

# Public Document Pack

## North Yorkshire County Council Business and Environmental Services - Executive Members & Corporate Director Meetings

Friday, 24 June 2022 / 2.00 pm

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### A G E N D A

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- 1 **Apologies for Absence**
- 2 **Declarations of Interest**
- 3 **Exclusion of the public from the meeting during consideration of item(s) # on the grounds that it/they each involve the likely disclosure of exempt information as defined in the paragraph(s) # of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to information)(Variation) Order 2006**

#### **Items for Executive Member decision**

#### **Items for Corporate Director decision**

- 4 Opposed Bridleway No. 30.53-034 & Footpath No. 30.53-031 Penny Noake  
Mulgrave Farm, Ugthorpe, Division Order 2022 (Pages 3 - 10)
- 5 Opposed Footpath Nos. 30.20-13 & 30.20-14, Land Near Beacon Penny Noake  
Road, Seamer (Pages 11 - 36)
- 6 Hambleton, Scarborough, Selby and Miscellaneous Area Review of Lindsay Davidson and Mary  
Home to School and Local Bus Service Transport Contracts (Pages 37  
- 52) Welch
- 7 Foss Catchment Project – update and proposed acceptance of Dave Caulfield  
£200,000 of funding offered by the Environment Agency (Pages 53 -  
106)
- 8 DEFRA environmental targets consultation – approval for submission Dave Caulfield  
of NYCC response (Pages 107 - 108)
- 9 HM Government consultation on household waste recycling centres Peter Jeffrey  
and preventing charges to householders for the disposal of “DIY”  
waste and a call for evidence on booking systems. (Pages 109 - 124)
- 10 YorBus Pilot Project Extension (Pages 125 - 138) Emma Pemberton

#### **Any Other Business**

#### **Circulation:**

#### **Executive Members**

Derek Bastiman  
Keane Duncan

#### **Officer attendees**

Karl Battersby  
Jane Connolly

#### **Presenting Officers**

Penny Noake  
Lindsay Davidson  
Mary Welch  
Dave Caulfield  
Peter Jeffreys  
Emma Pemberton

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## North Yorkshire County Council

### Business and Environmental Services

24 June 2022

#### Opposed Bridleway No. 30.53/034 & Footpath No. 30.53/031 Mulgrave Farm, Ugthorpe, Diversion Order 2022

#### Report of the Assistant Director – Travel, Environmental and Countryside Services

##### **1.0 Purpose of the report**

- 1.1 To advise Corporate Director of Business and Environmental Services (BES) of an opposed Public Path Diversion Order for a bridleway and a footpath in the parish of Ugthorpe, in the district of Scarborough. A location plan is attached to this report as Plan 1. The proposal is shown in detail on Plan 2.
- 1.2 To request the Corporate Director, in consultation with the Executive Member for Access, to authorise that North Yorkshire County Council (NYCC), in its submission of the opposed Order to the Secretary of State (SoS) **will support confirmation of the Order.**

##### **2.0 Background**

###### **Scheme of Delegation**

- 2.1 Within the County Council's scheme of delegation, it is delegated to the Assistant Director of Travel, Environmental and Countryside Services, to decide whether to abandon an opposed Diversion Order where the Authority is of the opinion that the requirements to confirm the Order may not be met and where an Inspector appointed by the Secretary of State may decline to confirm the Order, or to recommend to the Corporate Director BES that the Order be referred to an Inspector appointed by the Secretary of State.

##### **3.0 The Application**

- 3.1 The application to divert the bridleway and footpath was submitted to the County Council in October 2020.
- 3.2 The reasons given for the application were to divert the bridleway and the linking footpath away from the farmyard at Mulgrave Farm, to improve privacy, security and to ensure safety of users from vehicle movements and enable safe movement of livestock within the yard, all for the benefit of the landowner.

##### **4.0 Relevant legal criteria**

- 4.1 Under Section 119 of the Highways Act 1980, the County Council, having consulted any other local authority, may divert a public right of way (PROW) where it appears to the Authority that in the interests of the owner of the land crossed by the PROW described in the Order, it is expedient that the line of the PROW should be diverted, and that the effect of diversion would not be substantially less convenient to the public.

- 4.2 The County Council charges applicants for the costs incurred in the processing/making of diversion Orders, as provided for by the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (S.I. 1993/407), amended by regulation 3 of the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (S.I. 1996/1978).
- 4.3 Where an Order is opposed, the County Council cannot confirm the Order; it can only be confirmed by the Secretary of State. The Secretary of State will confirm an Order if he/she is satisfied that:
- i) in the interests of the landowner it is expedient to divert the footpath, and
  - ii) the diversion will not be substantially less convenient to the public as a result of the Order, and that it is expedient to confirm the Order having regard to the effect which:
    - (a) the diversion would have on public enjoyment of the route as a whole;
    - (b) the coming into operation of the Order would have, as respects other land served by the existing public right of way; and
    - (c) any new public right of way created by the Order would have, as respects the land over which the right is created and any land held with it.

## **5.0 The Making of the Order**

- 5.1 An informal consultation was carried out and an objection was received from the local Ramblers representative. Further objections were received from the Byways and Bridleways Trust, Ryedale Bridleways Group, and Ugthorpe Parish Council, but they were all subsequently withdrawn after site visits and further clarification of the proposals. A site visit was arranged on 1 October 2021, for the Ramblers representative to meet with the Estate Manager to discuss the Ramblers' objections, but the Ramblers did not attend this meeting, with no reason given.
- 5.2 A report was submitted to the Assistant Director, Travel, Environmental & Countryside Services requesting authorisation to make a Diversion Order, and it was determined that despite the objection that a Diversion Order should be made.
- 5.3 The Diversion Order was made on 11 March 2022 and was duly advertised.
- 5.4 During the formal consultation, one objection was received from the same local Ramblers representative. The nature of the objections were as follows:
- i) The proposed diverted routes are substantially less commodious for walkers.

### **Officer Comment.**

If the meaning of 'less commodious' is taken as 'less convenient', then it could be argued that the proposed routes were actually more convenient. Part of the footpath proposal addresses the fact that the legal line running southeast from Point G is extremely steep, crossing difficult terrain and then running across a track and accessing a grass pasture via a stile. The legal line then continues across the corner of a grass pasture, exiting the pasture via a stile at Point F. The proposed route uses an existing sloping track from G-I, enabling walkers to make a more gentle and pleasant ascent from the beck through the woodland. The new access and exits points into the grazing land will replace the existing stiles with kissing gates.

The proposed bridleway will be five metres width, which is wider than the current route and would be for the sole use of users, avoids the farm yard and its potential dangers, and the new route would not be used for farm work.

- ii) Increase of 270 metres between B to G.

**Officer Comment.**

The proposal needs to be considered in the context of the entire lengths of the bridleway and footpath. The distances of the whole route were measured as approximately:-

<b>Mulgrave Farm</b>	<b>Current Legal Line</b>	<b>Proposed new line</b>	<b>Difference</b>
<i>Circular Walk</i> Ugthorpe Church - Mulgrave Farm - Ugthorpe Grange - Ugthorpe Church.	4366 metres	4322 metres	- 44 metres
<i>Linear Walk</i> Ugthorpe Church – Mulgrave Farm - the east of Peel Wood.	2346 metres	2564 metres	+ 218 metres

The distance stated by the Ramblers is disputed. The extra distances involved for the proposed linear walk are less than 10% for the whole route and the proposed circular walk would actually be slightly shorter, and therefore may not be considered 'substantially less convenient' in terms of length.

- iii) The bridleway has already been diverted once to meet the wishes of the applicants. National Park badge on gate post at B indicating a diversion.

**Officer Comment.**

There are no limits as to how many times a public right of way may be diverted and therefore, the fact that a route may have been diverted in the past would not be a barrier to a future diversion. A landowner is entitled to apply again to meet changing land management needs, as in this instance.

- iv) The existing route is natural and follows a well-made track of a width and quality appropriate for a bridleway.

**Officer Comment.**

The BHS, Byways and Bridleways Trust and the Ryedale Bridleways Group have all agreed to the proposed diversion, which consists of a five metre fenced corridor between Points B and C, with a "pinch-point" at Point C, to prevent any vehicles accessing the route.

- v) The proposed bridleway diversion is less direct, and is over soft pasture, vulnerable to being damaged by horses.

**Officer Comment.**

The BHS, BBT and RBG are happy that the land is and will be maintained to a high standard of drainage by the landowner. Subsoiling is carried out every few years, which prevents soil compaction and the possibility of subsequent drainage issue.

- vi) The diverted bridleway is significantly longer and more difficult.

**Officer Comment.**

Please see Officer Comments to ii) and v) above, regard the length of the proposed diversions. The Ramblers Representative has not given an indication of in what way it is more difficult.

- vii) The diverted route could have horses mixing with sheep and cattle.

**Officer Comment.**

The landowner has agreed to a fenced corridor between Points B and C of 5 metres width, so that bridleway users are separated from any livestock that may be in the fields.

- viii) The reason for this proposal is not supported by a risk assessment for the farm yard activities – just a statement by NYCC. Four site visits late August and September 2021 did not show any farming activity between B to F.

**Officer Comment.**

A risk assessment for farm yard activities is not a requirement of an application for a Public Right of Way diversion. The applicant has explained the reasons for wanting to divert the route from the farm yard for health and safety, and for privacy and security reasons, as the farm house is being renovated, in readiness for a new tenant and the farm yard will be therefore much busier with vehicles and livestock movements.

- ix) The proposal increases maintenance costs re the surface being the responsibility of the NYMNPA.

**Officer Comment.**

It is not envisaged that the proposal would increase maintenance costs for the NYMNPA. Any works undertaken to implement the effects of the Order in relation to the surface of the route would be undertaken at the cost of the applicant. In addition, NYMNPA have been consulted and have not objected to this proposed diversion.

- x) Advised on the 22 July 2021, house and yard works to start next year and will be a lot of changes. No details have been given, we are thus unable to assess whether any changes are required to the bridleway.

**Officer Comment.**

As commented upon in viii) above, the farm house is currently being renovated, in readiness for a new tenant and the farm yard will be therefore much busier with farm vehicles and livestock movements. The current bridleway has a couple of 'blind bends', between Points B and F whereas removing the bridleway from the farm yard would ensure safety of users from vehicle movements and enable safe movement of livestock within the yard.

- xi) The heritage of the Public Rights of Way network is slowly being eroded by large diversions around farms etc, and this proposal is one. Proposed solution; if it must be moved. We were advised on the 7 December 2020, the proposal takes a bridleway and footpath away from a working farm and farmyard. Move BW 30.53/034 to the other side (south) of the farm between points B and F together with a fence.

**Officer Comment.**

Land management needs can change over time and the Highways Act 1980 makes provision for diversions to be made when it is expedient to do so, as is the case with this location. The aim of the proposal is to divert the existing bridleway and footpath, not to extinguish them, therefore it is hard to see how this proposal may be considered as eroding the PRow network.

With regards to the Ramblers' proposed solution, the applicant's preferred route is a similar arrangement, but to the south along Points C - B, as the Ramblers' proposed route from Points B - F does not meet the applicant's concerns to keep the farmyard area secure.

- 5.5 Considering these objections together, it is the view of Officers that they are without merit and would not be sufficient to prevent the Order being confirmed.

**6.0 Representation made by the local member**

- 6.1 No formal representations were received from the local Councillor in response to the consultations regarding the Diversion Order.

**7.0 Legal Implications**

- 7.1 The opposed Order would be determined by an Inspector appointed by the SoS, and, as stated above, determination will most likely be by way of written representations.
- 7.2 The Inspector, on the basis of the evidence and the legal criteria would decide whether or not to confirm the opposed Order. If he/she decides to confirm the Order, the routes will be amended on the Definitive Map and Statement in accordance with the details within the Order.

**8.0 Financial implications**

- 8.1 If the opposed Order were to be submitted to the SoS, the Order would be most likely to be resolved by written representations.
- 8.2 There would be a non-rechargeable cost to the Authority in preparing a submission to the SoS and responding to any queries raised by the SoS, and these costs would be for officer time, which would be met by the respective staffing budgets. In the unlikely event that the Inspector chose to hold a Public Inquiry, the costs of arranging, hosting and supporting the Inquiry would fall to the Council but would be unlikely to exceed £1,000.

**9.0 Equalities Implications**

- 9.1 It is the view that the recommendations do not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010.

**10.0 Climate Change Implications**

- 10.1 The proposal is to alter the alignment of routes already recorded as public routes within the County Council's records. The confirmation of this order would have no positive or negative impact on climate change.

## **11.0 Current Decision to be made**

- 11.1 The decisions to be made at this stage are, firstly, whether the Order is to be abandoned, or whether it is to be forwarded to the SoS for resolution.
- 11.2 Secondly, if it is decided that the matter is to be forwarded to the SoS then a further decision will need to be made, namely which stance the authority would take within its submission to the SoS towards the confirmation of the Order. The Authority needs to decide whether it:
- supports confirmation of the Order,
  - believes that the Order should not be confirmed,
  - considers the circumstances are so finely balanced, or are particularly unclear and wishes to take a neutral stance.

## **12.0 Conclusions**

- 12.1 In conclusion, the application for the Diversion Order was made to increase privacy and security of the property, and to ensure safety of users from vehicle movements and enable safe movement of livestock within the farm yard. It is felt that the Diversion Order meets the legal tests outlined in Para. 4.1 above.
- 12.2 The objection to the Order outlines a number of issues however it is felt that the proposed route is not substantially less convenient for the public and that the remaining objections are insufficient to prevent the confirmation of the Order.
- 12.3 Officers are of the view that the Order should be referred to the Secretary of State, and that there is no reason why the Authority should not support the confirmation of the Order.

## **13.0 Recommendation**

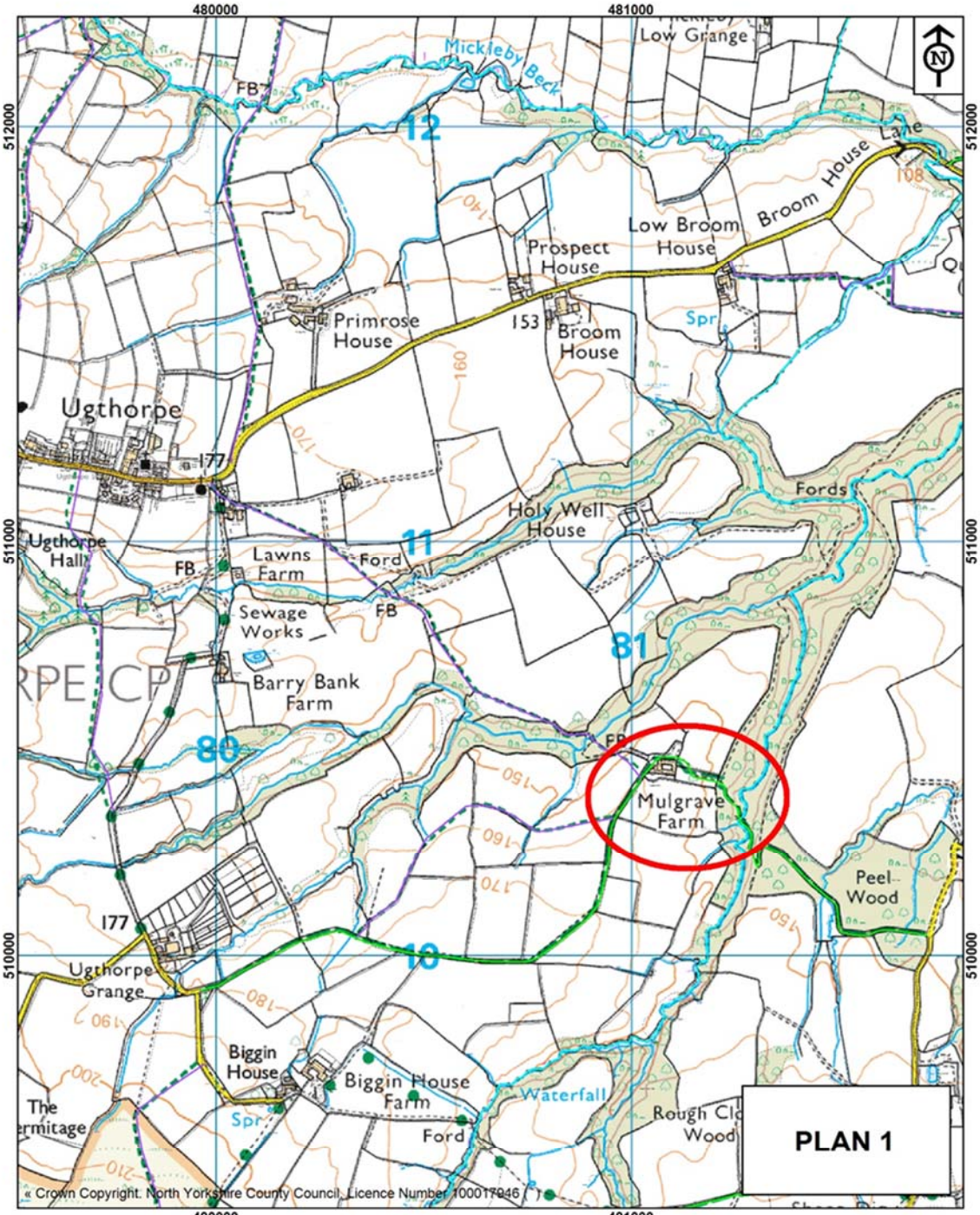
- 13.1 It is therefore recommended that the Corporate Director BES, in consultation with the BES Executive Members approves the referral of the opposed Diversion Order to the SoS, and that within the submission the Authority supports the confirmation of the Order.



