> <li>• Application 23/00151/SO, validated January 2023 for up to 500 dwellings on the rest of AGT1 (if my reading of the maps is correct) also does not include G&amp;T pitches.</li> <li>• AGT2, South West Aylesbury allocated for at least 1,490 dwellings primary school, green infrastructure, Aylesbury South-West Link Road, junction improvements, linear park, Local centre, HS2 buffer zone, cycling &amp; walking routes. Provision of 5 G&amp;T pitches included a 'site-specific requirement'.</li> <li>• Application 18/04346/AOP for up to 1,400 dwellings, primary school etc for AGT2 validated December 2018 March 2023 not yet determined includes a 5 pitch G&amp;T site.</li> </ul>	<ul style="list-style-type: none"> <li>• Has the fact that AGT1 has come forward as 3 separate applications facilitated the applicants in evading provision?</li> <li>• For both AGT1 &amp; AGT2 significant &amp; expensive infrastructure issues to be resolved, including, but not limited to, related to HS2, which has added to the long planning process timescale.</li> </ul>
Buckinghamshire	The Draft Chiltern and South Bucks Local Plan proposed development of 60 pitches for Gypsies and Travellers on four sites within urban extensions at Beaconsfield, Chesham, Iver and Little Chalfont.	No	<ul style="list-style-type: none"> <li>• The Draft Chiltern and South Bucks Local Plan was withdrawn in October 2020 because of failure to co-operate with Slough over accommodating Slough's housing needs.</li> <li>• Policy and allocations, will be brought forward through the Buckinghamshire Local Plan.</li> <li>• The Local Development Scheme indicates that the Local Plan will be adopted by April 2025, but given its early stage of development, and the complex issues it has to address, including those which led</li> </ul>	



			<p>the Chiltern and South Bucks Local Plan to be withdrawn, this looks optimistic.</p> <ul style="list-style-type: none"> <li>• The Council's website now states that because of potential changes to the Local Plan system, 'There is a limit to how much progress we can make until the government has confirmed the detail and timetable for the proposed changes.'</li> </ul>	
Chelmsford	10 pitch site allocation in a specific location within the North Chelmsford Action Area Plan, adopted July 2011	Yes	<ul style="list-style-type: none"> <li>• Outline planning permission 10/01976/OUT for urban extension for 650 – 750 dwellings etc granted 31 October 2012.</li> <li>• S.106 provided £612,000 and the offer of land for a site to CBC.</li> <li>• The land owner had extensive land holdings north of Chelmsford &amp;, rather than in the location in the Action Area Plan, offered land to the LPA in a different location from that in the plan. The Drake's Farm site was in the countryside 2km from the allocated site (&amp; of the housing being developed).</li> <li>• Planning permission 18/01476/FUL for 9 pitches &amp; site office at Drake's Farm granted to Hastoe Housing Association 4 December 2018.</li> <li>• Hastoe pulled out and CHP, Chelmsford's stock transfer Registered Provider stepped in and implemented the permission and will manage the site.</li> <li>• Land and part of construction costs secured through s106s from Channels (the first housing scheme) Beaulieu (adjoining major development) with Homes England grant plugging the gap.</li> <li>• Site development completed in December 2022.</li> <li>• Site is currently being occupied following a nominations process. A site manager has been recruited from within the community.</li> </ul>	<p>Among the reasons for this success are:</p> <ul style="list-style-type: none"> <li>• High value of development which can afford to contribute;</li> <li>• An effective local authority with political &amp; officer commitment maintained over 10+ years;</li> <li>• The specific location for the site in the development plan;</li> <li>• The land owner having land distant from the housing he could offer instead.</li> <li>• Partnership working with Hastoe, CHP, Homes Eng. (Hastoe were known to be one of the few RP's interested in managing sites. Whatever the reason for their dropping out, there is a critical shortage of parties able to take on development &amp; management of sites.)</li> </ul>

Chorley	Minimum 5 pitch 0.4 ha site allocation within Cowling Farm mixed use site in Chorley Local Plan, adopted July 2015	No	<ul style="list-style-type: none"> <li>• Examination of Chorley L Plan suspended because of the absence of provision for Travellers. Partial Inspector's Report Oct 2013, which indicated that all of the plan was sound except for Traveller provision.</li> <li>• Chorley consulted on options for site allocation &amp; proposed minimum 5 pitch 0.4 ha site in Council owned Cowling Farm mixed use non Green Belt site.</li> <li>• Examination reconvened &amp; plan adopted as sound including the Cowling Farm allocation, July 2015.</li> <li>• All the provision was for the Linfoot extended family. The Linfoots have had a sequence of 5! temporary permissions on their Green Belt site at Hut Lane Adlington, the latest 21/00072/FUL of December 2021.</li> <li>• Each time the rationale for a temporary permission was that at the end of the period Cowling Farm would be developed and the Linfoots could relocate there.</li> <li>• Nearly 8 years on no progress has been made in developing Cowling Farm. The reasons including sale of part of C Farm to Homes England, very high cost of site development given topography &amp; drainage issues, conflict between Linfoot's requirement for an owner-occupied site &amp; Homes Eng funding for an affordable site.</li> <li>• Emerging Central Lancs Local Plan continues Cowling Farm allocation. Linfoots will object, &amp; make case for allocating Hut Lane.</li> </ul>	<ul style="list-style-type: none"> <li>• The clarity of Local Plan Inspector that she was not convinced by the needs assessment &amp; the failure to make allocations was crucial.</li> <li>• Her approach, indicating through the interim report that the rest of the policies were sound, allowed the LPA to go on determining applications in accordance with the emerging plan, while the Traveller issues were being sorted.</li> <li>• Difficult to understand why the LPA continues to act as if Cowling Farm will be developed while failing to make any progress in bringing it forward.</li> </ul>
Dacorum	Site Allocations DPD, July 2017 Dacorum & Three Rivers GTANA indicates need for 17 pitches.	No	<ul style="list-style-type: none"> <li>• Outline application 19/02749/moa for site LA1 submitted October 2019.</li> <li>• 29/4/21 granted subject to s.106 – not yet signed.</li> <li>• Conditions require:</li> </ul>	<ul style="list-style-type: none"> <li>• Given Homes Eng ownership of LA1 (presumably going back to Hemel H new town) and its</li> </ul>