MICHAEL LEAH  
Assistant Director – Travel, Environmental and Countryside Services

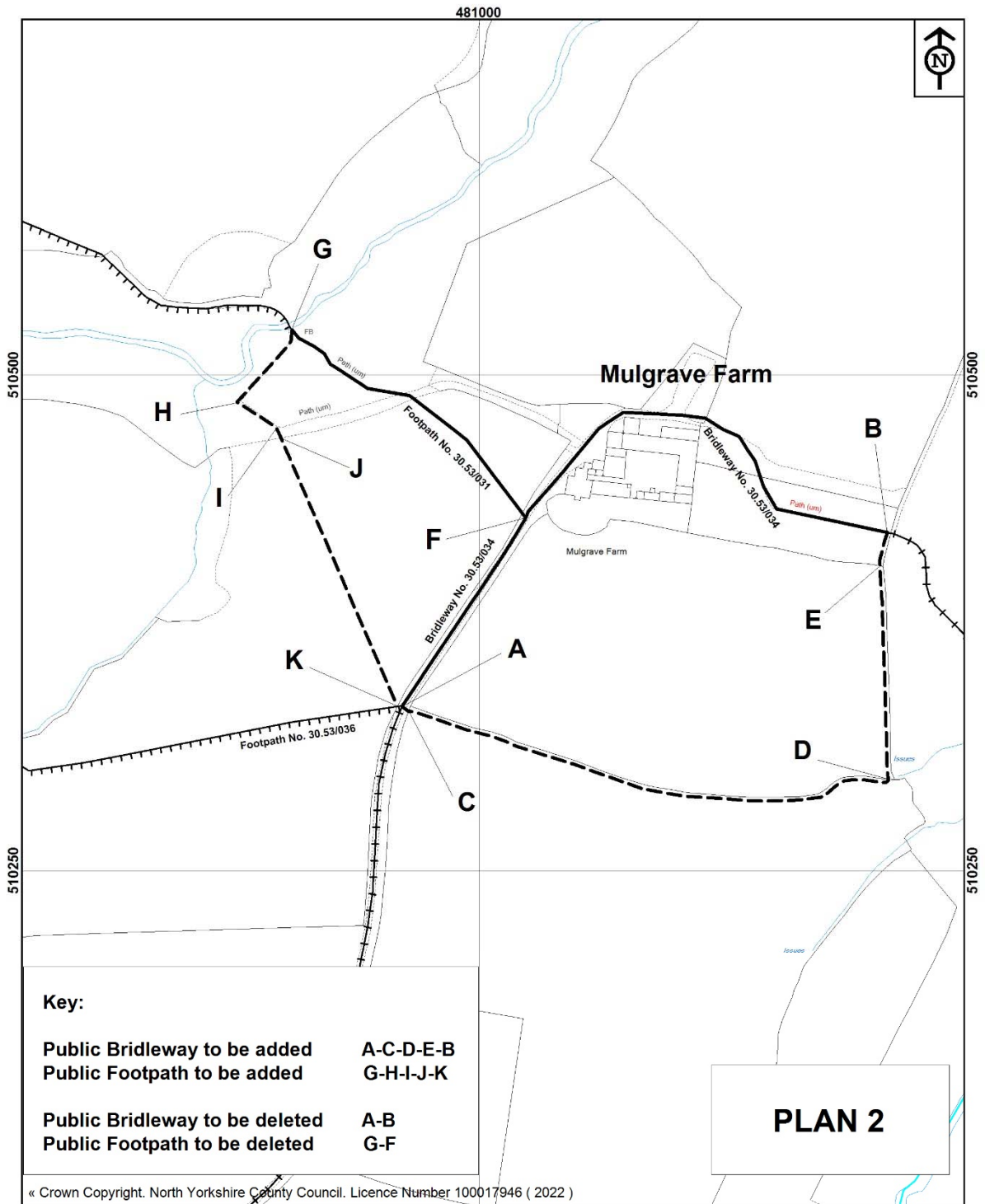
Author of report: Claire Phillips


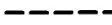



Background papers: File Ref SCAR-2020-01-DO





 <p><b>North Yorkshire County Council</b></p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p><b>MULGRAVE FARM</b></p> 	<p><b>North Yorkshire County Council</b></p> <p><b>Mulgrave Farm, Ugthorpe</b></p> <p><b>LOCATION PLAN</b></p>
	<p>Map drawn on 10 January 2022</p> <p>Drawn by CP      Scale 1:12000</p>	<p>File Ref No. SCAR/2020/01/DO</p>



 <p><b>North Yorkshire County Council</b> Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p>Key:</p> <p>PRoW to be added </p> <p>PRoW to be deleted </p> <p>Other footpaths </p> <p>Other bridleways </p>	<p><b>North Yorkshire County Council</b> Highways Act 1980 Section 119 Public Bridleway No. 30.53/034 &amp; Public Footpath No. 30.53/031 Mulgrave Farm, Ugthorpe Diversion Order 2022</p>
	<p>Map drawn on 19 May 2022</p> <p>Drawn by CP      Scale 1:2500</p>	

## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

24 June 2022

### Opposed Footpath Nos. 30.20/13 & 30.20/14, Land Near Beacon Road, Seamer Modification Order 2021

#### Report of the Assistant Director - Travel, Environmental & Countryside Services

#### 1.0 Purpose Of Report

- 1.1 To advise the Corporate Director of Business and Environmental Services (BES) of the proposed submission to the Secretary of State (SoS) of an opposed Definitive Map Modification Order (DMMO). A location plan is attached to this report as **Plan 1**. The routes referred to, are shown by bold dashed black lines and marked A-B-C-D and E-F-G on the plan attached to this report as **Plan 2**.
- 1.2 To request the Corporate Director, in consultation with the Executive Member for Access, to authorise that North Yorkshire County Council (NYCC), in its submission of the opposed Order to the SoS **will support confirmation of the Order**.

#### 2.0 Background

- 2.1 The routes were first brought to the attention of the County Council in 2016, when a resident of Beacon Road, Seamer, submitted an application to record the paths. The application was triggered by planning proposals to build two new housing estates on land immediately to the north and west of Beacon Road and which would potentially affect the walked line of both routes. The two routes although ending as cul-de-sacs to the north, follow unploughed strips along the alignment of former tracks within arable fields.
- 2.2 The DMMO application was supported by 32 evidence of use forms and some historical evidence in the form of old OS maps and aerial images.
- 2.3 The evidence was supportive of use by the public at large and that use had been continuous through the relevant time-period (20 years preceding the date of the DMMO application).
- 2.4 Following the pre-order consultation, it was considered that it had been reasonably alleged that public rights of way existed and that a Definitive Map Modification Order should be made. As objections had been received in response to the pre-order consultation a report was presented to the Assistant Director.
- 2.5 Attached to this report as **Appendix 1** is a copy of the report submitted to the Assistant Director on 15 April 2021 in which the case for making a Definitive Map Modification Order was outlined. The Assistant Director approved the making of the Order.

2.6 The Order was made on 29 October 2021 and was advertised on 13 January 2022, attracting one objection which remains outstanding. The County Council cannot confirm a DMMO where there are outstanding objections, the Order must be forwarded to the Secretary of State for resolution.

### **3.0 Responses to the Sealed Order**

3.1 One objection was received from the agent acting on behalf of the landowners, (the property developers and the farmer), affected by both DMMO routes.

3.2 The comments made were that:

- The two claimed routes are cul-de-sacs and don't connect highway to highway.
- The ends of the routes are undistinguishable, ending at a mid-point on the slope and there is no public interest at the point of termination.
- The tracks were provided for farm access to fields and not for the general public.
- Historic mapping shows that neither route has been recorded as a footpath or shown on mapping throughout the last 130 years.
- The current farm owner purchased the land in 1993 and erected signage at various locations to confirm private ownership.
- Signage placed at the existing gate on Stoney Hags Road (Point E) had been removed immediately, other signage has been removed or damaged.
- During the sale of land in 1993, those properties on Beacon Road backing onto the farm land were contacted, reminding them that there was no right of access directly from the rear of their properties onto the farm land.
- Members of the public seen using the routes have been verbally challenged.
- The ground at F-G is uneven and unlikely to have been used by the public.
- Private signs have been ignored, demonstrating that the routes have been used without permission.
- A locked gate at Point E demonstrates that force has been used to access the field.

### **4.0 Comments on the objection**

4.1 Although the two claimed routes are cul-de-sacs and terminate at a mid-point on the slope, the elevated position provides good, uninterrupted views of the surrounding landscape, especially southwards towards the Wolds and as far afield as Bempton Cliffs. Several user statements refer to the benefit of being able to walk the routes and enjoy the views from the elevated landscape. The end points could therefore be regarded as points of interest.

4.2 Both routes were shown as tracks on the OS 25" sheets, published in 1893 and 1911, but are not shown on the 25" map published in 1928. The eastern route is shown on the 1970 edition, marked as 'Track'. Whilst providing useful evidence that the routes physically existed, and were substantial enough to be noted by OS surveyors, these maps do not provide any evidence to prove or disprove the existence of public rights of way along the order routes.

4.3 Photographs of 'private' signs show they were installed at Points C and F. The signs appear to have been placed so as to deter access along the back of the houses between C and F, and do not appear to have been placed to challenge public use along C-D and F-G.

- 4.4 A number of user evidence forms describe accessing the field paths from private rear garden gates along the north side of Beacon Road. Public rights cannot be established in such circumstances and these evidence forms were not considered to be contributory towards the evidence of use of the route.
- 4.5 Witnesses do not recall being challenged, although several individuals recall passing conversations with the farmer, or seeing him giving a friendly wave whilst working.
- 4.6 The agent acknowledges that the use of the routes has been made without permission.
- 4.7 None of the witnesses recount 'private' signs at the gate at Point E, but several witnesses recall a footpath sign at that location (One described it as a bridleway sign). Several witnesses describe a stile at Point E, others describe a gap. A photograph dated 2008 shows double field gates with a gap between the gate and hedge on the north side. In or around 2015 the access was widened and new gates were installed, filling the earlier gap. Users refer to a gap alongside the new gates on the south side, which the landowner states was only created when the hedge was removed and replaced by a fence at the back of the adjacent property. There is clear evidence of public access via Point E and the access has apparently been without force. Whilst the agent states the gate at Point E was locked it would appear that public access at Point E was to one side of the gate, and that any locking of the gate did not prevent public access to the Order routes.

## **5.0 Representations made by the local Member**

- 5.1 No formal representations were received from the local councillor in response to the consultations regarding the Order.

## **6.0 Equalities**

- 6.1 It is the view that the recommendations do not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010.

## **7.0 Finance**

- 7.1 As the evidence submitted consists mainly of user evidence, it is probable that the Order would be resolved by Public Inquiry. There would be a cost to the Authority in preparing a submission to the SoS and responding to any queries raised by the SoS and these costs would be for officer time, which would be met by the respective staffing budgets. If the Inspector chose to hold a Public Inquiry, the costs of arranging, hosting and supporting the Inquiry would unavoidably fall to the Council but are unlikely to exceed approximately £1,000.

## **8.0 Legal**

- 8.1 The opposed Modification Order would be determined by an Inspector appointed by the SoS and as stated above, determination will be by way of a Public Inquiry, a Local Hearing or by written representations.

## **9.0 Climate Change**

- 9.1 The proposal is to record two pedestrian rights of way along currently unrecorded routes. The confirmation of this Order would have no positive or negative impact on climate change.

## **10.0 Current Decision to be made**

- 10.1 The County Council is required to refer this opposed DMMO to the SoS for resolution. In submitting an opposed Order to the SoS, the County Council needs to express whether, on the basis of available evidence, it;
- supports confirmation of the Order,
  - believes the Order should not be confirmed, or
  - considers the evidence is either so finely balanced, or is particularly unclear and wishes to take a neutral stance.
- 10.2 The current decision to be made is which stance the County Council is to take within its submission of this opposed DMMO to the SoS.
- 10.3 From all the available evidence, there is sufficient evidence of use to support confirmation of the Order.
- 10.4 It is considered that the objector has not provided sufficient evidence to demonstrate that the public were not making use of the route during the 20 year period prior to the making of the application, nor that effective actions were taken by the landowners during that period to prevent the use of the routes by the public.
- 10.5 The public have made use of both routes for a period in excess of 20 years, and the landowner was aware that use was taking place. Actions to deter access have only taken place under the current ownership relatively recently, but do not appear to have been sufficiently robust to prevent use of the routes.

## **11.0 Conclusion**

- 11.1 Overall, it appears there is sufficient user evidence to indicate that public footpath rights have been established along both Order routes, and that no valid challenge has been made that would prevent the confirmation of this Order. It seems that on the balance of probabilities both routes should be recorded as public footpaths on the Definitive Map. Therefore of the options outlined in 10.1 above, in this instance, the Modification Order should be confirmed.

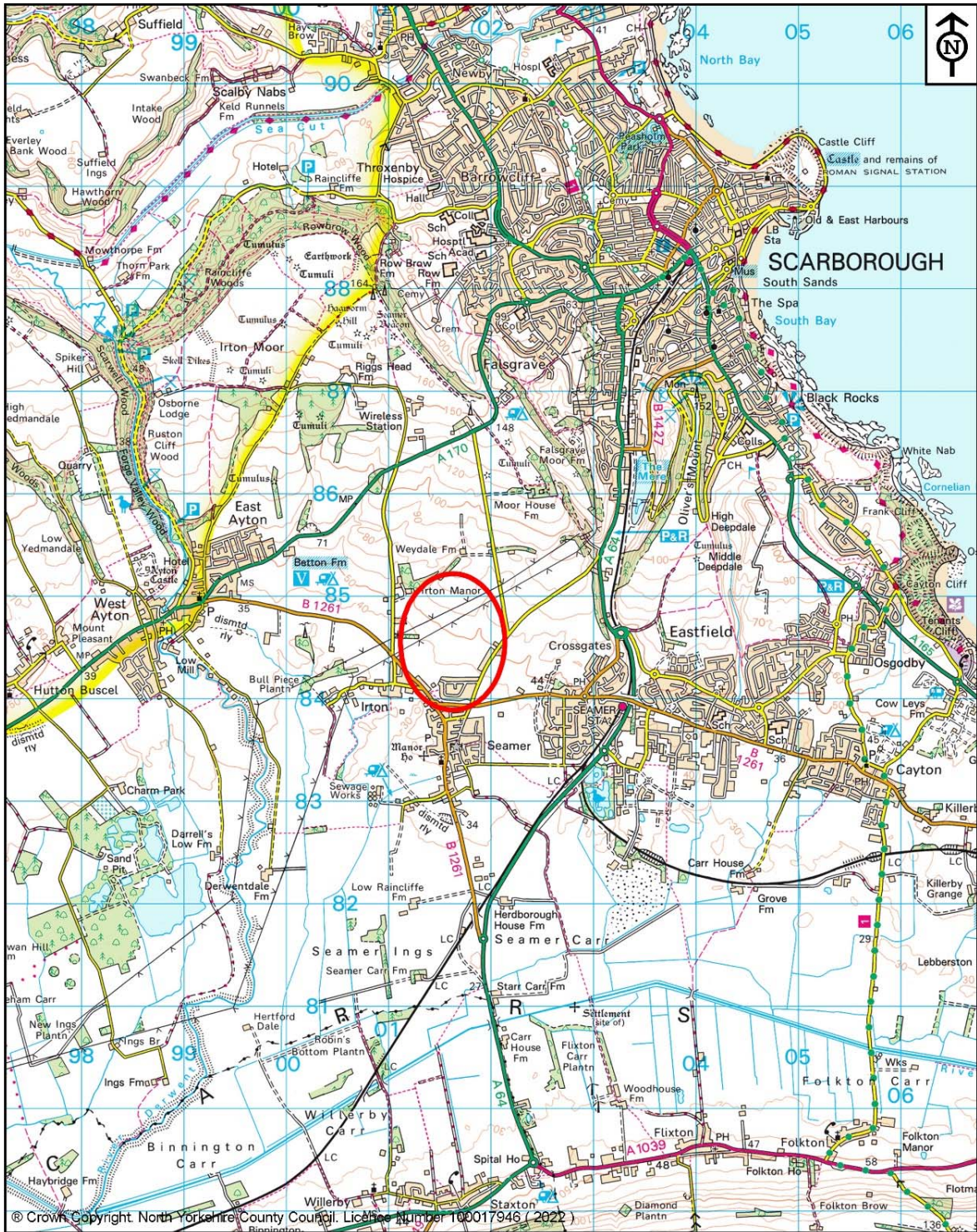
## **12.0 Recommendation**

- 12.1 The application is supported by user evidence which has not been adequately countered by evidence provided by the objector to date, and which indicates that on the balance of probabilities public footpath rights exist.
- 12.2 It is recommended that the Authority support confirmation of the Modification Order in its submission to the Secretary of State.