	<p>5 year supply for early years to be achieved through 5 pitches as part of allocation LA1, Marchmont Farm &amp; 7 as part of LA3 West Hemel.</p>	<ul style="list-style-type: none"> <li>➤ All details of the G&amp;T site including location, size &amp; means of access to be addressed through reserved matters;</li> <li>➤ the site to be available no later than occupation of the 99th dwelling or 8 months from receipt of all required approvals to enable construction of the Travellers' Site, whichever is the later, unless otherwise agreed by the LPA.</li> <li>➤ Being delivered with Homes England who are committed to an early delivery of the pitches in accordance with the masterplan-but s106 needs to allow time to market the site and find a suitable provider/ management company.</li> <li>➤ If a suitable provider is not found the site reverts back to housing (13.12.20 update letter from Wood Group on lpa website).</li> </ul> <ul style="list-style-type: none"> <li>• Hybrid application 4/03266/18/MFA including up to 1,100 dwellings, up to 7 G&amp;T pitches, primary school &amp; nursery etc for site LA3 submitted December 2019, &amp; granted 3/12/21.</li> <li>• The S106 agreement requires: <ul style="list-style-type: none"> <li>➤ no more than 149 dwellings to be occupied before DBC have agreed the detailed plans of the G&amp;T site;</li> <li>➤ no more than 349 dwellings to be occupied before 18 months after the site is completed;</li> <li>➤ the transfer of the site to a RP or management body approved by DBC 18 months after the site is completed; and</li> <li>➤ specifies the location of the site with its own vehicular access (in a relatively open location on the edge of the development).</li> </ul> </li> </ul>	<p>role in monitoring &amp; funding RPs disappointing that the s106 includes a provision to revert back to housing if a suitable agency is not found. We would have thought Homes Eng would have been in a position to identify a suitable managing partner.</p>
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<p>East Herts</p>	<p>E Herts District Plan adopted 2018. Policy GA1 allocates the Gilston Area for a development of 10,000 homes north of Harlow.</p> <p>The allocation to include 15 pitches for Travellers and 8 plots for showmen 'for longer term needs beyond the plan period'. Gilston is part of the Harlow and Gilston Garden Town, designated by MHCLG in January 2017, with the development of 23,000 homes in Epping Forest to the east, west, and south of Harlow, and in Gilston to the north.</p>	<p>No</p>	<ul style="list-style-type: none"> <li>• Outline mixed use development for up to 8,500 dwellings, including 7 Gypsy &amp; Traveller pitches in 'villages 1-6' validated June 2019 and granted 28/2/23 subject to s106 agreement.</li> <li>• Heads of terms for s.106 include general location of G&amp;T pitches, precise location to be defined through masterplan.</li> <li>• Outline mixed use development 3/19/2124/OUT for 1,500 dwellings, including 8 Gypsy &amp; Traveller pitches in village 7 validated November 2019, but Not yet determined.</li> </ul>	<ul style="list-style-type: none"> <li>• Extremely long lead in times for major schemes.</li> <li>• Means allocations in plans may not enable LPAs to claim a 5 year supply.</li> </ul>
<p>Malvern Hills</p>	<p>Policy SWDP 17 of the South Worcestershire Joint Local Plan requires Traveller sites of up to 10 pitches 'to be located within the allocation boundary' of the Worcester South (SWDP 45/1) and Worcester West (SWDP 45/2) urban extensions.</p>	<p>No</p>	<p>When an application was made to Malvern Hills DC for the Worcester South Urban Extension, the developer claimed it had not been possible to find a suitable part of the site for a Gypsy Traveller site as the land earmarked for the pitches was subject to unacceptable noise levels and was not considered suitable. The developer claimed no suitable alternative site could be found and it was agreed a financial contribution could be paid to fund provision elsewhere.</p>	<ul style="list-style-type: none"> <li>• Difficult to understand how developers able to find space for up to 965 dwellings, employment land and community/ retail cannot find room for 10 Traveller pitches.</li> <li>• Not clear how s106 payments are going to be spent delivering sites elsewhere presumably on</li> </ul>

			<p>In regard to the outline application (15/01410/out), for the SWDP 45/2 site the officer report stated, January 2019:</p> <p>29.4 <i>In terms of its size and location to the north of the A44, the urban extension area should be capable of accommodating the required Gypsy and Traveller pitches, however, following a sieve mapping type exercise undertaken by the applicant and Bloor Homes, your officers have reached a view that a suitable site is not easily identifiable without undermining the comprehensive master-planning of the urban extension and increasing development viability pressures.</i></p> <p>29.7 A financial contribution to be secured a s106 agreement for £403,286 has been agreed</p>	<p>land not allocated in the local plan.</p> <ul style="list-style-type: none"> <li>Disappointing that LPAs choose to make allocations within urban extensions, in order to evade the difficulty of making allocations elsewhere, &amp; are then weak in standing up to arguments of applicants / developers against make provision. Travellers will be the ones who lose out.</li> </ul>
St Edmundsbury (now West Suffolk)		Yes, sort of	<ul style="list-style-type: none"> <li>In 2010-2013 a group of related families were being moved on from site to site around Bury St Edmunds. Injunctions were put in place in regard to encampments in parts of the town.</li> <li>The families built relationships with the Suffolk Police and some Council officials, &amp; were tolerated on a cut off length of road on the edge of the town until December 2014 when they were required to leave. They were then allowed to move to Ram Meadow, based on an 'Agreement for a tolerated <b>short-stay</b> site'. Ram Meadow was a reasonably suitable site apart from being in Floor risk zone 3. It was never been provided with water</li> </ul>	<ul style="list-style-type: none"> <li>LPAs vulnerable to being persuaded by anti-Gypsy lobbies within the local community.</li> <li>The type of approach that was attempted in Bury – a mix of local authority &amp; Traveller delivery is very difficult because of the different cultures of the 2 groups. Travellers will cut corners to get things done &amp; find a home, councils will require the highest standards, arguably more</li> </ul>

		<p>or proper toilets. Nobody anticipated they would still be there 6 years later.</p> <ul style="list-style-type: none"> <li>• The Bury Local Plan, adopted September 2014, states that if need arises, a Gypsy and Traveller site should be identified within the South East Bury urban extension.</li> <li>• The planners were asked to identify a permanent site, &amp; identified the County Council owned community woodland on Rougham Hill next to the lorry park within the South East Bury urban extension.</li> <li>• The family appointed a planner who in September 2014 submitted application DC/14/1667/FUL for a 5 pitch site.</li> <li>• In February 2015 the application was refused on a 10 5 vote. Both grounds - that the local plan specifies that proposals which might prejudice it, should not be approved in advance of the Bury South East masterplan, and the loss of open space and trees without replacement - could be addressed through the forthcoming SE Bury masterplan.</li> <li>• In September 2015 appeal 3132243 was submitted &amp; the South East Bury masterplan was approved by the Council.</li> <li>• In January 2016 the LPA determined that with the adoption of the masterplan they could no longer defend the refusal of permission.</li> <li>• A number of residents continued their objections through the appeal. These were led by the 'Friends' of Oak Community Woodland. They had had the woodland listed as an asset of Community Value (even though the wood had a local reputation for immoral / fringe illegal activities, which is alleged to be why it was identified by the planners).</li> </ul>	<p>so because of not trusting the Travellers.</p> <ul style="list-style-type: none"> <li>• This arrangement required the involvement of a number of officials. While some were supportive, progress was held back at crucial points by those less trusting of the Travellers.</li> </ul>
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			<ul style="list-style-type: none"><li>• Appeal 3132243 was allowed in September 2016 with pre-commencement &amp; pre-occupation conditions.</li><li>• It then took until August 2018 to sign the lease agreement on the occupation of the site. This was because the families had to establish a company to lease the site, Suffolk County Council was the freeholder, and they leased the site to St Edmundsbury, who then sub-leased it to the site company.</li><li>• Once the families secured the right to occupy the site, work proceeded on discharging the conditions, which were eventually discharged in June 2019. Much of the delay was because Anglia Water initially denied that the formerly private sewer in Rougham Hill had been transferred to their ownership.</li><li>• As part of the agreement between the families and St Edmundsbury, the Council had agreed to install of basic services – water, foul waste and the new highway access.</li><li>• Issues that caused delay in this period included a disagreement between the County and St Eds over the design of the new site entrance, &amp; a hiatus between 1 head of hosing leaving &amp; another taking over.</li><li>• In January 2021 Ram Meadow flooded and in February the families decamped on the lorry park next to the site. They were threatened with legal action by National Highways, and decamped onto the land next door on Rougham Hill which they had planning permission, a lease &amp; were paying rental, but were not allowed to occupy because the pre-occupation conditions had not yet been discharged.</li><li>• As of March 2023, some of the contractors' work is still not finished!</li></ul>	
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Michael Hargreaves Planning