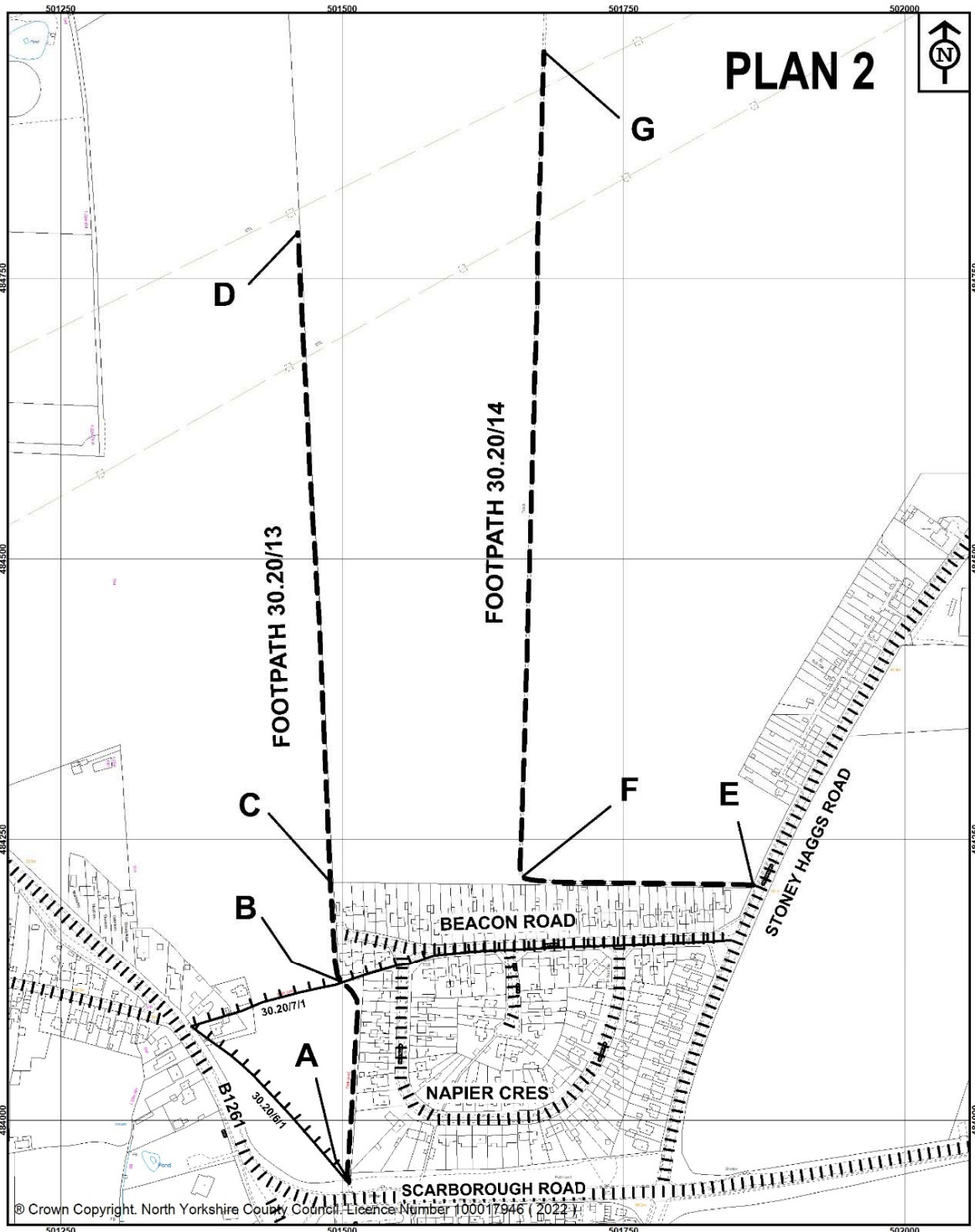
MICHAEL LEAH  
Assistant Director - Travel, Environment and Countryside Services



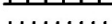

Author of Report: Andrew Hunter

Background Documents: File Ref SCAR/2016/02/DMMO

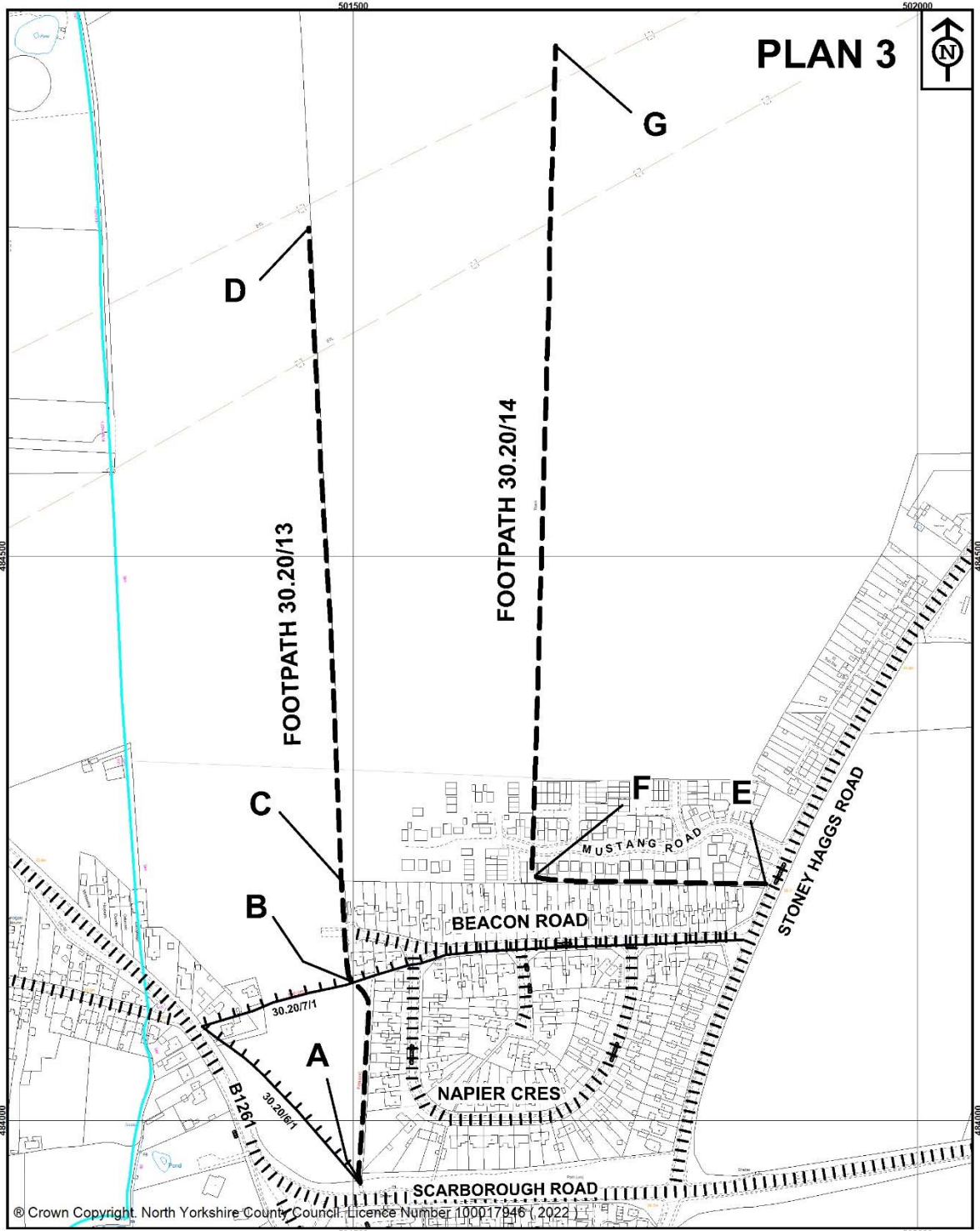


 <p><b>North Yorkshire County Council</b></p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p align="center"><b>LOCATION PLAN</b></p> <p>Map drawn on 1 June 2022 Drawn by AWH      Scale 1:50000</p>	<p align="center"><b>North Yorkshire County Council</b></p> <p align="center">Beacon Road, Seamer Opposed DMMO</p> <p align="center"><b>PLAN 1</b></p> <p align="center">File Ref No. SCAR/2016/02/DMMO</p>
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 <p><b>North Yorkshire County Council</b></p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p>Key:</p> <p>Footpath to be recorded </p> <p>Other footpaths </p> <p>Maintainable Highways </p>	<p><b>North Yorkshire County Council</b></p> <p>Wildlife and Countryside Act 1981 Section 53 Public Footpath Nos. 30.20/13 &amp; 30.20/14, Land Near Beacon Road, Seamer Modification Order 2021</p>
	<p><b>PLAN 2</b></p> <p>Map drawn on 12 January 2022</p> <p>Drawn by AWH</p>	<p>Not to scale (original 1:2500)</p> <p>File Ref No. SCAR/2016/02/DMMO</p>





**North Yorkshire  
County Council**

Public Rights of Way  
Waste and Countryside Services  
County Hall  
Northallerton  
DL7 8AH

Key:

- Footpath to be recorded
- Other footpaths
- Maintainable Highways

**PLAN 3**

Map drawn on 7 June 2022

Drawn by AWH    Scale 1:4500

**North Yorkshire County Council**

Public Footpath Nos 30.20/13 & 30.20/14, Land Near Beacon Road, Seamer

Plan showing new development north of Beacon Road

File Ref No. SCAR/2016/02/DMMO

## North Yorkshire County Council

## Report to the Assistant Director – Travel, Environmental and Countryside Services

15 April 2021

## Application for a Definitive Map Modification Order to add two public footpaths on land adjacent to Stoney Hags Lane, Seamer, Scarborough

**1.0 Purpose of report**

- 1.1 To advise the Assistant Director of an application for a Definitive Map Modification Order to add two public footpaths on land adjacent to Stoney Hags Lane, Seamer. A location plan is attached to this report as **Plan 1**. The routes are shown in detail on **Plan 2**.
- 1.2 To request the Assistant Director to authorise the making of a Definitive Map Modification Order to add two public footpaths on land adjacent to Stoney Hags Lane, Seamer, on the basis of evidence discovered during investigation into the application.

**2.0 Scheme of delegation**

- 2.1 Within the County Council's scheme of delegation, it is delegated to the Assistant Director – Travel, Environmental and Countryside Services to exercise the functions of the Council under Part III of the Wildlife and Countryside Act 1981 in relation to the power to make and advertise Definitive Map Modification Orders, including where an objection has been received from any person or body.

**3.0 The application**

Applicant:	Mr A Hedgecock
Date of application:	1/8/2016
Type of Application	Definitive Map Modification Order
Parish:	Seamer (Scarborough)
Local Member:	Cllr David Jeffels

Application supported by:	32 Evidence of Use Forms
List of documentary evidence:	<p>Historical Evidence</p> <ul style="list-style-type: none"> <li>• 1:2500 OS Map (25 inch), 1893, 1911, 1928</li> <li>• 1:2500 OS Map, 1970</li> <li>• 1:10,000 OS Map c.1971</li> <li>• Google Earth aerial imagery 2002, 2007 &amp; 2008</li> </ul>
Applicant's grounds for making the application	To record rights consistent with user evidence.

#### 4.0 Relevant legal criteria

- 4.1 In deciding whether to make a Modification Order, the County Council must be satisfied that, in accordance with Section 53 of the Wildlife and Countryside Act 1981, the evidence discovered by the County Council, when taken into consideration with all other relevant evidence, is sufficient to show that a public right of way subsists or is reasonably alleged to subsist along the claimed route.
- 4.2 In the context of Section 53 of the Act, where there is evidence of use by the public of a claimed route, the requirements of Section 31 of the Highways Act 1980 are relevant and these are:
- a) a required date on which the status/use of the claimed route was brought into question; and
  - b) whether the claimed route was used by the public as of right (without secrecy, force or permission) and without interruption for a period of not less than 20 years ending on the date on which the route was brought into question; and
  - c) whether there is sufficient evidence that during the 20-year period there was no intention to dedicate the claimed route as public by the landowner or anyone with an interest in the land e.g. trustees
- 4.3 It is unclear whether the public had actually been effectively prevented from using the route prior to the date of the application for the DMMO. However, the concerns, apparently raised as a consequence of the initial planning application being advertised, lead to the making of the application for the DMMO, and can constitute a challenge. Therefore, the 20 year period of particular interest in investigating this application is considered to be 1996 – 2016.
- 4.4 The application describes two routes, the first running northwards from Seamer roundabout along the western edge of Beacon Park Estate and then continuing northwards along a field boundary to its point of termination.
- 4.5 The second route runs along the northern edge of Beacon Park Estate then turns northwards along a farm track, terminating at a point towards the top of the field.
- 4.6 Both routes are cul-de-sac paths. Neither point terminates at a specific feature of interest, but the elevated position provides good, uninterrupted views of the surrounding landscape, especially southwards towards the Wolds and as far as Bempton Cliffs.
- 4.7 Since the application was received, Linden Homes has begun work to construct a housing estate immediately north of the Beacon Park estate and extending northwards for approximately 100m. The development affects part of both routes, and if the DMMO is successful a diversion order would be required, to align the paths within the estate layout.
- 4.8 Discussions are ongoing with the District Council to make a diversion order, which would only come into effect if the DMMO is confirmed.

#### 5.0 User evidence

- 5.1 The application is supported by 32 evidence of use statements, indicating pedestrian use of the routes from 1964 to 2016 of which 19 individual users met or exceeded a 20-year user period.

- 5.2 Several users refer to a 'Dogs on Lead' sign at Point A. However, an existing recorded public right of way, Footpath 30.20/6/1, commences from the same point and therefore this sign does not help towards establishing whether or not rights exist along the claimed route.
- 5.3 Statements refer to a stile providing access to the path next to a gateway off Stoney Hags Road. Other statements refer to a gap at the same location and a Google Street View image dated 2008 shows a gap beside double gates. In or around 2015, the access was widened, wider gates were installed and the gap no longer existed. Users refer to a gap alongside the new gates, but the landowner states that this was created when the adjacent property owner replaced the boundary hedge with a timber fence.
- 5.4 Several statements recall that the Stoney Hags Road access once had a 'footpath' sign (one recalls a bridleway sign).
- 5.5 None of the user statements record any challenge to use, although several statements mention passing conversation with the farmer or seeing him wave at them.
- 5.6 Several users refer to the benefit of being able to walk the routes, enjoying the peace and quiet and the views from the elevated landscape.

## 6.0 Documentary evidence

- 6.1 The routes, or sections of them, appear in the following historical documents:
- OS 25 inch published 1893 and 1911: Both routes shown as tracks, the western track terminated at a field boundary on a belt of trees. The eastern track ran northwards towards Weydale Farm, approximately 425 metres south of the farm the track narrows and is labelled FP, continuing to the farm.
  - 25 inch 1928: Neither path shown.
  - The eastern route is shown on the 1970 edition and is marked as 'Track'
- 6.2 A similar record exists with the OS 6 inch maps: By 1929 neither route was shown.
- 6.3 The historic OS maps suggest that the tracks served a number of small fields that existed at that time and that the claimed route follows the line of these tracks. However, the maps provide no evidence to prove or disprove the existence of public rights of way along the claimed routes.

## 7.0 Objections to the application

- 7.1 Two objections were received.
- 7.2 The current landowner, states that at all times he has challenged users and informed people that the routes are not rights of way. Any signs saying 'No rights of way' have been pulled down.
- 7.3 The landowner provided some background information and stated that:
- The eastern track ran from Eastgate Farm in Seamer across the main road and straight up the middle of the farm before turning due east onto Seamer Moor Lane.
  - The western track served three fields.

- The tracks were built after the War, using rubble from bomb damage in Scarborough to enable the farmer to harvest vegetables in all weathers.
- The current landowner sought advice from NYCC PROW and claims that he was informed that as the routes went nowhere they were not PROW.

7.4 The objection from Linden Homes provided further background information:

- The Beacon Road Estate was built in around 1960 and the Eastgate farm track was diverted onto a new access point on Stoney Hags Road, immediately north of the development.
- The western track was unaffected.
- In 1993 the current owners purchased the farm and have gated access onto Stoney Hags Lane and providing signage on both tracks to confirm private ownership
- When purchasing the land, the seller's solicitors wrote to all the properties backing onto the fields, confirming that there was no right of access to their properties from the field.
- The landowner has allowed access to maintain gardens/fences when requested by the properties.
- The gate on Stoney Hags Road is padlocked in order to restrict access
- The gap alongside the padlocked gate was created when the owner of No. 35 removed their boundary hedge replaced it with a fence.
- Photographs of two signs: 'No right of Way' sign on the easterly track where it turns northwards, a 'Private No public right of way' sign on the westerly track at the northern edge of the Beacon Road development.
- No public right of way has been created as both routes are cul-de-sac and do not end at a feature or point of interest.

## 8.0 Conclusions regarding the evidence and objections to the application

- 8.1 A claimed route should link highway to highway in order to establish public rights, although rights can be established along cul-de-sac routes in certain circumstances, if for example the route terminates at a view point or 'place of popular resort' (Moser v Ambleside Urban District Council, 1925).
- 8.2 Whilst not as obvious as a hill top or sea shore, it is the view of Officers that the enhanced views encountered at the ends of these cul-de-sac routes could be considered as 'a place of popular resort'.
- 8.3 Whilst the current landowner has taken some steps to restrict access by means of locking a gate and erecting signs in recent times, pedestrian access does not seem to have been effectively prevented, nor has a clear message been relayed to the public that the landowner did not intend public rights to be acquired. Photographs of the signs were submitted to officers however the location of the signs are more suggestive that they were intending to discourage access between points C – F rather than on any other parts of the routes. There is evidence to indicate that public have made use of these routes, and there is a reasonable likelihood that rights were established over the claimed routes prior to these relatively recent actions having been taken.

8.4 In conclusion, it is clear that the public have made use of both routes for in excess of 20 years, and that the landowner was aware that the use was taking place. Actions taken by the landowner to attempt to prevent public access have been relatively recent and did not prevent public use of the route. The test to be considered at this stage in deciding whether or not to make an Order is whether the evidence so far submitted, is sufficient to show that a public right of way subsists or is reasonably alleged to subsist. The conclusion is that the evidence, although finely balanced, is sufficient to support the contention that a public right of way is reasonably alleged to subsist.

## 9.0 Representation made by the local member

9.1 None

## 10.0 Financial implications

10.1 In the event that an Order were to be made and was then opposed, there may be financial implications for the authority in covering any cost associated with any subsequent public inquiry. Such costs cannot be avoided where the Planning Inspectorate decides that a public inquiry should be held to resolve an application. If an Inquiry were to be held the Authority may need to appoint external advocacy.

## 11.0 Equalities implications

11.1 There is a statutory requirement to investigate applications for Definitive Map Modification Orders, regardless as to whether the outcome would benefit or prejudice owners, occupiers or members of the general public, and as such it is considered that equality and diversity issues are not relevant to the outcome of the process. In any event it is considered that the outcome would have no impact on the protected characteristics identified in the Equalities Act 2010.

## 12.0 Climate change

12.1 The routes are already in existence on the ground, and have already been made use of by the public, therefore the confirmation of this order would have no positive or negative impact on climate change.

## 13.0 Recommendation

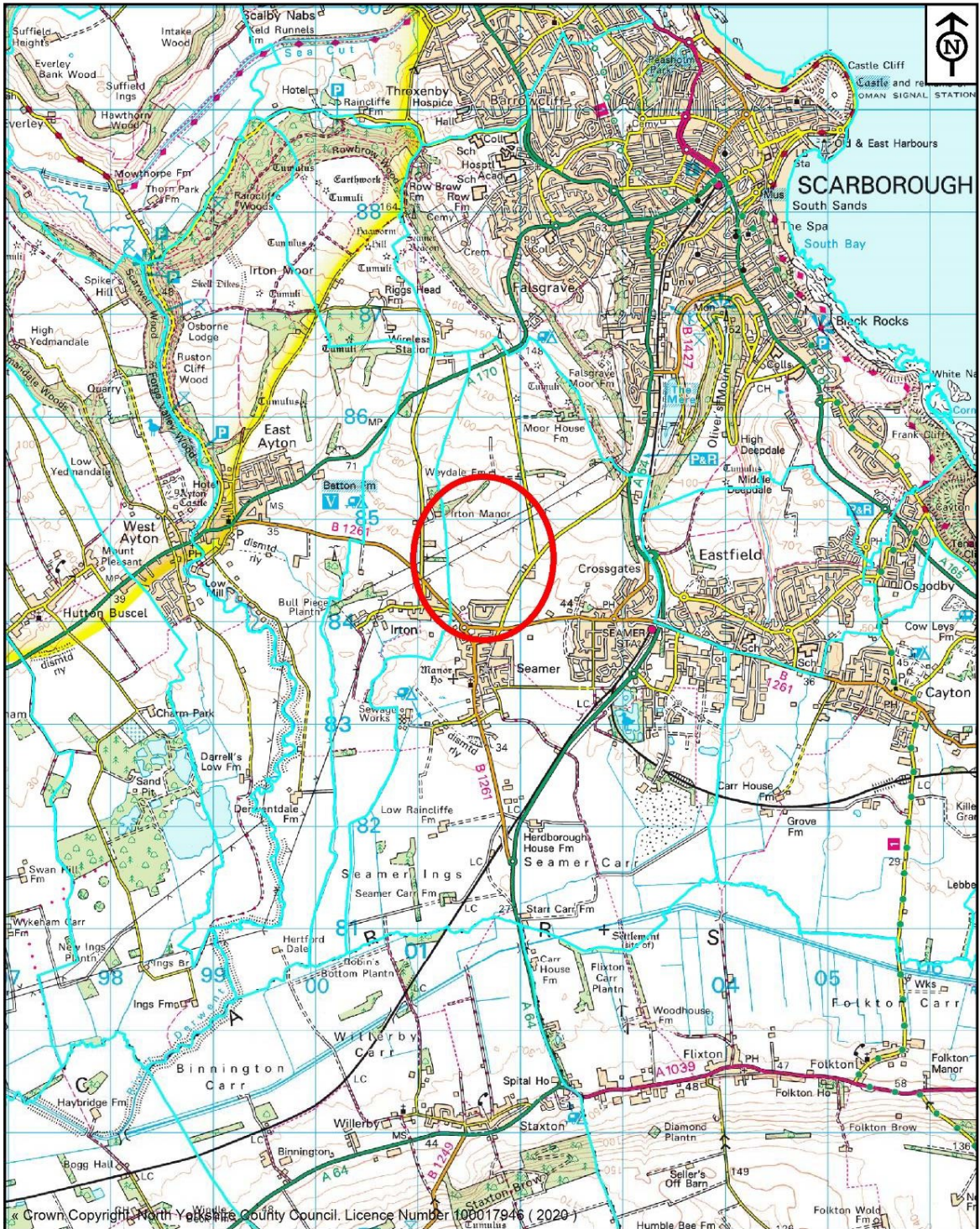
13.1 It is therefore recommended that: the Assistant Director, Travel, Environmental and Countryside Services, authorises the making of a Definitive Map Modification Order for the routes shown as A-B-C-D and E-F-G on Plan 2 of this report to be recorded on the Definitive Map as Public Footpaths.



Author of Report: Andrew Hunter

### Background Documents:

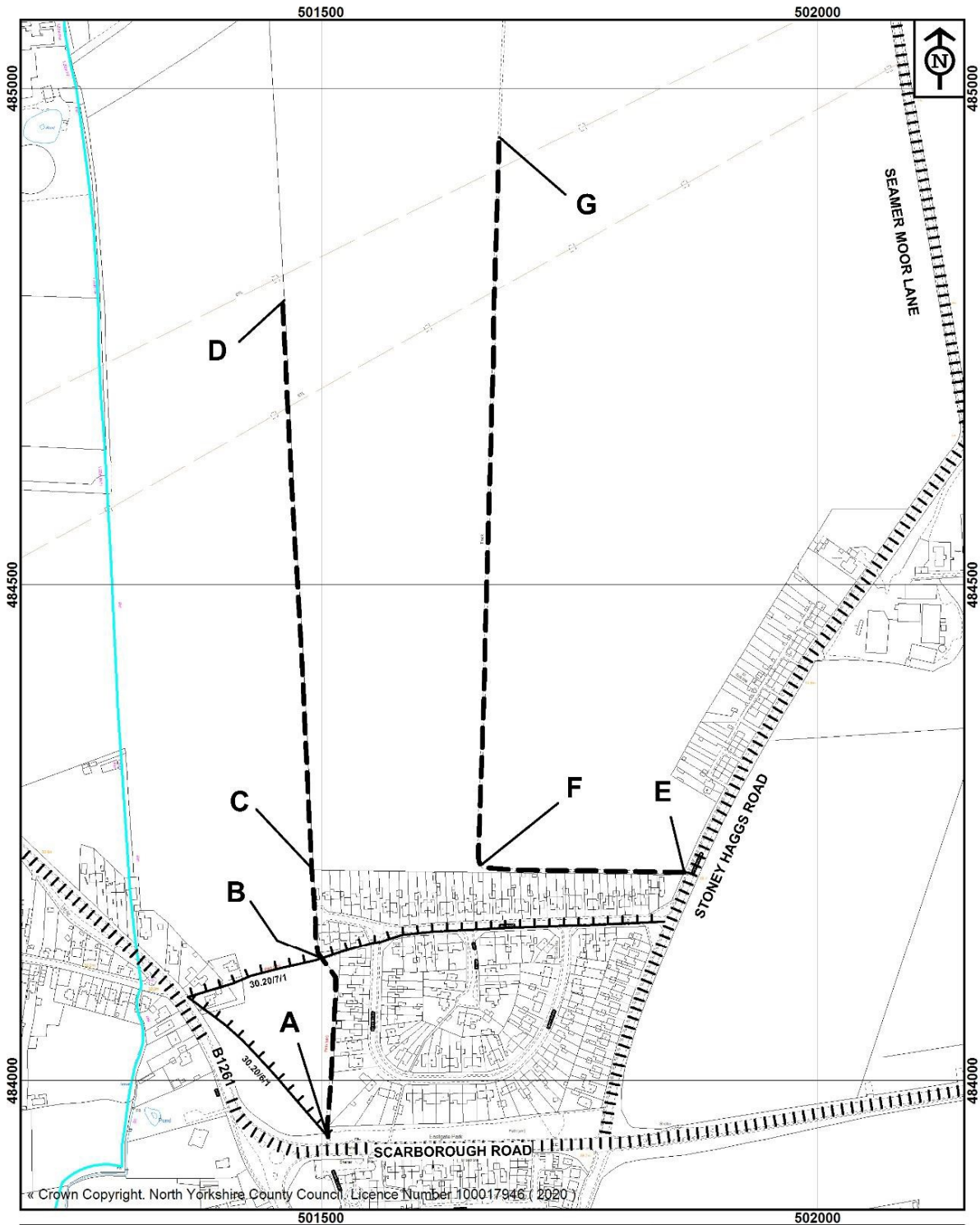
N:\bes-data\WACS\PRoW\DMT\Applications\02 DMMO\06 Scarborough\SCAR-2016-02- DMMO Seamer (Land off Stoney Hags Road)

Plan 1



 <p><b>North Yorkshire County Council</b></p> <p>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p align="center"><b>PLAN 1</b></p> <p>Key: Location of DMMO </p> <p>Map drawn on 27 November 2020 Drawn by AWH   Scale 1:50000</p>	<p align="center"><b>North Yorkshire County Council</b></p> <p>Application for a DMMO to add two public footpaths on land adjacent to Stoney Hags Lane, Seamer, Scarborough</p> <p>File Ref No. SCAR/2016/02</p>
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Plan 2



**North Yorkshire County Council**  
 Public Rights of Way  
 Waste and Countryside Services  
 County Hall  
 Northallerton  
 DL7 8AH

**PLAN 2**

Key:  
 Footpaths to be recorded   
 Other Footpaths   
 Maintainable Highways

Map drawn on 27 November 2020  
 Drawn by AWH Scale 1:5000

**North Yorkshire County Council**  
 Wildlife and Countryside Act 1981  
 Section 53

Application for a DMMO to add Public Footpaths on land adjacent to Stoney Hags Lane, Seamer, Scarborough

File Ref No. SCAR/2016/02/DMMO



**North Yorkshire County Council**

**Report to Assistant Director – Travel, Environmental and Countryside Services  
Date: 15 April 2021**

**Application for a Definitive Map Modification Order to add two public footpaths  
on land adjacent to Stoney Haggs Lane, Seamer, Scarborough**

**Authorisation**

I approve / ~~do not approve~~ the recommendation set out above.

ANY ADDITIONAL RECOMMENDATION or COMMENT:

.....  
.....  
.....  
.....  
.....

Michael Leah

MICHAEL LEAH  
Assistant Director Travel, Environmental and Countryside  
Services Date .....15 April 2021.....

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**North Yorkshire County Council**  
**Business and Environmental Services**

**24 June 2022**

**Opposed Bridleway No. 30.53/034 & Footpath No. 30.53/031**  
**Mulgrave Farm, Ugthorpe, Diversion Order 2022**

**Report of the Assistant Director – Travel, Environmental and Countryside Services**

**1.0 Purpose of the report**

- 1.1 To advise Corporate Director of Business and Environmental Services (BES) of an opposed Public Path Diversion Order for a bridleway and a footpath in the parish of Ugthorpe, in the district of Scarborough. A location plan is attached to this report as Plan 1. The proposal is shown in detail on Plan 2.
- 1.2 To request the Corporate Director, in consultation with the Executive Member for Access, to authorise that North Yorkshire County Council (NYCC), in its submission of the opposed Order to the Secretary of State (SoS) **will support confirmation of the Order.**

**2.0 Background**

**Scheme of Delegation**

- 2.1 Within the County Council's scheme of delegation, it is delegated to the Assistant Director of Travel, Environmental and Countryside Services, to decide whether to abandon an opposed Diversion Order where the Authority is of the opinion that the requirements to confirm the Order may not be met and where an Inspector appointed by the Secretary of State may decline to confirm the Order, or to recommend to the Corporate Director BES that the Order be referred to an Inspector appointed by the Secretary of State.

**3.0 The Application**

- 3.1 The application to divert the bridleway and footpath was submitted to the County Council in October 2020.
- 3.2 The reasons given for the application were to divert the bridleway and the linking footpath away from the farmyard at Mulgrave Farm, to improve privacy, security and to ensure safety of users from vehicle movements and enable safe movement of livestock within the yard, all for the benefit of the landowner.

**4.0 Relevant legal criteria**

- 4.1 Under Section 119 of the Highways Act 1980, the County Council, having consulted any other local authority, may divert a public right of way (PROW) where it appears to the Authority that in the interests of the owner of the land crossed by the PROW described in the Order, it is expedient that the line of the PROW should be diverted, and that the effect of diversion would not be substantially less convenient to the public.