March 2023



## **Design and Access Statement**

Osbalwick Gypsy and Travellers Permanent Site Expansion

### **Overview**

The proposal is to extend the existing Osbalwick Gypsy and Travellers site on Outgang Lane to provide an additional six pitches together with ancillary grazing land and horse shelter structures, also to provide two areas of amenity field play areas, which are located centrally for good access and supervision.

In respect of the existing Pitch Plots 1 to 4 the proposal is to be in a position to extend the pitches into the existing adjacent Field access so that this portion can be beneficially and wholly absorbed.

It is also proposed to erect a 'Portakabin' Office at the site entrance for site management use.

### **Planning Context**

York has a shortfall of 36 gypsy and traveller sites as identified by the Gypsy and Traveller Accommodation Assessment (GTAA, 2008), indicating a significant need for further provision within the York district.

CYC is in the process of identifying its supply of suitable sites and it is understood that the council has been unable to find, within settlement limits, sufficient sites to provide for the shortfall identified in the GTAA. Bearing in mind that almost all of the CYC area outside development limits is in the green belt, it is inevitable that at least some of the shortfall has to be provided on green belt land.

The shortfall in the number of currently-available pitches, the requirement to identify suitable sites and the difficulty in finding suitable sites within the settlement limit constitute is seen to be in this case the very special circumstances that outweigh harm to the green belt.





## **Pre Application Guidance**

Pre Application Guidance was sought from the LPA – ref 12/03069

With reference to the Planning Context above the LPA took the view that the principle of expanding the site to meet the shortfall of provision was acceptable with advice given on the need for a range of supporting information to strengthen argument to validate the suitability of proposed siting and detailed proposals.

Specifically there was a requirement for information in respect of:

Drainage, Access, Landscaping, Adjacent Uses, Sustainability and Contamination.

This information requirement is addressed within this Statement or in separate submitted documents

## **Adjacent Usage**

The adjacent use immediately to the south is a building materials merchant which has fork lift movements throughout the working day together with large lorry deliveries and loadings to manage according to demand. The merchant access is at some 40m from the site boundary. It is an adjacency already established in relation to the existing Gypsy and Travellers Site. The merchant site activity is limited to the working day Mon to Fri – 7.30am until 5pm, Sat - 8am until 12 Midday.

The adjacent use immediately to the west is a licensed inert waste transfer station – site activities are limited to the agreed working hours. Further south on the other side of Outgang Lane are a Telecommunications Business and the York College Construction (Training) Centre.

## **Design Approach**

The City seeks to improve the standard of Permanent Pitch Facilities in line with the Current Guidance in particular:

**'Designing Gypsy and Travellers Sites' – Good Practice Guide**  
(Communities and Local Government Publication) – (2008)



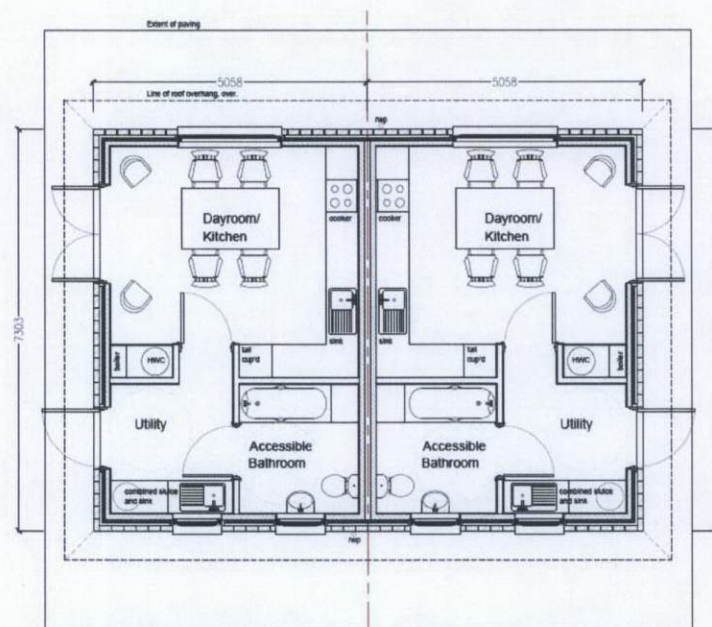
This takes a pragmatic and practical case study informed view on the need for an improved facilities provision for an increasingly settled community with support amenity building needs that are greater than that of an Amenity Block as provided in previous developments and evident on the existing site.

The inclusion of a day/living room in the amenity building for family meals is recommended. The day/living room could be combined with the kitchen area to provide a kitchen/dining/lounge area. It is desirable that the day/living room should not be part of essential circulation space, nor contain essential storage.

In common with some other ethnic minority communities, some Gypsies and Travellers often have larger than average families, for instance where members of an extended family live together. For this reason there is likely to be much greater demand amongst these communities for large family units, and small pitches may become quickly overcrowded. Larger than average family sizes, alongside the need for vehicles for towing trailers and for employment also creates particular requirements for parking.

The Design submitted takes these requirements into account with the provision of larger (guidance compliant) Amenity Buildings and Site Areas.

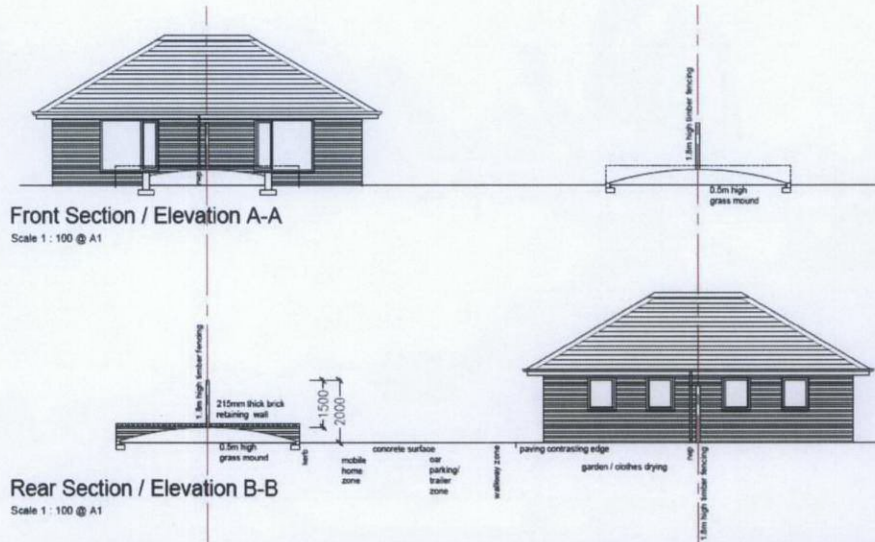
The Amenity Building provides a dayroom / kitchen with a lobby separated utility and accessible bathroom that can be separately accessed from outside. Double Doors and a low cill to the main window provide good daylight to and vision from the dayroom.