- 4.2 The County Council charges applicants for the costs incurred in the processing/making of diversion Orders, as provided for by the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (S.I. 1993/407), amended by regulation 3 of the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (S.I. 1996/1978).
- 4.3 Where an Order is opposed, the County Council cannot confirm the Order; it can only be confirmed by the Secretary of State. The Secretary of State will confirm an Order if he/she is satisfied that:
- i) in the interests of the landowner it is expedient to divert the footpath, and
  - ii) the diversion will not be substantially less convenient to the public as a result of the Order, and that it is expedient to confirm the Order having regard to the effect which:
    - (a) the diversion would have on public enjoyment of the route as a whole;
    - (b) the coming into operation of the Order would have, as respects other land served by the existing public right of way; and
    - (c) any new public right of way created by the Order would have, as respects the land over which the right is created and any land held with it.

## **5.0 The Making of the Order**

- 5.1 An informal consultation was carried out and an objection was received from the local Ramblers representative. Further objections were received from the Byways and Bridleways Trust, Ryedale Bridleways Group, and Ugthorpe Parish Council, but they were all subsequently withdrawn after site visits and further clarification of the proposals. A site visit was arranged on 1 October 2021, for the Ramblers representative to meet with the Estate Manager to discuss the Ramblers' objections, but the Ramblers did not attend this meeting, with no reason given.
- 5.2 A report was submitted to the Assistant Director, Travel, Environmental & Countryside Services requesting authorisation to make a Diversion Order, and it was determined that despite the objection that a Diversion Order should be made.
- 5.3 The Diversion Order was made on 11 March 2022 and was duly advertised.
- 5.4 During the formal consultation, one objection was received from the same local Ramblers representative. The nature of the objections were as follows:
- i) The proposed diverted routes are substantially less commodious for walkers.

### **Officer Comment.**

If the meaning of 'less commodious' is taken as 'less convenient', then it could be argued that the proposed routes were actually more convenient. Part of the footpath proposal addresses the fact that the legal line running southeast from Point G is extremely steep, crossing difficult terrain and then running across a track and accessing a grass pasture via a stile. The legal line then continues across the corner of a grass pasture, exiting the pasture via a stile at Point F. The proposed route uses an existing sloping track from G-I, enabling walkers to make a more gentle and pleasant ascent from the beck through the woodland. The new access and exits points into the grazing land will replace the existing stiles with kissing gates.

The proposed bridleway will be five metres width, which is wider than the current route and would be for the sole use of users, avoids the farm yard and its potential dangers, and the new route would not be used for farm work.

- ii) Increase of 270 metres between B to G.

**Officer Comment.**

The proposal needs to be considered in the context of the entire lengths of the bridleway and footpath. The distances of the whole route were measured as approximately:-

<b>Mulgrave Farm</b>	<b>Current Legal Line</b>	<b>Proposed new line</b>	<b>Difference</b>
<i>Circular Walk</i> Ugthorpe Church - Mulgrave Farm - Ugthorpe Grange - Ugthorpe Church.	4366 metres	4322 metres	- 44 metres
<i>Linear Walk</i> Ugthorpe Church – Mulgrave Farm - the east of Peel Wood.	2346 metres	2564 metres	+ 218 metres

The distance stated by the Ramblers is disputed. The extra distances involved for the proposed linear walk are less than 10% for the whole route and the proposed circular walk would actually be slightly shorter, and therefore may not be considered 'substantially less convenient' in terms of length.

- iii) The bridleway has already been diverted once to meet the wishes of the applicants. National Park badge on gate post at B indicating a diversion.

**Officer Comment.**

There are no limits as to how many times a public right of way may be diverted and therefore, the fact that a route may have been diverted in the past would not be a barrier to a future diversion. A landowner is entitled to apply again to meet changing land management needs, as in this instance.

- iv) The existing route is natural and follows a well-made track of a width and quality appropriate for a bridleway.

**Officer Comment.**

The BHS, Byways and Bridleways Trust and the Ryedale Bridleways Group have all agreed to the proposed diversion, which consists of a five metre fenced corridor between Points B and C, with a "pinch-point" at Point C, to prevent any vehicles accessing the route.

- v) The proposed bridleway diversion is less direct, and is over soft pasture, vulnerable to being damaged by horses.

**Officer Comment.**

The BHS, BBT and RBG are happy that the land is and will be maintained to a high standard of drainage by the landowner. Subsoiling is carried out every few years, which prevents soil compaction and the possibility of subsequent drainage issue.

- vi) The diverted bridleway is significantly longer and more difficult.

**Officer Comment.**

Please see Officer Comments to ii) and v) above, regard the length of the proposed diversions. The Ramblers Representative has not given an indication of in what way it is more difficult.

- vii) The diverted route could have horses mixing with sheep and cattle.

**Officer Comment.**

The landowner has agreed to a fenced corridor between Points B and C of 5 metres width, so that bridleway users are separated from any livestock that may be in the fields.

- viii) The reason for this proposal is not supported by a risk assessment for the farm yard activities – just a statement by NYCC. Four site visits late August and September 2021 did not show any farming activity between B to F.

**Officer Comment.**

A risk assessment for farm yard activities is not a requirement of an application for a Public Right of Way diversion. The applicant has explained the reasons for wanting to divert the route from the farm yard for health and safety, and for privacy and security reasons, as the farm house is being renovated, in readiness for a new tenant and the farm yard will be therefore much busier with vehicles and livestock movements.

- ix) The proposal increases maintenance costs re the surface being the responsibility of the NYMNPA.

**Officer Comment.**

It is not envisaged that the proposal would increase maintenance costs for the NYMNPA. Any works undertaken to implement the effects of the Order in relation to the surface of the route would be undertaken at the cost of the applicant. In addition, NYMNPA have been consulted and have not objected to this proposed diversion.

- x) Advised on the 22 July 2021, house and yard works to start next year and will be a lot of changes. No details have been given, we are thus unable to assess whether any changes are required to the bridleway.

**Officer Comment.**

As commented upon in viii) above, the farm house is currently being renovated, in readiness for a new tenant and the farm yard will be therefore much busier with farm vehicles and livestock movements. The current bridleway has a couple of 'blind bends', between Points B and F whereas removing the bridleway from the farm yard would ensure safety of users from vehicle movements and enable safe movement of livestock within the yard.

- xi) The heritage of the Public Rights of Way network is slowly being eroded by large diversions around farms etc, and this proposal is one. Proposed solution; if it must be moved. We were advised on the 7 December 2020, the proposal takes a bridleway and footpath away from a working farm and farmyard. Move BW 30.53/034 to the other side (south) of the farm between points B and F together with a fence.

### **Officer Comment.**

Land management needs can change over time and the Highways Act 1980 makes provision for diversions to be made when it is expedient to do so, as is the case with this location. The aim of the proposal is to divert the existing bridleway and footpath, not to extinguish them, therefore it is hard to see how this proposal may be considered as eroding the PRow network.

With regards to the Ramblers' proposed solution, the applicant's preferred route is a similar arrangement, but to the south along Points C - B, as the Ramblers' proposed route from Points B - F does not meet the applicant's concerns to keep the farmyard area secure.

- 5.5 Considering these objections together, it is the view of Officers that they are without merit and would not be sufficient to prevent the Order being confirmed.

### **6.0 Representation made by the local member**

- 6.1 No formal representations were received from the local Councillor in response to the consultations regarding the Diversion Order.

### **7.0 Legal Implications**

- 7.1 The opposed Order would be determined by an Inspector appointed by the SoS, and, as stated above, determination will most likely be by way of written representations.
- 7.2 The Inspector, on the basis of the evidence and the legal criteria would decide whether or not to confirm the opposed Order. If he/she decides to confirm the Order, the routes will be amended on the Definitive Map and Statement in accordance with the details within the Order.

### **8.0 Financial implications**

- 8.1 If the opposed Order were to be submitted to the SoS, the Order would be most likely to be resolved by written representations.
- 8.2 There would be a non-rechargeable cost to the Authority in preparing a submission to the SoS and responding to any queries raised by the SoS, and these costs would be for officer time, which would be met by the respective staffing budgets. In the unlikely event that the Inspector chose to hold a Public Inquiry, the costs of arranging, hosting and supporting the Inquiry would fall to the Council but would be unlikely to exceed £1,000.

### **9.0 Equalities Implications**

- 9.1 It is the view that the recommendations do not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010.

### **10.0 Climate Change Implications**

- 10.1 The proposal is to alter the alignment of routes already recorded as public routes within the County Council's records. The confirmation of this order would have no positive or negative impact on climate change.

## **11.0 Current Decision to be made**

- 11.1 The decisions to be made at this stage are, firstly, whether the Order is to be abandoned, or whether it is to be forwarded to the SoS for resolution.
- 11.2 Secondly, if it is decided that the matter is to be forwarded to the SoS then a further decision will need to be made, namely which stance the authority would take within its submission to the SoS towards the confirmation of the Order. The Authority needs to decide whether it:
- supports confirmation of the Order,
  - believes that the Order should not be confirmed,
  - considers the circumstances are so finely balanced, or are particularly unclear and wishes to take a neutral stance.

## **12.0 Conclusions**

- 12.1 In conclusion, the application for the Diversion Order was made to increase privacy and security of the property, and to ensure safety of users from vehicle movements and enable safe movement of livestock within the farm yard. It is felt that the Diversion Order meets the legal tests outlined in Para. 4.1 above.
- 12.2 The objection to the Order outlines a number of issues however it is felt that the proposed route is not substantially less convenient for the public and that the remaining objections are insufficient to prevent the confirmation of the Order.
- 12.3 Officers are of the view that the Order should be referred to the Secretary of State, and that there is no reason why the Authority should not support the confirmation of the Order.

## **13.0 Recommendation**

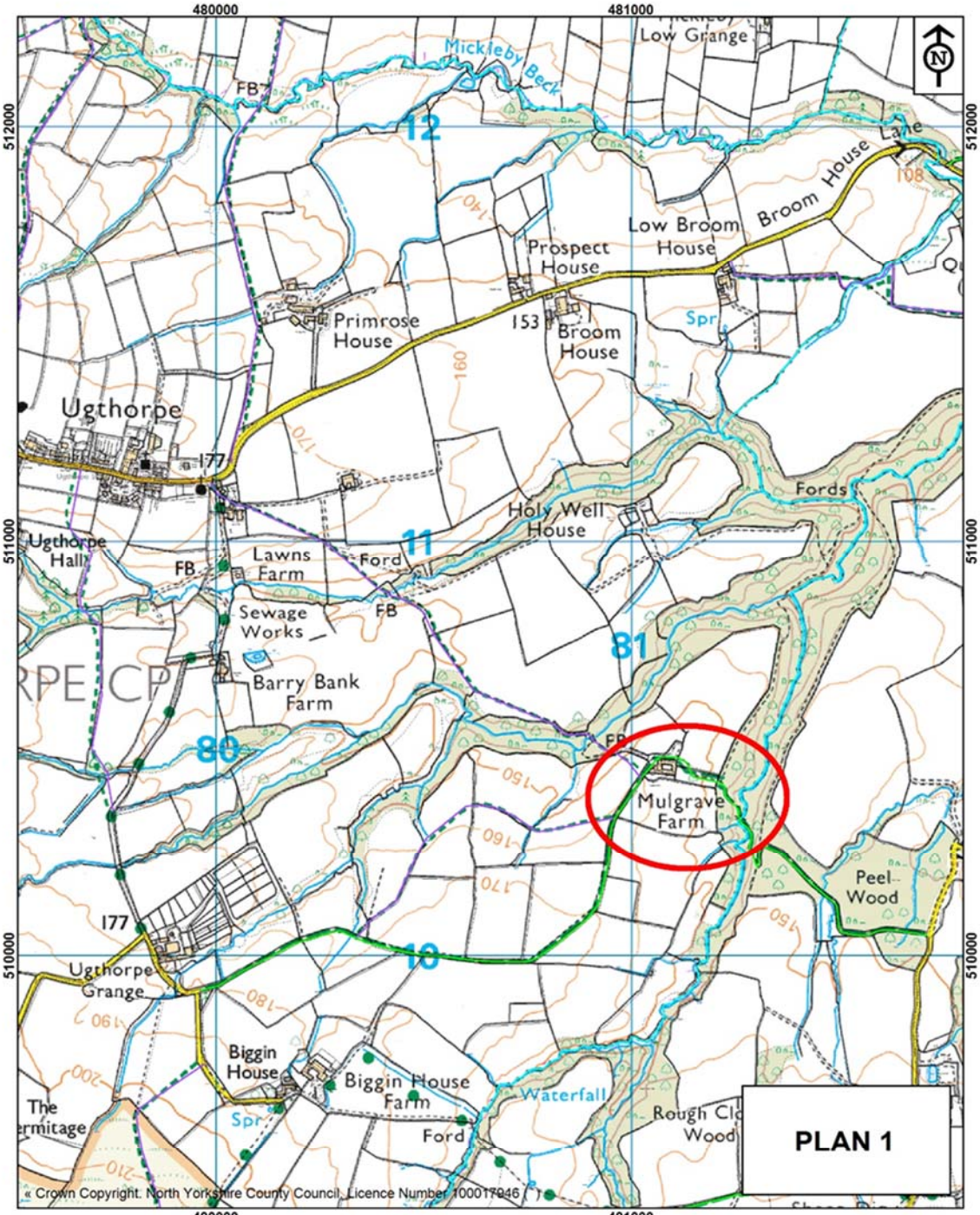
- 13.1 It is therefore recommended that the Corporate Director BES, in consultation with the BES Executive Members approves the referral of the opposed Diversion Order to the SoS, and that within the submission the Authority supports the confirmation of the Order.



MICHAEL LEAH  
Assistant Director – Travel, Environmental and Countryside Services

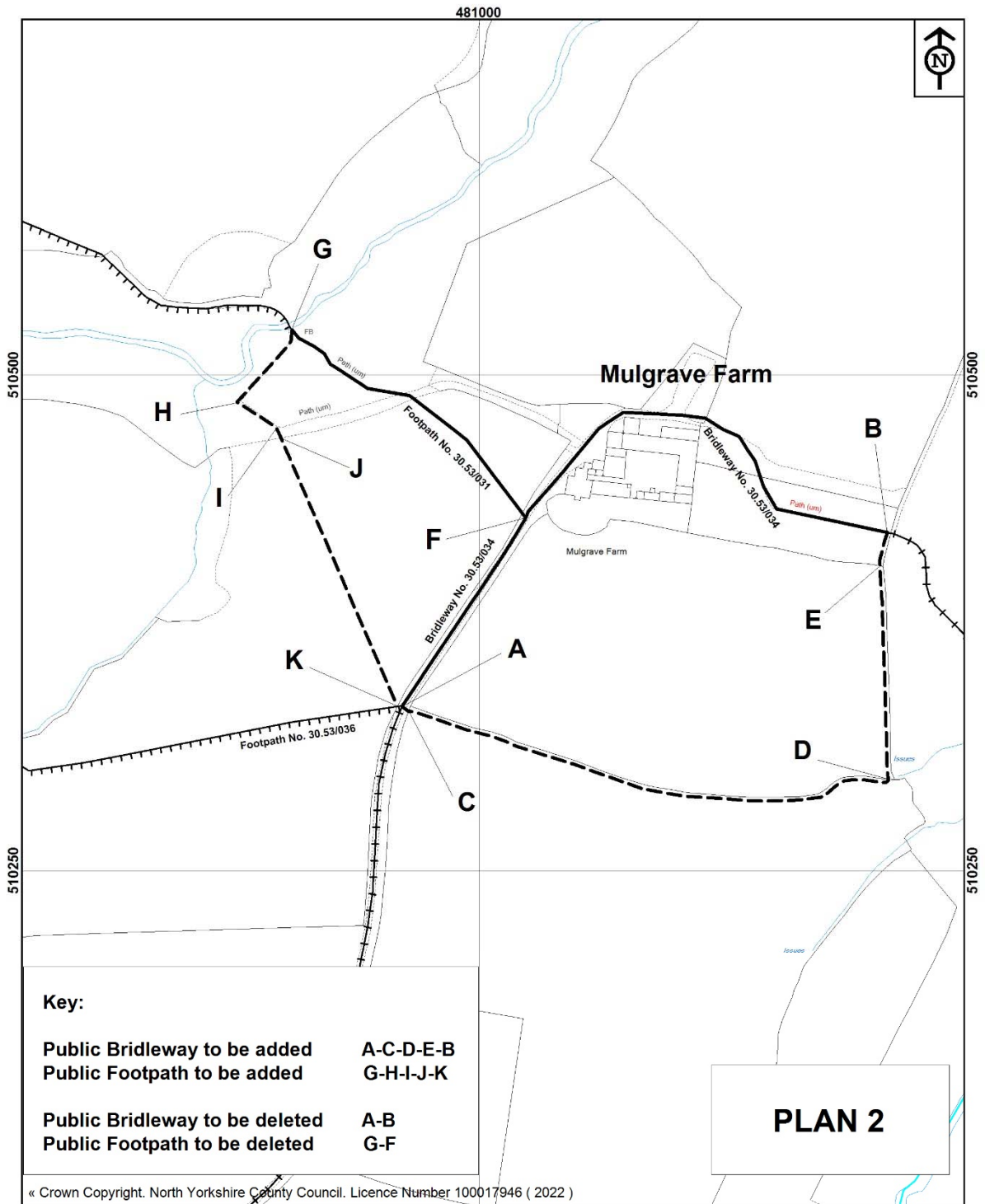
Author of report: Claire Phillips

Background papers: File Ref SCAR-2020-01-DO









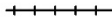
 <b>North Yorkshire County Council</b> <small>Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</small>	<b>MULGRAVE FARM</b>		<b>North Yorkshire County Council</b>
	Map drawn on 10 January 2022 Drawn by CP	Scale 1:12000	<b>Mulgrave Farm, Ugthorpe LOCATION PLAN</b>  File Ref No. SCAR/2020/01/DO



**Key:**

<b>Public Bridleway to be added</b>	<b>A-C-D-E-B</b>
<b>Public Footpath to be added</b>	<b>G-H-I-J-K</b>
<b>Public Bridleway to be deleted</b>	<b>A-B</b>
<b>Public Footpath to be deleted</b>	<b>G-F</b>

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 <p><b>North Yorkshire County Council</b> Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p>Key:</p> <p>PRoW to be added </p> <p>PRoW to be deleted </p> <p>Other footpaths </p> <p>Other bridleways </p>	<p><b>North Yorkshire County Council</b> Highways Act 1980 Section 119 Public Bridleway No. 30.53/034 &amp; Public Footpath No. 30.53/031 Mulgrave Farm, Ugthorpe Diversion Order 2022</p>
	<p>Map drawn on 19 May 2022</p> <p>Drawn by CP      Scale 1:2500</p>	

**North Yorkshire County Council  
Business and Environmental Services**

**7 June 2022**

**Opposed Bridleway No. 30.53/034 & Footpath No. 30.53/031  
Mulgrave Farm, Ugthorpe, Diversion Order 2022**

**Report to the Assistant Director – Travel, Environmental and Countryside Services**

**AUTHORISATION**

I approve / do not approve the recommendation set out above

.....

ANY ADDITIONAL RECOMMENDATION or COMMENT:

.....

.....

Michael Leah  
Assistant Director, Travel, Environmental and Countryside Services

Signed: .....Date: .....

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## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

24 June 2022

### Hambleton, Scarborough, Selby and Miscellaneous Area Review of Home to School and Local Bus Service Transport Contracts

#### Report of the Assistant Director – Transport, Environment and Countryside Services

#### **1.0 Purpose of Report**

- 1.1 To seek approval from the Corporate Director, Business and Environmental Services (BES), in consultation with the Corporate Director Children's and Young People Services (CYPS), and Business and Environmental Services Executive Members to proceed with a re-procurement of transport contracts in the Hambleton, Scarborough, Selby and Miscellaneous areas for both Local Bus (excluding Hambleton) and Mainstream Home to School transport services.

#### **2.0 Background**

- 2.1 Integrated Passenger Transport (IPT) undertakes to re-evaluate all of its subsidised Local Bus Service (LBS) and contracted Mainstream Home to School transport service contracts (delegated responsibility from The Corporate Director of Children and Young People's Service) across North Yorkshire through a programme of area reviews; the county is split into four review areas, the whole cycle taking four years to complete.
- 2.2 Current contracts in Scarborough, Hambleton (excluding LBS), and Selby along with some miscellaneous contracts are due to end in April 2023 and new contracts must be secured to start on 17 April 2023. A full review of both LBS and School routes and pupil allocations in the above areas will be undertaken as part of this review.

#### **3.0 Proposed Tender Procedure**

- 3.1 An 'Open' tender process will be undertaken by IPT in accordance with the Council's Procurement and Contract Procedure Rules and the Public Contracts Regulations 2015 with support from the central procurement team.
- 3.2 Contracts will be advertised through Prior Information Notice and notices published on Finder Tender and through the e-tendering system notice board.
- 3.3 The Gateway process will be followed and approval to award the contracts for both BES and Children and Young People's Service under this joint procurement will be sought from The Corporate Director – Business and Environmental Services (BES) through the Gateway 3 process following consultation with The Corporate Director - Children and Young People's Service.

#### **4.0 Financial Implications**

- 4.1 This procurement is within the Council's policy framework and appropriate budgets exist within Children and Young People's Service (CYPS) and BES for the review and procurement work to be carried out and financed.

## **5.0 Legal Implications**

### **5.1 Local Bus Services**

The Council's obligations as set out in the Transport Act 1985 section 63 (as amended by the Transport Act 2008), places the following duty on the Council:

- to secure the provision of such public passenger transport services as the Council consider it appropriate to secure to meet any public transport requirements within the county which would not in their view be met apart from any action taken by them for that purpose;
- in exercising or performing any of their functions pursuant to section 63 the Council shall have regard to the transport needs of members of the public who are elderly or disabled

### **5.2 Mainstream Home to School Services**

The Education Act 1996 (as amended) Sections 508B and 508C make provision for the County Council to ensure that suitable travel arrangements are made, where necessary to facilitate a child attending school. The County Council has a duty to make travel arrangements for 'eligible children' and in doing so has regard to statutory guidance and the Council's own policy.

5.3 The procurement will be undertaken in compliance with the Public Contracts Regulations 2015.

## **6.0 Equalities Implications**

6.1 An Equalities Impact Assessment (EqIA) has been carried out to consider the impact of this review and this can be found at Appendix 1.

6.2 The Equalities duty is ongoing and will be reviewed throughout the planning, review and procurement stages as well as prior to the award of any contracts.

## **7.0 Climate Change**

7.1 Seeking permission to re-procure these services will continue to have a negative impact on both emissions and air pollution in the same way as it does now. See Appendix 2

7.2 The Council currently spends £29M on Home to School Transport and that cost would significantly increase if there were to be a change to our vehicle type and age requirements. There would also be an issue in securing tender prices as the nature of the transport network in North Yorkshire means that many of our transport providers are small/medium providers. They do not have the funds to replace vehicles with newer ones especially given the significant impact that Covid has had on the transport industry.

7.3 It is acknowledged that this issue needs further consideration and work in the future to consider options for a longer term strategy to reduce the impact of this type of transport on the environment.

## **8.0 Recommendation**

- 8.1 It is recommended that The Corporate Director – BES, in consultation with the Corporate Director, CYPS, and the Business and Environmental Services Executive Members, agrees to proceed with the re-procurement of transport services in the Hambleton, Scarborough, Selby and Miscellaneous areas for both Local Bus (excluding Hambleton) and Mainstream Home to School transport services.

MICHAEL LEAH

Assistant Director - Transport, Environment and Countryside Services

Report author: Catherine Price

Background documents: None

## Equality impact assessment (EIA) form: evidencing paying due regard to protected characteristics

(Form updated May 2015)

Hambleton, Scarborough, Selby and Miscellaneous Area Review of Home to School and Local Bus Service Transport Contracts 2022

If you would like this information in another language or format such as Braille, large print or audio, please contact the Communications Unit on 01609 53 2013 or email [communications@northyorks.gov.uk](mailto:communications@northyorks.gov.uk).

যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।

如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。

اگر آپ کو معلومات کسی دیگر زبان یا دیگر شکل میں درکار ہوں تو برائے مہربانی ہم سے پوچھئے۔



**Equality Impact Assessments (EIAs) are public documents. EIAs accompanying reports going to County Councillors for decisions are published with the committee papers on our website and are available in hard copy at the relevant meeting. To help people to find completed EIAs we also publish them in the Equality and Diversity section of our website. This will help people to see for themselves how we have paid due regard in order to meet statutory requirements.**

Name of Directorate and Service Area	Business and Environmental Services, Integrated Passenger Transport
Lead Officer and contact details	Project Owner: Catherine Price ext 5691
Names and roles of other people involved in carrying out the EIA	Contracting Officers: Nicky Moseley ext 8031 Dianne Pottage ext 5103 Mary Welch ext 5104
How will you pay due regard? e.g. working group, individual officer	Consideration of the EIA by the Officers involved in the procurement process
When did the due regard process start?	April 2022



**Section 1. Please describe briefly what this EIA is about.** (e.g. are you starting a new service, changing how you do something, stopping doing something?)

IPT reviews all of its transport services for both mainstream home to school and local bus contracts across North Yorkshire through a continuous programme of contract renewal. The county is split into 7 areas and the whole review cycle takes 4 years to complete.

Re-newal of contracts is required for mainstream home to school, and Local Bus Service contracts in the Scarborough, Hambleton (excluding LBS), Selby areas. In addition, some miscellaneous contracts are also being reviewed.

**Section 2. Why is this being proposed? What are the aims? What does the authority hope to achieve by it?** (e.g. to save money, meet increased demand, do things in a better way.)

The Council has a statutory duty to provide Home to School Transport for pupils entitled to transport in line with its policy and is required to secure the provision of home to school and public passenger transport services. The contracts involved in the re-procurement have already been extended within the terms of the contract and are now required to be re-procured to secure essential transport services.

**Section 3. What will change? What will be different for customers and/or staff?**

In reviewing the contracts, service routes and timetables will be changed to meet changing home to school requirements. There may be some changes to local bus service frequency and timetables to ensure that we can make the best use of the available funding whilst having regard to our overall strategy. However, we do not plan to remove any services altogether. Where we propose changes to timings of services, Community Transport and Car Schemes can be used in mitigation if necessary. In some cases, the contractors providing the services may change as a result of the tendering process.

**Section 4. Involvement and consultation** (What involvement and consultation has been done regarding the proposal and what are the results? What consultation will be needed and how will it be done?)

For contracts that are in the area renewal process comments are being sought from:

Home to School Transport

Schools and Parents via the schools  
County Councillors

Local Bus Services

Parish Councils  
District Councils  
County Councillors  
Neighbouring Authorities  
Other designated Stakeholders

**Section 5. What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

This procurement is within the Council policy framework and appropriate budgets exist within CYPs and BES for the work to be carried out and financed. It is anticipated that whilst some contracts will reduce in costs, others may increase particularly given the current climate of rising costs including increased fuel and staffing costs.

<b>Section 6. How will this proposal affect people with protected characteristics?</b>	<b>No impact</b>	<b>Make things better</b>	<b>Make things worse</b>	<b>Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.</b>
Age	X			
Disability	X			
Sex (Gender)	X			
Race	X			
Gender reassignment	X			
Sexual orientation	X			
Religion or belief	X			
Pregnancy or maternity	X			
Marriage or civil partnership	X			

<b>Section 7. How will this proposal affect people who</b>	<b>No impact</b>	<b>Make things better</b>	<b>Make things worse</b>	<b>Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.</b>
live in a rural area?	X			
have a low income?	X			

**Section 8. Will the proposal affect anyone more because of a combination of protected characteristics? (e.g. older women or young gay men) State what you think the effect may be and why, providing evidence from engagement, consultation and/or service user data or demographic information etc.**

No

<b>Section 9. Next steps to address the anticipated impact. Select one of the following options and explain why this has been chosen. (Remember: we have an anticipatory duty to make reasonable adjustments so that disabled people can access services and work for us)</b>	<b>Tick option chosen</b>
1. <b>No adverse impact - no major change needed to the proposal.</b> There is no potential for discrimination or adverse impact identified.	<b>X</b>
2. <b>Adverse impact - adjust the proposal</b> - The EIA identifies potential problems or missed opportunities. We will change our proposal to reduce or remove these adverse impacts, or we will achieve our aim in another way which will not make things worse for people.	
3. <b>Adverse impact - continue the proposal</b> - The EIA identifies potential problems or missed opportunities. We cannot change our proposal to reduce or remove these adverse impacts, nor can we achieve our aim in another way which will not make things worse for people. (There must be compelling reasons for continuing with proposals which will have the most adverse impacts. Get advice from Legal Services)	
4. <b>Actual or potential unlawful discrimination - stop and remove the proposal</b> – The EIA identifies actual or potential unlawful discrimination. It must be stopped.	
<p><b>Explanation of why option has been chosen.</b> (Include any advice given by Legal Services.)</p> <p>The Council has a statutory responsibility to transport school children who qualify for free home to school transport in line with the Councils policy and these requirements will be met. Whilst not all vehicles that will be used in the provision of home to school transport will be accessible, pupils who have special access requirements will be accommodated as necessary.</p> <p>It is anticipated the local bus network in the Scarborough and Selby areas will remain largely the same as it is currently and access to the nearest service centre will be maintained. There may be a minor impact to a few individual passengers where timetables have changed but for the most part this will be mitigated by the existence of alternative timetabled services and the expansion of demand responsive and community transport services. It is therefore considered that any impact is both minimal and justifiable in relation to the wider aims of the service which are to preserve key essential services whenever possible.</p>	

<p><b>Section 10. If the proposal is to be implemented how will you find out how it is really affecting people?</b> (How will you monitor and review the changes?)</p> <ul style="list-style-type: none"> <li>• Monitor correspondence and complaints following the introduction of any changes</li> <li>• Monitoring of the services through on-going contract management</li> <li>• Feedback from users, operators, Parish Councils, County Councillors and other stakeholders</li> </ul>
---

<p><b>Section 11. Action plan.</b> List any actions you need to take which have been identified in this EIA, including post implementation review to find out how the outcomes have been achieved in practice and what impacts there have actually been on people with protected characteristics.</p>				
<b>Action</b>	<b>Lead</b>	<b>By when</b>	<b>Progress</b>	<b>Monitoring arrangements</b>
Passenger Usage	Operator/Contract Manager	On-going during contract life from April 2023	On-going	Through normal contract management

**Section 12. Summary** Summarise the findings of your EIA, including impacts, recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

This EIA seeks to assess the equality impact of changes to services as a result of renewal of contracts for Home to School and Local Bus Services.

We have no evidence to show an impact in relation to the tender of contracts for home to school transport.

For local bus services there may be a small impact for a few individual passengers where timetables may change but for the most part this will be mitigated by the existence of alternative services and the availability of demand responsive and Community Transport services. It is therefore considered that any remaining impact will be both minimal and justifiable in relation to the wider aims of the service which are to preserve key essential services whenever possible.

### **Section 13. Sign off section**

This full EIA was completed by:

**Name: Catherine Price**

**Job title: Head of Transport Services**

**Directorate: Business & Environmental Services**

**Signature: *Catherine Price***

**Completion date: May 2022**

**Authorised by relevant Assistant Director (signature): *Michael Leah***

**Date: 31.05.22**



## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission  
Environmental Impact Assessment  
Strategic Environmental Assessment

However, you will still need to summarise your findings in in the summary section of the form below.

Please contact [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk) for advice.

<b>Title of proposal</b>	Hambleton, Scarborough, Selby and Miscellaneous Area Review of Home to School and Local Bus Service Transport Contracts
<b>Brief description of proposal</b>	To seek permission to undertake transport contract re-procurement
<b>Directorate</b>	Business and Environmental Services/CYPS
<b>Service area</b>	Integrated Passenger Transport
<b>Lead officer</b>	Catherine Price
<b>Names and roles of other people involved in carrying out the impact assessment</b>	None
<b>Date impact assessment started</b>	May 2022

**Options appraisal**

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

The Council has a statutory duty to provide Home to School Transport for pupils entitled to transport in line with its policy and is required to secure the provision of home to school and public passenger transport services. The contracts involved in the re-procurement have already been extended within the terms of the contract and not re-procuring is not an option for us to meet our statutory responsibilities.

**What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

There are budgets available in both Business and Environmental Services and Children and Young Peoples Service to meet the cost of the re-procurement. In the present financial climate based on what we are currently experiencing in relation to fuel, staffing and vehicles availability it is expected that costs for both BES and CYPS will increase.