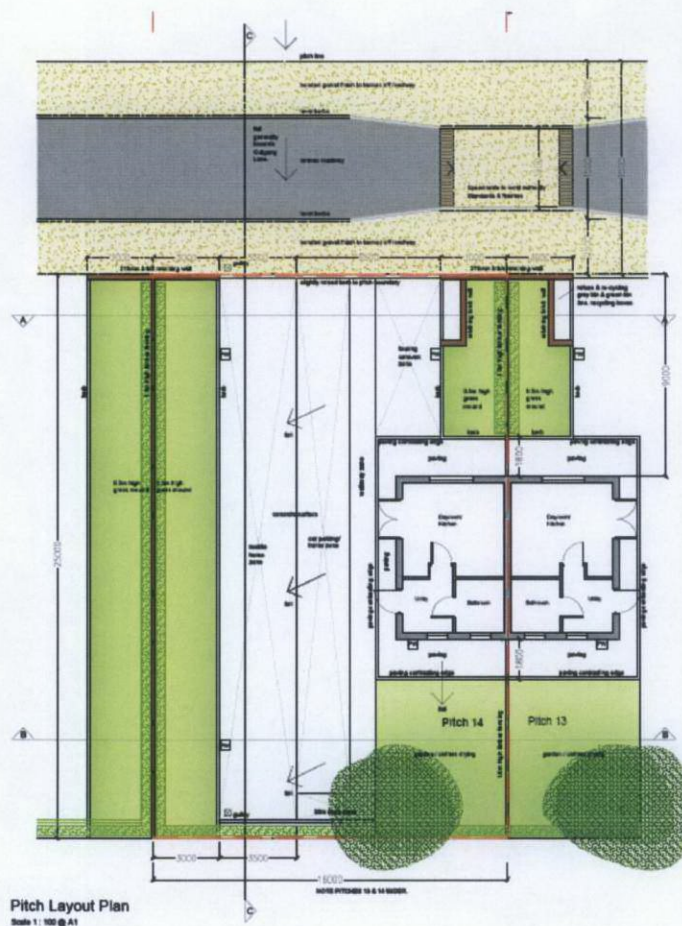
Floor Plan - 'Amenity Houses'



These buildings units are paired to provide a more coherent and compact form – the hipped roof reduces its overall impact and also provides good eaves weather protection with sufficient depth to incorporate perimeter external lighting.



Each Amenity Building has a defined paved perimeter and to the rear of the Pitch a dedicated private garden area.





The Pitch layout and form ensures appropriate fire safety and privacy separations by way of back to back 3m wide wild-flower planted kerbed, grassed embankments with a well defined boundary timber privacy fence on the top (close boarded with trellis top) and a low retaining wall to the front of the plots all helping to clearly demarcate the Pitches. Hedging and tree planting softens the boundaries with fencing provision absorbed by hedge development in time.



Drained concrete hard-standings provide for a range of mobile home or caravan locations with combined power and water service points to optimise the use of the external spaces

There is increased space for Car, Truck and Trailer Parking on Pitch with some additional casual / visitor parking available in the margin of the defined roadway.

The roadways incorporate features of varied surface and level to reinforce it being perceived of and used as a shared surface with shallow kerb separation to support pedestrian priority. The provision of speed tables and a varied defined road width will significantly reduce vehicular road speeds and increase pedestrian safety







The remaining field areas are to be divided with stock proof fencing into 4 grazing areas with paired horse shelters served with water supplies.



Timber post and rail with the same stock fencing (for ball rebound) will define the play areas – Farm and Path gates will give access.





The perimeter of the whole site is to be defined and protected with a 2m wire mesh security fencing after reinforcing native hedge planting to the existing hedges to the north and west and new hedge planting to the new Pitch perimeter boundaries as shown on Drawing (05) 02A, 03B



Provision is made for a 'Portakabin' Office to be located at the entrance to the site.



### **Access**

The access to the expanded site is via the existing entrance – the road is extended to serve the 6 new pitches with a different approach to road configuration to ensure low traffic speeds and an associated enhanced pedestrian safety.





## **City of York Council Traveller Sites Management Plan - 2014**

The City of York has a long history of Gypsies and Travellers living in and travelling through the city. Gypsies and Travellers combined are the largest minority ethnic communities within the city. The City has launched its first Gypsy Roma and Traveller Strategy (2013-18) which outlines a shared commitment to improving outcomes and opportunities for the travelling community and cohesion with the settled community.

### **The Race Relations Amendment Act 2000 states that it is unlawful to:**

Treat Gypsies and Travellers less favourably than people from other racial groups; discriminate against directly or indirectly; segregate on racial grounds.

The Local Authority Race Equality Duty requires the council to promote racial equality; to promote choice, consultation and active participation of the Gypsy and Traveller community and publish a Race Equality Scheme.

### **The City of York Council (CYC) Equal Opportunities Policy on Race says we will;**

- Treat everyone fairly.
- Promote and celebrate diversity.
- Work in ways which help to stop discrimination.
- Understand and respect the rights and responsibilities of everyone involved, including the settled community and all stakeholders.
- Accept the ethnic status of all Gypsies, Roma and Travellers.

### **Management of the sites**

The aim of this plan and the councils approach to site management is that we ensure the same high standards in providing management and support services on travellers' sites as we do to customers in other forms of social housing, taking in account the distinct cultural need and values of the communities we serve.

Effective site management is key to the success of Gypsy and Traveller sites, maximising opportunities for them to be sustainable, successful, self financing and for the travelling community to exist more harmoniously alongside the settled community. Site management should be firm, fair and consistent, treating all residents equally and taking action early if residents break site license agreements. Site Officers should seek to involve residents in management issues so that they take more responsibility for their site and assist in providing solutions to any issues that arise.

City of York Council (CYC) owns and manages three travellers sites:

- James Street (20 pitches)
- Clifton Site, Water Lane (23 pitches)
- Osbaldwick Site, Outgang Lane (12 pitches)

During summer 2014 a permanent site office will be established on the Osbaldwick site. This will provide office and community meeting facilities which will be utilised for the benefit of the travelling community. Key agencies working with the community will be invited to deliver appropriate training and support sessions across areas including; education and training, employment and skills, benefits and debt advice, health and social care, accommodation advice and management and animal husbandry and community engagement and cohesion.

The Council is also reviewing the staff resources on the sites, as at January 2014, to ensure we have resources in place to deliver sustainable and high quality management and support services on the sites

## **Tenure**

All of the pitches are allocated on a permanent basis, with permission the pitches can be vacated for up to 12 weeks per year. A Traveller Accommodation Agreement must be signed by the occupant/s and witnessed by a support worker. All members of the household residing on the site must be named on the agreement.