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where</p>	<p><b>No impact</b> (Place a X in the box below where</p>	<p><b>Negative impact</b> (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.</p>	<p>Emissions from travel</p>		<p>X</p>	<p>Maintaining the current level of bus services needed to help pupils and the public to access education and essential services will result in no change to the existing impact.</p> <p>However, the existing impact is acknowledged as having a negative impact as there are up to 500 contracts in this review with vehicles of varying size and age on the road 190 days of the year over 4 years.</p>	<p>We review transport services to ensure that the network is as efficient as it can be to keep the vehicles on the road 190 day a year, to a minimum. Our terms and conditions of contract set out vehicle age restrictions that providers must comply with and the following clause is a requirement of the terms and conditions of contract</p> <p>20. SUSTAINABILITY 20.1 Throughout the Term of this Agreement the Supplier shall make all reasonable endeavours to reduce any negative impact on the environment caused by the Service.</p>	

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where</p>	<p><b>No impact</b> (Place a X in the box below where</p>	<p><b>Negative impact</b> (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>	
					<p>20.2 The Supplier may be required to provide evidence of actions taken to mitigate climate change and reduce greenhouse gas emissions, and on request, information relating to fuel use and other relevant indicators.</p>		
Emissions from construction		X		No impact.			
Emissions from running of buildings		X		No impact.			
Other							
Minimise <b>waste</b> : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic		X		No impact.			
Reduce <b>water</b> consumption		X		No impact			



<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where</p>	<p><b>No impact</b> (Place a X in the box below where</p>	<p><b>Negative impact</b> (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Minimise <b>pollution</b> (including air, land, water, light and noise)</p>			<p>X</p>	<p>Maintaining the current level of bus services needed to help pupils and the public to access education and essential services will result in no change to the existing impact.</p> <p>However, the existing impact is acknowledged as having a negative impact as there are up to 500 contracts in this review with vehicles of varying size and age on the road 190 days of the year over 4 years.</p>	<p>We review transport services to ensure that the network is as efficient as it can be to keep the vehicles on the road 190 day a year, to a minimum. Our terms and conditions of contract set out vehicle age restrictions that providers must comply with and the following clause is a requirement of the terms and conditions of contract</p> <p>20. SUSTAINABILITY 20.1 Throughout the Term of this Agreement the Supplier shall make all reasonable endeavours to reduce any negative impact on the environment caused by the Service.</p>	

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where</p>	<p><b>No impact</b> (Place a X in the box below where</p>	<p><b>Negative impact</b> (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
					<p>20.2 The Supplier may be required to provide evidence of actions taken to mitigate climate change and reduce greenhouse gas emissions, and on request, information relating to fuel use and other relevant indicators.</p>	
<p>Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers</p>		X		No impact anticipated		
<p>Enhance <b>conservation</b> and wildlife</p>		X		No impact anticipated		
<p>Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b></p>		X		No impact anticipated		
<p>Other (please state below)</p>		X		No impact anticipated		

**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

N/A

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

Seeking permission to re-procure these services will continue to have a negative impact on both emissions and air pollution in the same way as it does now. The Council currently spends £29M on Home to School Transport and that cost would significantly increase if there was to be a change to our vehicle requirements. There would also be an issue in securing tender prices as many of our transport providers are small/medium providers who do not have the funds to replace vehicles with newer ones especially given the significant impact that Covid has had on the transport industry.

However, it is acknowledged that this issue needs further consideration in the future in relation to a longer term strategy to reduce the impact of this type of transport on the environment.

### Sign off section

This climate change impact assessment was completed by:

<b>Name</b>	Catherine Price
<b>Job title</b>	Head of Transport Services
<b>Service area</b>	Integrated Passenger Transport
<b>Directorate</b>	Business and Environmental Services
<b>Signature</b>	C Price
<b>Completion date</b>	18/05/2022

**Authorised by relevant Assistant Director (signature): Michael Leah**

**Date: 31/05/2022**

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## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

24 June 2022

### Foss Catchment Project – update and proposed acceptance of £200,000 of funding offered by the Environment Agency

#### Report of the Assistant Director – Growth, Planning and Trading Standards

#### 1.0 Purpose Of Report

- 1.1 To update the Corporate Director, Business and Environmental Services (BES), and BES Executive Members on progress with the Foss Catchment Project and to seek approval for signing a three year Collaborative Agreement with the Environment Agency for North Yorkshire County Council (NYCC) to undertake project management role for next stages of the project.

#### 2.0 Background

- 2.1 Starting in 2018/19, NYCC has undertaken project management of the Foss Catchment Project based on series of three annual Collaborative Agreements signed with the Environment Agency. To date, this has involved delivery of work totalling £47,620 – with the Yorkshire Wildlife Trust undertaking the delivery following a NYCC led procurement process in 2019.
- 2.2 This project will deliver benefits to the Water Framework Directive in mitigating the impact of sediment on ecology but also benefits for flood risk and reducing maintenance for flood defence assets. Project objectives are set out in the three-year Collaborative Agreement to be signed by the EA and NYCC (Appendix 1). The Parties wish to undertake the Project in order to provide environmental enhancement in the Foss catchment to deliver benefits to the Water Framework Directive in mitigating the impact of sediment on ecology but also benefits for flood risk and for reducing maintenance for flood defence assets. The catchment will benefit from dedicated resources to lead on awareness and education in the catchment
- 2.3 The objectives of the Foss Catchment Project are to:
1. Plan and deliver interventions which are designed to deliver multiple benefits to the Foss Catchment by promoting and delivering Catchment Scale land management improvements.
  2. Communicating the benefits of Water Framework Directive (WFD) and sediment and flood risk reduction objectives to local communities, stakeholders and wider audiences.
  3. Work with landowners to enable sustainable delivery of water quality improvements and Natural Flood Management (NFM) across the catchment.
  4. Further understand the natural capital costs and benefits (catchment resilience potential) of WFD actions in a lowland catchment, including its contribution to reducing flood risk to rural communities, improving water quality and habitat creation.

### **3.0 Finance**

- 3.1 The Environment Agency has now confirmed £200,000 of capital funding for the main delivery phase of this partnership project and wishes NYCC to continue to undertake a project management role.
- 3.2 It is proposed that some initial work (to the value of £20,000) will be undertaken on a continuation basis by the contractor engaged for the earlier work – the Yorkshire Wildlife Trust. NYCC will then provide project management of work (to the value of £180,000) to be undertaken by a delivery organisation to be appointed after a further procurement exercise.
- 3.3 The standard NYCC external funding application form has been completed and submitted.

### **4.0 Equalities**

- 4.1 No equalities issues have been identified associated with this project. If approval is granted to proceed, the Corporate Director, Strategic Resources will be asked to accept the funding offered by the Environment Agency.

### **5.0 Legal**

- 5.1 The draft Collaborative Agreement (Appendix 1), as discussed with the Environment Agency, has been reviewed and cleared by NYCC legal services.

### **6.0 Climate Change**

- 6.1 Delivery of this project will make a positive contribution to climate change resilience in the Foss catchment by supporting wildlife habitat creation and species conservation, and measures to reduce flooding impacts through nature based solutions.

### **7.0 Recommendation**

- 7.1 It is recommended that Authorisation be granted to accept capital funding from the Environment Agency totalling £200,000 – spread over three years 22/23, 23/24 and 24/25. BES Exec Members are asked to give approval for the Corporate Director, Strategic Resources to accept the grant.

DAVID CAULFIELD  
Assistant Director – Growth, Planning and Trading Standards

Author of Report: Hugh ClearHill, Principal Environmental Policy and Project Officer

Background Documents: None

Collaborative agreement – no research

## Collaborative agreement – standard

**(1) ENVIRONMENT AGENCY**

**AND**

**North Yorkshire County Council**

**Collaborative Agreement relating to Foss Catchment Project**

**Project Ref No:**

**Procurement Ref No:**

**Commencement Date:**

**Project Period: 36 Months**

1st draft

Document: standard collaborative agreement



**INDEX****CLAUSE      ITEM**

1.      **The Agreement & Definitions**
2.      **Duration**
3.      **The Parties' obligations**
4.      **Lead Partner**
5.      **Working arrangements & Key Personnel**
6.      **Payment & Financial Contributions**
7.      **Publication & publicity**
8.      **Confidentiality**
9.      **Intellectual Property Rights**
10.     **Liability**
11.     **Property, insurance & records**
12.     **Default**
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20.     **Force majeure**
21.     **Third Parties**
22.     **Conflict**
23.     **Variations**
24.     **Waiver**
25.     **Severability**
26.     **Counterparts**
27.     **Governing law & jurisdiction**
28.     **Survival**

<b>Appendix 1</b>	<b>Specification</b>
<b>Appendix 2</b>	<b>Financial schedule</b>
<b>Appendix 3</b>	<b>Data protection</b>

**BETWEEN:**

(1) **ENVIRONMENT AGENCY**, whose principal office is at Rio House, Waterside Drive, Aztec West, Almondsbury, Bristol, BS32 4UD (“the Agency”)

**AND**

(2) **NORTH YORKSHIRE COUNTY COUNCIL**, whose principal office is at County Hall, Northallerton, North Yorkshire, DL7 8AD (“the Council”)

(“the Parties”)

**WHEREAS:**

A. The Parties wish to undertake the Project in order to provide environmental enhancement in the Foss catchment to deliver benefits to the Water Framework Directive in mitigating the impact of sediment on ecology but also benefits for flood risk and for reducing maintenance for flood defence assets. The catchment will benefit from dedicated resource in the form of a Project Officer to lead on awareness and education in the catchment and have agreed to collaborate in jointly funding and managing the Project.

B. The objectives of the Project are to :

1. Plan and deliver interventions (and Natural Flood Management “NFM” where possible) at a Catchment Scale land management interventions to reduce sedimentation and improve the water quality and habitat in the Foss Catchment.
2. Communicating the benefits of implementing Objective 1 to local communities, stakeholders and wider audiences.
3. Further understand the natural capital costs and benefits (catchment resilience potential) of interventions in a lowland catchment, including its contribution to reducing flood risk to rural communities, improving water quality and habitat creation.

C. The aim of this Collaborative Agreement is to:

- (a) agree the financial and non-financial contributions of each Party;
- (b) foster mutual trust and co-operation between the Parties;
- (c) define the roles and responsibilities of the Parties;
- (d) agree the review processes to ensure the Project objectives are being met; and
- (e) agree the process by which any dispute will be settled.

**NOW THE PARTIES AGREE AS FOLLOWS:****1. THE AGREEMENT & DEFINITIONS**

1.1 In this Agreement, unless the context otherwise requires, the following words and expressions shall have the following meanings:

“Agreement”	means this collaborative agreement as further defined in Clause 1.4
“CEDR”	means the Centre for Effective Dispute Resolution of The International Dispute Resolution Centre, 70 Fleet Street, London EC4Y 1EU
“Background Rights”	means all Intellectual Property Rights owned or used by a Party, whether under licence or otherwise, which it introduces for the purpose of carrying out the Project or any activities under the terms of this Agreement
“Commencement Date”	means the date on which this Agreement commences which shall be the date at the head of this Agreement
“Completion Date”	means 31 <sup>st</sup> March 2025 or such later date as may be agreed in writing between the Parties, being the date upon which the rights and obligations of all the Parties in relation to delivering the Project under this Agreement shall be met.
“Confidential Information”	has the meaning set out in Clause 8
“Contributions”	means the Parties’ respective contributions to the Project including the Financial Contributions and the Non-Financial Contributions
“Data Protection Legislation”	has the meaning given in paragraph 2 of Appendix 3
“Deliverables”	means those Results of the Project listed in the Specification (together with any agreed addition to or variation of the same),

which are to be delivered up during the Project as set out in Clause 3.6

- “External Funding” means any funding or assistance provided by any third party (including any state or public body) for the Project or to any Party for use in the Project
- “Financial Contributions” means the financial contributions to be made by the Parties, as set out in Appendix 2
- “Force Majeure Event” means an event beyond the reasonable control of a Party that renders the performance of the Agreement impossible whether temporarily or otherwise which for the avoidance of doubt may include prohibitive government regulation, flood, lightening or other extreme weather conditions, fire, explosion, malicious damage, industrial actions or lockouts, terrorism, war, civil commotion, military operations, riot, national emergency, the act or omission of any third party not being its agent or sub-contractor, any change in the law or in the interpretation of the law by the courts
- “Foreground Rights” means all Intellectual Property Rights in the Results
- “Intellectual Property Rights”, “IPR” means without limitation all intellectual property rights including patents, business service and trade marks and names, designs, registered designs and design rights whether or not registered or capable of registration and the right to apply for and any applications for any of the foregoing, copyrights, database rights, domain names, together with the rights in inventions, methods, processes, drawings, documents, methodologies, utility models semi-conductor chip topography, software, databases, know-how, trade or business secrets and other industrial property, and in each case whether protectable or not and, if protectable, whether an application has been made for protection or not, and all similar industrial, commercial, monopoly or other similar right

	or asset capable of protection whether present or future, vested or contingent, and wherever protected
“Interim Results”	means all Results produced or created part way through the Project and may be incomplete or partial at their time of creation
“Key Personnel”	means the key personnel as defined in Clause 5.5 for North Yorkshire County Council and listed in the Specification, as may be varied with the written approval of the other Parties
“Lead Partner”	means the Party who shall take the lead in managing and delivering the Project as set out in Clause 4
“Mediator”	means a neutral third party appointed pursuant to Clause 14.5 to assist in the resolution of disputes
“Non-Financial Contributions”	means the Parties contributions-in-kind to the Project made without charge and including but not limited to contributions of staff time, resources, facilities, accommodation and equipment together with access to such of its Background Rights as are reasonably required for the Project where the same are contributed to the Project without charge
“Parties”	means the parties to this Agreement listed
“Personal Data”	has the meaning given in paragraph 2 of Appendix 3
“Project”	means the project “River Foss Catchment Project” as set out in the Specification
“Project Activity”	means the “River Foss Catchment Project” as set out in the Specification
“Project Board”	means the body responsible for overseeing the management and supervision of the Project as set out in Clause 5

“Project Manager”	means the person who shall be responsible for the day to day management and supervision of the Project as set out in Clause 5.1
“Project Period”	means the duration of the Project as set out in Clause 2.1
“Property”	means property including but not limited to IPR used in connection with this Agreement
“Representative”	means a Party's representative as further set out in Clause 5 which shall include the Project Manager
“Results”	means all things produced, arising from and developed or created by on behalf of one or the other of the Parties in carrying out the Project or any other activities under the terms of this Agreement, including but not limited to papers, publications, maps, plans, sketches, drawings, diagrams, organograms, flowcharts, worksheets, presentations, videos, photographs, tapes, CDs, DVDs, datasets, databases, statistical data, experimental data, field data, analysis of results, published and unpublished results and reports, inventions, designs, know-how, computer hardware and software, computer code, computer programs, training manuals and other material, user documentation, progress reports and audit reports, and any other records documentation, data and information whatsoever (and in whatever media)
“Specification”	means the Project specification set out in Appendix 1
“Staff”	means employees, contractors, consultants, students and agents of a Party who are engaged or provided by the Party for the carrying out of its obligations in connection with this Agreement, and each of them
“VAT”	means Value Added Tax

means the Party or Parties carrying out the Project Activity as identified in the Specification

- 1.2 In this Agreement, unless otherwise expressly provided or unless the context otherwise requires:
- (a) reference to any statute, statutory provision or statutory instrument includes that statute, statutory provision or statutory instrument as from time to time amended, extended, consolidated or re-enacted and all statutory instruments or orders made under or pursuant to it;
  - (b) words importing a gender include all genders, words importing the singular include the plural and vice versa;
  - (c) the words "including" or "includes" or any similar phrases shall be construed without limitation to the generality of the preceding words;
  - (d) reference to any person includes a legal entity; and
  - (e) all undefined words and expressions are to be given their normal English meaning.
- 1.3 The headings in this Agreement are for ease of reference only, and shall not affect its construction and reference to any 'Clause', 'Schedule' or 'Appendix' shall be references to clauses, schedules or appendices of this Agreement unless expressly stated to the contrary.

## **AGREEMENT**

- 1.4 This Agreement contains the whole agreement between the Parties in respect of its subject matter and supersedes all previous communications, representations and arrangements, whether written or oral. This Agreement consists of the following documents:
- (a) these terms and conditions;
  - (b) Appendix 1;
  - (c) Appendix 2;
  - (d) Appendix 3;
  - (e) any other documentation annexed hereto; and
  - (f) any variations made by the Parties in accordance with Clause 23.

In the case of ambiguity or conflict between any of the documents set out above, the documents will take precedence in the order listed (subject to clause 3.12 in respect of compliance with Data Protection Legislation).