The accommodation agreement outlines the rights and responsibilities of both the occupants and the council, and its representatives, as landlord. Tenants are responsible for paying their accommodation fees, in full and on time, and to keep to the conditions set out on the accommodation agreement at all times.

The council provides a range of support and management services on the travellers sites, as appropriate. Action will be taken by council officers on breaches of the agreement which can include verbal and written warnings, behaviour contracts, injunctions or other court action, ensuring reasonable, appropriate and proportionate action is taken in a timely manner.

## **Community Cohesion**

Through managing Travellers sites and management of travellers and their horses on unauthorised sites it is essential to take into account cohesion with the wider settled community. By managing relationships and sites effectively greater cohesion can be achieved and the Council and its partners are committed to achieving this, as outlined in the Gypsy Roma and Traveller Strategy 2013-18.

### **SCOPE:**

This document explains how the council will manage the travellers sites on a day to day basis. This document is part of the Travellers Allocations policy (being updated as at January 2014).

The housing department is principally responsible for managing the travellers sites, however services are provided by a range of council departments and agencies across the city, ensuring co-ordination and consistency.

### **How does City of York Council allocate a pitch?**

We will look at the following;

1. Local connection – Priority will be given to those already living in the York area.
2. Dependents i.e. children – are they in local schools and would their welfare suffer if they did not live on a permanent site?.
3. Ill health – Do you or a member of your family attend local hospital for treatment?
4. Social factors – Do you look after someone living in York or do you need someone to look after you who lives in York (medical proof required) ?
5. Homelessness – You will only be offered a pitch if you have no where to live i.e. do not have a permanent home elsewhere.

## **Exclusions from the list include;**

1. Owing any monies to CYC
2. Trespassers – if you are trespassing on a council pitch or site you will not be allocated a pitch on any site.
3. If you are residing in the locality of a site and causing nuisance or anti social behaviour to any neighbours or landowners you will not be allocated a pitch on any site.

## **REFERENCE DOCUMENTS:**

This procedure is linked to, and should be read in conjunction with the following documents:

- Housing Service Plan
- Homeless Strategy – A city partnership to prevent homelessness (2013-2018)
- Gypsy, Roma and Travellers Strategy (2013-18)
- Team plan
- Travellers application and allocations policy (currently being reviewed December 2013)
- Travellers Handbook
- Travellers Accommodation Agreement

## **CUSTOMER INFORMATION:**

Travellers' handbook

## **GENERAL REQUIREMENTS:**

All council officers:

- Should be familiar with the aims of the council policies as they relate to Travellers and understand their role and responsibilities
- To complete risk and needs assessments for all customers and ensure they are reviewed and up to date
- Provide support as appropriate and in a timely manner
- To deal with customers in a professional and objective manner
- To liaise with statutory agencies and the third sector in order to provide comprehensive services to customers

- To liaise with the building maintenance department and contractors to ensure that accommodation is maintained to the highest possible standard
- To carry out housing management tasks such as monitoring rent accounts effectively and efficiently
- Should ensure that customers have access to customer information.
- Should be familiar with the customer service standards

**INFORMATION:**

- To make sure the accommodation needs of Gypsies and Travellers are addressed;
- To jointly develop a Traveller Service Plan that sets out a more coordinated approach to meeting the needs of gypsies and travellers
- To promote equality, diversity and community cohesion

**PERFORMANCE STANDARDS:**

<b>Performance standards</b>	<b>Actions and monitoring</b>
To complete on site (where possible) all lettings of accommodation, advising the customer of the accommodation agreement conditions, completing necessary paperwork and updating computer systems	<ul style="list-style-type: none"> <li>-Short void turnaround times</li> <li>-Low rent arrears and well managed pitch agreement</li> <li>-Minimal impact of sites on the wider community</li> </ul>
Ensure that residents are abiding by the terms and conditions of their licence	<p>Weekly site visits should pick up on any breaches. When agreements are breached the site manager should first attempt to ensure that the party in breach remedies that breach and ensure the residents understand the action in question constitutes a breach.</p> <p>Less severe breaches should be dealt with moderately and reflect the severity of the breach. Where Officers are seeking further action, they should agree the next steps with line</p>

	<p>manager/s.</p> <p>Managers may need to collect evidence in relation to the breach and enter into negotiations accompanied by a warning. Examples of varying actions are detailed below:-</p> <ul style="list-style-type: none"> <li>• no action required – the resident has resolved the issue and is longer in breach of the agreement;</li> <li>• a verbal warning may be issued for a less severe action. The warning should not be repeated and should be recorded;</li> <li>• a written warning may follow a verbal warning or, in more severe cases may constitute the first recourse. This should detail the compliant, dates etc as well as a proposed, time bound course of action;</li> <li>• a second written warning may be issued if the improvement is not made as agreed in the first written warning;</li> <li>• legal action maybe required if the matter has not been resolved or if the resident(s) re-offends; and</li> <li>• continued breach of the terms of the agreement may result in eviction of the resident from the pitch.</li> </ul>
<p>Where appropriate carry out a needs and risk assessment in line with Supporting People standards</p>	<p>All customers should have a needs and risk assessment within two weeks of signing an accommodation agreement</p>
<p>Provide appropriate support to all travellers living on sites, in bricks and mortar or on the roadside</p>	<p>All customers should have a needs and risk assessment within two weeks regardless of tenure, which is monitored and kept up to date</p>
<p>Make referrals or signpost to specialist agencies as appropriate for welfare benefits, budgeting and</p>	<p>-Travellers and Ethnic Minority Support Service -GP and NHS services</p>

<p>debt management, education, training and employment</p>	<ul style="list-style-type: none"> <li>-Future Prospects</li> <li>-Local Colleges</li> <li>-York Travellers Trust</li> <li>-Citizens Advice Bureau</li> </ul>
<p>To monitor and manage rent accounts in line with the housing departments income management recovery procedure</p>	<p>Appropriate action is taken with reminder letters, actioning direct payments, making agreements in line with other types of tenancies</p>
<p>To ensure that communal areas and facilities are maintained and cleaned as necessary within budgetary allowances</p>	<p>Rubbish is removed from the external areas of the sites on a needs basis. Skips are provided on a planned basis in line with permanent accommodation. Household waste is removed on a routine basis in line with refuse collection schedules.</p> <p>If evidence of fly tipping is gathered, action will be taken against the perpetrator as a breach of their license agreement. We will seek to prosecute any individual where evidence is gathered on fly tipping.</p>
<p>Regular inspections for repairs</p>	<p>Report any repairs or concerns to building services who log and appoint repairs</p>
<p>Removal of illegal encampments that reside on the periphery of the sites</p>	<p>Enforcement action will be taken against unauthorised encampments on public land to ensure timely removal of caravans and vehicles. Powers are used under the Criminal Justice And Public Order Act 1994.</p> <p>Unauthorised encampments are visited by community enforcement officers and their needs are assessed on an individual basis, liaising with Support workers and external agencies where appropriate, to ensure support for education, housing and health needs. Where possible, an agreement is sought</p>



	<p>with the families involved on the period of toleration. Regular visits are made to ensure no impact on the local environment. Direction Orders are issued in the event of failing to cooperate or if the service receives reports of ASB. Direction Notices are issued in Magistrates' Court and the Enforcement Officers work with the legal department to draw up relevant summonses and notices. A Direction Notice remains in effect for three months following issue.</p>
<p>Ensure that squatters and illegal occupants are removed from the sites</p>	<p>Support workers will liaise with the trespassers in the first instance to encourage them to leave the site, making the consequences of failure to comply with the request clear to all parties involved. The next step would be for legal to issue a letter giving the trespassers a deadline to vacate the pitch/site, if this fails we would then commence legal action by submitting court papers for a trespass hearing. At court we would seek an immediate possession order - order from the judge requiring the trespassers give up possession of the property/plot immediately - and we would also ask for court cost to be paid by the defendants. If the trespassers do not leave on the date specified by a court order we would then apply for a warrant to have them removed.</p>

## **Monitoring and Evaluation:**

- Supporting People quarterly and annual reports
- Void reports
- Rent Reports
- Building Services reports

## **General Principles:**

- All Travellers sites are visited on at least one set day per week
- Further visits are planned as appropriate to the needs of the service and customers, but on average three times a week
- All repairs are ordered through Support Workers
- Non urgent repairs are carried out on a pre arranged date each month. Emergency repairs are ordered and carried out in line with the departments repairs service standards
- Support workers will attend with workmen where necessary to ensure the smooth running of the repairs service.
- Support Workers act as the main point of contact with residents, businesses and agencies in relation to the sites and the residents, responding to any complaints in line with corporate customer service standards
- Support workers ensure that any void pitches are cleaned and repaired promptly for the next resident, to minimise void turnaround.

January 2014

**Appendix 8: Aerial Photographs of the Traveller Site at Osbaldwick.**





## COMMITTEE REPORT

**Date:** 24 October 2013      **Ward:** Osbaldwick  
**Team:** Commercial Team      **Parish:** Osbaldwick Parish  
Council

**Reference:** 13/02704/GRG3  
**Application at:** Travellers Caravan Site Outgang Lane Osbaldwick York  
**For:** Extension to existing travellers site to accommodate 6no. additional pitches with associated amenity buildings, amenity space with 2 metre high fence surround, grazing areas and shelters for horses. Provision of additional land to the south of existing site to allow for expansion of existing pitches and space for future portakabin site office.  
**By:** Ms Kate Grandfield  
**Application Type:** General Regulations (Reg3)  
**Target Date:** 10 October 2013  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 Extension to council-owned travellers site to accommodate six additional pitches, each with its own single-storey, semi-detached amenity building. The extension will include an all-age amenity area and children's play area, totalling approximately 0.12ha. The extended site would include field shelters for the travellers' horses, which would graze on adjacent agricultural land to the north and west. A 5m-wide strip of agricultural land immediately to the south of the travellers' existing site would be included within the site to increase the size of existing pitches and provide space for a future 'portakabin'-type site office.

1.2 The extension would have a similar layout and character to the existing site. Access would be provided by extending the internal access road through the existing site.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Common Land and Village Greens GMS Constraints: CL 94 - Outgang Lane Became Void 25 June 1973.

City Boundary GMS Constraints: York City Boundary 0001

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

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## 2.2 Policies:

CYH16 - Residential sites for gypsies/travellers

CYGP1 - Design

CYGP4A - Sustainability

CYGP9 - Landscaping

CGP15A - Development and Flood Risk

## 3.0 CONSULTATIONS

3.1 Highway Network Management - No highway implications.

3.2 Flood Risk Management - No objection in principle subject to approval of full foul and surface water drainage details prior to commencement.

### EXTERNAL

3.3 Murton Parish Council - Objection. The council is judging its own application. Strategic decisions such as this should be taken when the new local plan is considered. There is no evidence that York has a shortfall of 36 sites. The council must show that it is able to manage the present site effectively before it is enlarged. This application may be the first of a planned expansion. The surrounding industrial/commercial area is incompatible with good housing. A community impact assessment is warranted.

3.4 Osbaldwick Parish Council - Objection. Given the problems this site has caused since CYC assumed responsibility in 1996 the local authority should give consideration to the site's closure rather than expansion.

3.5 Julian Sturdy MP - Objection to any expansion of the existing site until it can be shown to be well managed, which it is not currently. The current site has an adverse impact on the local community. There is no sound calculation of need applicable to the Osbaldwick site. No very special circumstances to justify approval have been demonstrated. A public inquiry should be held. A community impact assessment should be carried out.

3.6 Environment Agency - No objections.

3.7 Public Consultation - The consultation period expired on 4 October 2013. One objection has been received from a neighbouring farmer citing: inadequate site management including inadequate prevention of unlawful horse-grazing of neighbouring farmland, overcrowding of pitches, lack of enforcement action against breaches by travellers of their licence agreements.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES:-

- o Provision of sites for gypsies and travellers
- o Impact on the green belt and visual appearance
- o Landscaping
- o Drainage
- o Site Management

## PLANNING POLICY CONTEXT

4.2 National Planning Policy Framework (Green Belts) - The fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open (paragraph 79). The NPPF lists the types of development that are acceptable in the green belt. Other development is deemed inappropriate, which is by definition harmful to the green belt. Inappropriate development should not be approved except in very special circumstances that outweigh any harm to the green belt. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the green belt. Very special circumstances will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The provision or enlargement of travellers' sites, whether temporary or permanent, in the green belt constitutes inappropriate development and should not be approved except in very special circumstances.

4.3 The NPPF is supplemented by Planning Policy for Traveller Sites (PPTS, March 2012). It states that the Government's overarching aim is to ensure fair and equal treatment for travellers. To achieve this local planning authorities should, inter alia, make their own assessment of need, develop fair and effective strategies to meet that need, plan for sites over a reasonable timescale, protect the green belt from inappropriate development, increase the number of travellers sites in appropriate locations, enable provision of suitable accommodation from which travellers can access education health, welfare and employment infrastructure and have due regard to protecting local amenity and local environment. When considering planning applications for travellers' sites local planning authorities should consider the existing level of local provision and need.



4.4 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although their weight is limited except where in accordance with the NPPF. The following local plan policies are still applicable:

4.5 H16 - In determining applications for gypsy/traveller sites the following criteria will be taken into account: proximity to local services; the potential for safe access; the extent to which the site impacts on important open areas; visual integration with the surrounding area; and potential impact on the amenity of the environment, neighbouring properties, sensitive agricultural land or other land uses.

4.6 GP1 - Development proposals should be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and local character; respect or enhance the local environment; provide/protect amenity space; protect residential amenity; accord with sustainable design principles; include refuse facilities; and include, where appropriate, landscaping.

4.7 GP4a - All proposals should have regard to the principles of sustainable development, including accessibility by means other than the private car.

4.8 GP9 - Where appropriate, development proposals should incorporate a suitable landscaping scheme that is an integral part of the proposals; includes an appropriate range of species, reflects the character of the area; enhances the attractiveness of key transport corridors; and includes a planting specification where appropriate.

4.9 GP15a - Discharges from new development should not exceed the capacity of existing and proposed receiving sewers and watercourses and long-term run-off from development sites should always be less than the level of pre-development rainfall run-off.

## THE APPLICATION SITE

4.10 The existing travellers' site lies at the closed northern end of a long cul-de-sac (Outgang Lane), which passes through an industrial estate. The site has 12 caravan pitches arranged around an internal access road. Each pitch has a single-storey, semi-detached amenity building comprising a dayroom/kitchen, utility room and bathroom. The extension would be located on agricultural land immediately to the west of the existing site. The application site is in the green belt and abuts the settlement limit of York to the south.

4.11 To the north of the proposed extension is agricultural land, which would provide grazing for the travellers' horses. To the east is the existing travellers' site and to the south is the enclosed yard of a builders' merchant. To the west is open industrial land occupied by a skip hire company for the storage of recycled materials

(mainly aggregate). The existing and proposed sites are largely flat except for earth bunds along part of the boundary of the existing site.

## IMPACT ON THE GREEN BELT

4.12 The site is in the green belt where use of land as a travellers' site is inappropriate except in very special circumstances. A key issue for this proposal is therefore whether very special circumstances exist to justify approval.

4.13 The PPTS requires local planning authorities to have identified, by March 2013, a five-year supply of deliverable sites. A shortfall in the five-year supply would be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.

4.14 The 2008 North Yorkshire Gypsy and Traveller Accommodation Assessment (NYGTAA) identified a need for 36 pitches in York up to 2015. Work to support the Local Plan Preferred Options updated this study and showed a need for 23 further pitches for the first five years of the plan period, bringing the total to 59.

4.15 The application site was submitted as a suitable travellers' site during the Autumn 2012 Call for Sites but had already been identified by Housing Services as a possible permanent site for travellers. During the sifting process the site was identified as an appropriate site and was included in the Local Plan Preferred Options for consultation purposes. This reflected work done by Housing Services prior to the Call for Sites. Whilst the Preferred Options include other potential sites there is no guarantee that any of these sites will become travellers' sites. Moreover, the shortfall in demand for such sites already exists and has been known since the GTAA was published in 2008. Bearing in mind that almost all of the CYC area outside development limits is in the green belt it is inevitable that at least some of the shortfall has to be provided on green belt land.

4.16 In officers' view the shortfall in the number of currently-available pitches, the requirement to identify suitable sites and the difficulty in finding suitable sites within the settlement limit constitute very special circumstances that outweigh harm to the green belt. The principle of extending the site as proposed is therefore acceptable.

## VISUAL APPEARANCE

4.17 Whilst Outgang Lane is a public highway very little traffic has cause to travel to the far end except that which is related to the travellers' site. Furthermore the site is well screened from the south by the builders' merchant, from the west by a substantial earth bund and from the east by the existing travellers' site. To the north is open agricultural land across which the public do not have access. The application site is therefore not easily visible from any public viewpoint. Furthermore, the caravans are, by definition, single-storey in height, as would be the

amenity buildings. A bund along the open boundaries, supplemented by planting, would further screen the proposed site. In summary, the visual impact of the extension would be small and not significantly greater than the visual impact of the existing site.

## DRAINAGE

4.18 The site is in flood zone 1 and is unlikely to suffer from river flooding. Nevertheless, the site is poorly drained and frequently has standing water. The applicant is in the process of submitting proposals for the proper drainage of the site and attenuation to greenfield run-off rate. Members will be updated at the meeting.

## SECURITY

4.19 Crime, as a result of the existing travellers' site, appears to be a concern of local residents. Officers understand that data for 2012 shows that 26 incidents of anti-social behaviour were reported on and within a 500 metre radius of the Osbaldwick site and only one theft from a car relating to the site. The anti-social behaviour figures do not necessarily all relate to the site and crime/ASB levels within Osbaldwick are not dissimilar to other parishes.

## SITE MANAGEMENT AND HORSES

4.20 The council owns and manages the site. Housing officers do not see their role as 'controlling the residents' as individuals are responsible for their own behaviour regardless of tenure or type of accommodation. Nevertheless, the council operates a license agreement outlining the roles and responsibilities of the occupiers of the site and their visitors. It also has a site management plan and an action plan outlining the steps being taken to effectively manage the site for the benefit of the occupiers and the wider community. Officers understand that enforcement action is taken where there is evidence that a resident has breached their licence conditions.

4.21 A 'Protocol for Management of Horses in York' was approved by Cabinet members during 2013 and the appointment of a Bailiff is currently out to tender. The document outlines the route for enforcing the removal of horses from council land where they are illegally grazing and sets out how the council can support private land owners where horses are illegally grazing on their land.

## SUITABILITY OF THE SITE FOR HOUSING

4.22 Murton Parish Council considers that the surrounding industrial/commercial area is incompatible with good housing. Whilst the area to the north is open countryside officers agree that the area to the south has a heavily commercial character. Nevertheless the existing site has been occupied by travellers for at least 20 years and is overcrowded. This suggests that whilst the character of the area

(including the access to the site) is far from ideal it has not deterred residents from living there. There is a severe undersupply of sites in York for travellers. Officers understand that the application site is available and consider that the presence of the existing site would help to integrate the extension into the surrounding area.

## FUTURE EXPANSION

4.23 Murton Parish Council is concerned that the current application may be the first of a planned expansion. In response, whilst each application is judged on its merits, officers understand that the council has no plans to expand the Osbaldwick site other than as currently proposed. In order to prevent intensification of the current proposal officers recommend that conditions be attached limiting the maximum number of pitches, restricting the area for occupation by caravans and limiting the maximum number of caravans per pitch to one static and one tourer.

## CYC AS DECISION MAKER

4.24 Objectors argue that the council should not judge its own planning applications. In response, planning legislation dictates that applications of this scale and character are normally determined by the local planning authority - in this case CYC - regardless of whether the local planning authority is the applicant. A typical example would be where the application is for an extension to a school or even a new school. The fact that an application is contentious is immaterial to the process. An exception would be where the Secretary of State has directed that he/she wishes to determine the application, instead of the local planning authority. Normally only applications for large developments of regional or national significance are called in. At the time of writing the Secretary of State had not called in the application. Therefore whilst it has attracted objections and the location of existing /potential travellers sites is currently a contentious issue in York, it should be borne in mind that the proposal is small in scale and of local significance, i.e to this Council area

## COMMUNITY IMPACT ASSESSMENT

4.25 A Community Impact Assessment (CIA) is a tool for identifying the potential impact of a council's policies, services and functions upon its residents and staff. By systematically analysing a proposed policy, strategy or service a local authority can identify the likely effects on different community groups. A CIA was carried out in April 2013 for the Local Plan Preferred Options. It found that the draft plan would have a positive impact on gypsies and travellers (as a group) through the allocation of sites to meet the need for pitches. A CIA is not an appropriate tool for a planning proposal of local significance, such as the current application.

## 5.0 CONCLUSION

5.1 In officers' view the shortfall in the number of currently-available pitches, the requirement to identify suitable sites and the difficulty in finding suitable sites within the settlement limit constitute very special circumstances that outweigh harm to the green belt. Extending the site as proposed accords with national and local planning policy and is acceptable.

### COMMITTEE TO VISIT

## 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out only in accordance with the approved plans numbered 3993(05)01/A, 3993(05)02B and 3993(05)03/B.

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

3 The development hereby approved shall be used only as a residential travellers site and for no other type of domestic or business use.

Reason: To safeguard the character of the area and the openness of the green belt.

4 The number of caravan pitches on the extension hereby approved shall be limited to no more than 6.

Reason: To safeguard the character of the area and the openness of the green belt.

5 No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home), shall be stationed on any pitch at any one time.

Reason: To safeguard the character of the area and the openness of the green belt.

6 The area occupied by caravans and/or the parking of vehicles shall be restricted to the area shown hatched on the drawing entitled Plan A and dated 10 October 2013 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the openness of the green belt and the character and appearance of the area.

7 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscape scheme which shall include the species, position and stock size of trees, shrubs and any other plants. It shall also include details of means of protecting the trees from horses and other grazing animals. The scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species and their protection, since the landscape scheme is integral to the amenity of the development.

8 The development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site and that provision has been made to maintain it.

## INFORMATIVE

In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards peak surface water run-off from the development must be attenuated to that of the existing rate (based on a Greenfield run off rate of 1.40 l/sec/ha). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

The submitted details should include:

Details of a flow control manhole to limit the surface water to the above rate;

Site specific details of the storage facility to accommodate the 1:30 year storm and details of how and where the volume above the 1:30 year storm and up to the 1:100 year storm will be stored;

A topographical survey showing the proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Details to prove suitability of existing outfall and connection of surface water to the York Consortium of Internal Drainage Boards drainage and foul to Yorkshire Waters sewers.

Details of the future maintenance/management of the drainage system.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the local planning authority implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) by seeking solutions to problems identified during the processing of the application. In order to achieve an acceptable outcome the local planning authority took the following steps: sought further information from the applicant about drainage, landscaping and issues raised by objectors; and applied conditions to the approval.

#### **Contact details:**

**Author:** Kevin O'Connell Development Management Officer

**Tel No:** 01904 552830



## H16: Residential Sites for Gypsies/ Travellers

In determining planning applications for gypsy / traveller sites, the following criteria will be taken into account:

- a) the proximity of the site to local services and facilities to ensure these are accessible to those on site;
- b) the potential to achieve safe access for pedestrians, people with mobility problems, carers with children, cyclists and vehicles;
- c) the extent to which the site impacts on important open areas;
- d) the need to ensure the site is visually integrated with the surrounding area;
- e) the potential impact of the site on the amenity of the environment, neighbouring properties or the operation of sensitive agricultural or other land uses, by virtue of noise and disturbance from traffic generation and on-site business activities and likewise the residential amenity of those on site.

### **Appendix 11: Osbaldwick Traveller Site Personal Testimony.**

I was a resident of Osbaldwick caravan site for 35 years.

Then about 4 years ago I decided to move my family from Osbaldwick site, I didn't make this decision lightly as my extended family lived there and I didn't want to take my children from the community they had grown up in. I felt like I was taking a part of their identity away from them, but it had come to the point where their safety comes first.

The way we were treated as residents on Osbaldwick site by council, police, the NHS, health visitor and Royal Mail were inhumane. These are the people who are there to protect and serve the public. All residents on Osbaldwick site are denied such things. Ambulances were held back because they cannot come on site without a police escort, one time one of the residents had taken a seizure in which an ambulance was called, it was stationed at the top of Osbaldwick industrial estate for 40 minutes waiting for a police escort to accompany them.

The running of the site from YORK council is absolutely diabolical!

Site repairs never get done, people are waiting years for things such as no hot water, no electric over the Christmas holidays, mould growing on bathroom, sewage coming up through the sinks, infested with rats (there are that many that they're getting in to people's caravans and vehicles), bins not getting emptied, the drains outside of residents' pitches flooding and not receiving post on to site these are just a small number off thing that don't get done. Obaldwick site has never been a suitable or safe place to live due to the industrial estate and waste disposal site that surround it, there has already been 1 death due to the site's location. People have only stayed here this long because they have nowhere else to go.

The thought of another 13 pitches being made on Osbaldwick site is scary! I wouldn't want another thirteen families to live like this. I do agree that more sites to accommodate the growing number of the Gypsy and Travellers community in YORK should be built, but not on Osbaldwick. There should be a new site made in some part of YORK with easy accesses to local schools, shops, public transport, medical care and safe surroundings. If I had the opportunity to move on to a newly built site in YORK I would move me and my family back into the community environment I miss.



**TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING GENERAL REGULATIONS, 1992  
(AS AMENDED BY THE TOWN AND COUNTRY PLANNING GENERAL (AMENDMENT) REGULATIONS, 1998)**

**To:**

Mr Ian Atkinson  
BSP Architects LLP  
2 Kettlestring Lae  
York  
YO30 4XF

**Application at:**

Travellers Caravan Site Outgang Lane Osbaldwick York

**For:**

Extension to existing travellers site to accommodate 6no. additional pitches with associated amenity buildings, amenity space with 2 metre high fence surround, grazing areas and shelters for horses. Provision of additional land to the south of existing site to allow for expansion of existing pitches and space for future portakabin site office.

**By:**

Ms Kate Grandfield, City of York Council

**Application Ref No.:**

13/02704/GRG3

**Application Received on:**

15 August 2013

**CONDITIONS OF APPROVAL:**

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

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

2 The development hereby permitted shall be carried out only in accordance with the approved plans numbered 3993(05)01/A, 3993(05)02B and 3993(05)03/B.

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

3 The development hereby approved shall be used only as a residential travellers site and for no other type of domestic or business use.

Reason: To safeguard the character of the area and the openness of the green belt.

4 The number of caravan pitches on the extension hereby approved shall be limited to no more than 6.

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Reason: To safeguard the character of the area and the openness of the green belt.

6 The area occupied by caravans and/or the parking of vehicles shall be restricted to the area shown hatched on the drawing entitled Plan A and dated 10 October 2013 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the openness of the green belt and the character and appearance of the area.

7 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscape scheme which shall include the species, position and stock size of trees, shrubs and any other plants. It shall also include details of means of protecting the trees from horses and other grazing animals. The scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species and their protection, since the landscape scheme is integral to the amenity of the development.

8 The development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site and that provision has been made to maintain it.

#### INFORMATIVE

In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards peak surface water run-off from the development must be attenuated to that of the existing rate (based on a Greenfield run off rate of 1.40 l/sec/ha). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

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A topographical survey showing the proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

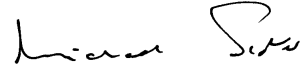
Details to prove suitability of existing outfall and connection of surface water to the York Consortium of Internal Drainage Boards drainage and foul to Yorkshire Waters sewers.

Details of the future maintenance/management of the drainage system.

9 Prior to commencement of development the management plan for the travellers site shall be amended and updated to account for the site extension hereby approved and to incorporate facilities for a site office, which shall be provided and retained in accordance with the approved management plan prior to occupation of the extension, or as soon as practicable thereafter.

Reason: In the interests of the proper management of the site, the visual appearance of the area and the amenity of neighbouring occupiers.

Date: 4 November 2013



M.Slater  
Assistant Director (Planning & Sustainable Development)

### **Notes to Applicant**

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

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Plan A 10/10/13  
 (Extract of 3993 (05) 02 B)

13/02704/GRG3