## **RELATIONSHIP BETWEEN THE PARTIES**

- 1.5 Nothing in this Agreement shall prejudice, conflict with or affect the exercise by the Agency of its statutory functions, powers, rights, duties, responsibilities or obligations arising or imposed

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## **Appendix 1**

under the Environment Act 1995 or any other legislative provision enactment, bye-law or regulation whatsoever, nor shall it fetter the exercise of any discretion the Agency may have.

1.6 Nothing in this Agreement shall operate as a statutory licence, waiver, consent or approval from the Agency.

1.7 The Parties shall be independent contractors for all purposes connected with this Agreement.

1.8 Nothing in this Agreement shall create a partnership or joint venture between the Parties, constitute one Party as the agent of another nor deem the Staff of one Party to be those of another. No Party shall have any authority to enter into any contract, warranty or representation on behalf of another nor shall any Party incur liabilities that bind or have the effect of binding another Party and in the absence of express agreement to the contrary no Party shall be bound by the acts or conduct of another.

1.9 No Party or its Staff shall represent themselves as having the authority to interpret the policies and procedures of any other Party.

## **2. DURATION**

2.1 This Agreement shall commence on the Commencement Date and unless earlier terminated in accordance with this Agreement shall continue until the Completion Date.

## **3. THE PARTIES' OBLIGATIONS**

3.1 The Parties agree:

- (a) the programme for the administration, scope and delivery of the Project as set out in the Specification; and
- (b) the Parties respective Contributions and their responsibilities in relation to the Project as set out in the Specification and otherwise in this Agreement.

3.2 The Parties shall each:

- (a) provide their Contributions and fulfil their responsibilities as set out in the Specification and otherwise in this Agreement;
- (b) co-operate and use all reasonable endeavours to ensure the success of the Project;
- (c) act in good faith and in the spirit of co-operation in carrying out the Project;
- (d) ensure that all communications are constructive, comprehensive, timely and open;
- (e) provide information promptly to one another relating to their involvement in the Project including all Results and interim Results;



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- (f) promptly raise and use reasonable endeavours to resolve any issues, difficulties, problems or opportunities that arise; and
  - (g) aim to reach agreement in discussions for the good of the Project rather than for individual Party gain.
- 3.3 In carrying out its obligations under this Agreement the Parties shall each:
- (a) use all reasonable care, attention and diligence; and
  - (b) perform their obligations in accordance with this Agreement and in a timely manner.
- 3.4 The Parties shall each inform the Project Board promptly of any event that is likely to prejudice or delay the performance or completion of the Project, or of any situation or event that may hinder or prevent that Party from providing its Contributions or any of them. The provision of information under this Clause shall not release or excuse that Party from any of its obligations under this Agreement, except and only insofar as Clause 20 (Force Majeure) may apply.
- 3.5 No Party shall do anything that may damage or prejudice the reputation of another Party or their business or other interests.
- 3.6 The Working Party agrees to carry out the Project Activity during the Project Period and shall:
- (a) procure the services of its Staff in carrying out the Project
  - (b) provide the Deliverables at the times stated in the Specification or as subsequently varied in writing by the Parties;
  - (c) provide its share of the Results;
  - (d) provide its share of the Contributions; and
  - (e) comply with its obligations hereunder.
- 3.7 The Council agrees to use best endeavours in carrying out the Project Activity and its obligations under this Agreement.
- 3.8 The Council shall only employ in the execution and superintendence of the Project and this Agreement, persons who are suitable, and appropriately skilled and experienced in the type of work which they are to perform, and with proper guidance and supervision as required to ensure the work is carried out with due care, skill and diligence.
- 3.9 The Council shall procure that its Staff and each of them:
- (a) is sufficiently qualified, trained, skilled and experienced in the type of work which they are to perform;

- (b) exercises all due skill, care, attention and diligence in their work;
  - (c) carries out the Project Activity in accordance with the agreed timescales in the Specification or otherwise or, where none have been agreed, within a reasonable time;
  - (d) carries out all reasonable lawful instructions, suggestions or directions given by the other Parties Representatives, subject where appropriate to the consultation with and agreement of the Project Board;
  - (e) keeps proper records of his work to evidence the creation of Foreground Rights and Results and what Background Rights, if any, were used in their creation ; and
  - (f) promptly discloses to the other Parties all Results and Foreground Rights he has created;
  - (g) liaises closely with the other Parties in every aspect of his work;
  - (h) promptly informs the other Parties via their Representatives of any difficulties, problems or opportunities that arise in his work; and
  - (i) provides all reports at the times and in the manner specified in this Agreement or otherwise agreed between the Parties.
- 3.10 The Council shall, and shall procure that its Staff shall, promptly disclose to the other Parties all Results (including Interim Results) and Foreground Rights, and in any event shall make such disclosure by the Completion date or earlier termination in accordance with this Agreement (however effected).
- 3.11 The Council shall deliver to the Project Board a **quarterly** progress report on its activities in the Project during the previous period, which shall include progress made and difficulties encountered with the Project, including any notified under Clause 3.4, any proposed changes to the manner in which the Project is run, time spent on the Project and details of the financial spend incurred and invoices issued or received during the previous period. ]
- 3.12 In the event that this Agreement requires Personal Data to be processed, or one or more of the Parties otherwise processes Personal Data pursuant to this Agreement, the provisions of Appendix 3 shall apply ('process' having the same meaning as in the Data Protection Legislation). In the event of a conflict between the terms in Appendix 3 and the other terms of this Agreement, and with respect to compliance with the Data Protection Legislation only, the terms of Appendix 3 shall take precedence.
- 4. LEAD PARTNER**
- 4.1 The Council will be the Lead Partner for the Project.

**4.2 The Lead Partner shall:**

- (a) manage the delivery of the Project as set out in the Specification;
- (b) provide adequate management and support staffing to administer the Project effectively;
- (c) appoint the Project Manager pursuant to Clause 5.1;
- (d) be responsible for financial management and administrative aspects of the Project; and
- (e) be responsible for financial management and administrative aspects of the Project; and ensure that all Key Personnel are available to work on the Project as set out in Clause 5.6.

**5. WORKING ARRANGEMENTS & KEY PERSONNEL****5.1 Project Manager**

The Lead Partner shall appoint the Project Manager who shall:

- (a) manage the day to day operation of the Project in accordance with this Agreement;
- (b) be the Lead Partner's Representative;
- (c) act as the first point of contact at the Lead Partner for all purposes in connection with the Project;
- (d) provide effective liaison between the Lead Partner, the other Parties and the Project Board;
- (e) ensure that the Project is carried out and operated in a manner consistent with its objectives as described in the Specification;
- (f) report on Project progress to the Project Board every bi-monthly and as otherwise necessary or required;

Chair the Project Board and manage its affairs as further set out in Clause 5.4.1;

be responsible for overseeing the sub-contracting of work;

supervision of the implementation of current Health and Safety legislation in delivery of the Project.

The first Representatives of the Parties shall be the person named as such in the Specification.

**Parties Representatives****5.2 Each Party shall appoint a Representative who shall:**

- (a) be responsible for management of the day to day operational delivery of the Project by that Party;
- (b) ensure that the Party they are representing carries out and manages the Project in a manner consistent with the Specification and otherwise in this Agreement;
- (c) provide effective liaison between that Party, the other Parties and Project Board; and
- (d) represent that Party on the Project Board.

The first Representatives for the Parties shall be the persons named as such in the Specification.

- 5.3.1 The Parties shall promptly notify one another of any change in the identity of their Representatives.
- 5.3.2 Each Party may appoint such deputies for their Representative as they consider appropriate, such appointments to be notified to all other Parties. A deputy to a Representative shall act in substitution for that Representative in the event that the Representative is unavailable.
- 5.3.3 A Representative's deputy shall have the same powers and authority as the Representative and any act of the deputy will be deemed to be an act of the Representative.

#### Project Board

- 5.4.1 The Parties will set up a Project Board to oversee the management and delivery of the Project. The role of the Project Board shall include but shall not be limited to:
- (a) monitoring the overall progress of the Project against the objectives set out in this Agreement and the Specification;
  - (b) taking a strategic overview of the Project to ensure successful implementation and timely reporting;
  - (c) considering and approving correspondence and publications in respect of the Project;
  - (d) considering and recommending to the Parties proposals for changes to:
    - (i) the timescales for delivery of the Project
    - (ii) the Contributions
  - (e) Considering and agreeing changes to the Specification or any aspect of the plan for Project delivery; and
  - (f) approval of any contractors nominated by an authorised contracting Party to carry out work under the Project;
- 5.4.2 Final decisions on any change recommended by the Project Board under Clause 5.4.1(d) must be approved in writing by the Parties in accordance with Clause 23.
- 5.4.3 The Project Manager and Representatives and any other persons from the Parties as listed in the Specification shall all be members of the Project Board.
- 5.4.4 In addition to being a member of the Project Board, the Project Manager shall chair the Project Board.

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- 5.4.5 The Project Board shall meet bi-monthly and at such other times as the Parties see fit. Attendance at Project Board meetings may be in person, by telephone or by such other means as the Parties may agree.
- 5.4.6 The quorum of the Project Board for decision making shall be the Project Manager and one Representative from each other Party. Each Party shall have one vote at Project Board meetings regardless of the number of persons it may have present.
- 5.4.7 Decisions of the Project Board shall be made by majority vote, and where necessary the chair of the meeting shall have the casting vote. The Parties shall seek to agree all decisions for the benefit of the Project and not for individual Party gain.
- 5.4.8 In addition to its permanent members, the Project Board shall be entitled to invite any contractors or advisors or stakeholders to participate in its meetings but such persons shall not be entitled to vote on decisions of the meeting.
- 5.4.9 The costs of hosting the Project Board and the costs of the attendance for a Party's Representative and other members of its Staff shall be borne by the relevant Party and shall not be met from the Financial Contributions.
- 5.4.10 The Parties' Representatives will co-operate and communicate as required in order for the effective day to day management and steering of the Project in between Project Board meetings.

Key Personnel

- 5.5 The Parties agree that there will be a need to retain certain persons crucial to the successful delivery of the Project. The Parties have identified such persons ("Key Personnel") from within the Staff of The Council and the Parties have agreed a written list of Key Personnel as listed in the Specification.
- 5.6.1 The Council shall (subject to the remaining provisions of this Clause 5.6) make Key Personnel available for the whole Project Period, for the purposes of carrying out the Project. Where Key Personnel are associated with the provision of specific skills or services as identified in the Specification, such skills or services shall only be provided by the named Key Personnel.
- 5.6.2 If any of the Key Personnel ceases to be a member of Staff or becomes unable to work in or for the Project for any period longer than sixty (60) calendar days, the Council will notify the other Parties of the position and will confirm any oral notification in writing, and will indicate

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as quickly as possible either the expected date upon which any absentee is likely to return or whether the absence is likely to be permanent.

5.6.3 If any of the Key Personnel :

- a) leaves or decides to leave the Council;
- b) is dismissed or suspended from the Council;
- c) for any other reason is unable to work; or

if there are any circumstances which make it difficult or impossible for the Council or any of its Staff to provide the services or any of them, then the Council shall use its reasonable endeavours to identify and appoint an individual, subject to the approval of the other Parties, who has no lesser experience and expertise in the relevant field as a replacement. If any such person requires replacement at any time and the Council fails to appoint a replacement or fails to do so within a period of ninety (90) calendar days each other Party shall be entitled to terminate this Agreement or the involvement of the defaulting Party.

5.6.4 No changes of any kind shall be made to the list of Key Personnel without the written agreement of the other Parties Representatives, whose agreement shall not be unreasonably withheld. The Council shall provide the Parties with such information as may reasonably be required in support of any proposed change to the list of Key Personnel.

## 6. PAYMENT & FINANCIAL CONTRIBUTIONS

6.1 In consideration of the Contributions made by the other Parties and their performance of this Agreement, each Party agrees to make its Financial Contributions as set out in Appendix 2.

6.2 The Financial Contributions are exclusive of all VAT and all other taxes and duties, and each Party shall bear the cost of all VAT from time to time levied upon its Financial Contributions.

6.3 The Council shall be responsible for holding the Financial Contributions contributed by the Parties and for the financial management of the Project. It shall put in place appropriate financial management and auditing procedures for the Project, in order to control expenditure and ensure that costs are properly incurred and can be clearly identified.

6.4.1 Payment shall be made in arrears and only on completion of satisfactory progress in the ***project and compliance with milestones and / or Deliverables as set out in the Specification***. The time for payment of the Financial Contributions is set out in Appendix 2, but no payment shall actually be due until such time as the Council has provided the paying Party with a correct, valid VAT invoice and such information as the paying Party may reasonably require to verify the invoicing Party's entitlement to payment.

- 6.4.2 Financial Contributions and other resources allocated to the Project by the Parties shall only be expended or committed in accordance with this Agreement unless otherwise agreed in writing by the Parties. In the event of Financial Contributions being expended in breach of this Clause 6.4 the Party expending those funds shall be liable to repay each other Party an amount equal to such proportion of the misapplied funds in proportion to the Parties' share of the Financial Contributions due up to that date.
- 6.5 A Party shall have the right to withhold further Financial Contribution payments should the circumstances set out in Clause 6.4.2 arise regardless of whether or not that Party serves a notice for repayment of monies under that Clause.
- 6.6 If a Party fails to make any of its Financial Contributions by the due date for payment of them after receiving a correct demand therefor, the invoicing Party may charge interest on any amount outstanding, at a rate equal to the Bank of England Base Rate from time to time in force during the period when the amount remains outstanding.
- 6.7 Each Party shall ensure that it has in place appropriate financial management and auditing procedures and all shall ensure that it complies with all tax requirements faced by it in connection with this Agreement.

## **7. PUBLICATION & PUBLICITY**

- 7.1 All external correspondence and publicity relating to the Project must be agreed in advance by the Project Board and neither Party will make any public announcement disclosure or statement concerning the Project without such prior approval.
- 7.2 Each Party shall, in all documents submitted or published, include in a prominent position an acknowledgement of the other Parties' Contributions to the Project and any rights contained in the Results or Background Rights upon which the publication depends.
- 7.3 Nothing in this Agreement in any way limits a Party's rights to prepare independent reports on the Project for internal or statutory use, to meet its legal obligations or for internal communications applicable to the management of its Staff.

## **8. CONFIDENTIALITY**

- 8.1 The Parties acknowledge that they are each bound by freedom of information legislation and that they are each subject to statutory obligations for disclosure and publication of certain information, and as such are unable to give any undertaking not to release information about the Project or this Agreement that conflicts with such laws.
- 8.2 Subject to Clause 8.1, Confidential information shall include all data and information whether or not owned or held by a Party that:
- (a) is identified by a Party as being confidential;
  - (b) ought reasonably to be regarded as confidential (however it is conveyed or on whatever media it is stored).
- 8.3 Confidential Information includes, but is not limited to:
- (a) information relating to the contracting and commercial or business activities, personnel, customers and suppliers of a Party or any third Party;
  - (b) methods of information, techniques, know-how acquisition, software design, financial information and statistical methods;
  - (c) all Intellectual Property Rights, know-how, and information relating to the ownership, protection and exploitation of any Intellectual Property Rights developed in connection with the Project or this Agreement; and
  - (d) all Personal Data.
- 8.4 Information shall not be or shall cease to be Confidential Information where or at the point when it is:
- (a) generally available to the public other than as a result of disclosure by a Party in breach of this Agreement;
  - (b) already known to the receiving Party free of obligations of confidentiality (as evidenced by written records) at the time of its disclosure;
  - (c) provided to the receiving Party by a third party having a right to disclose the information free of any restriction as to the use or disclosure, whether under this Agreement or otherwise;
  - (e) independently developed by the receiving Party (as evidenced by written records) other than pursuant to this Agreement;
  - (f) required by operation of law or governance obligations to be disclosed (which shall include but is not limited to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or the order of any authority competent to make such an order provided that where practicable and where required for compliance with the relevant law, statute, regulation or order the Party intending to disclose the information gives to the Party who originally provided the information



- reasonable advance notice of the intended disclosure and a reasonable opportunity to make representations regarding such disclosure; or
- (g) subject to an express written waiver by the disclosing Party and the disclosing Party has the necessary authority to give such a waiver.
- 8.5 Each Party shall not, and shall procure that its Staff shall not:
- (a) use or disclose the Confidential Information except for the purposes of this Agreement;
  - (b) use or disclose the Confidential Information so as to procure any commercial advantage over the disclosing Party;
  - (c) disclose the Confidential Information to its Staff except to the extent necessary to perform that Party's obligations in connection with this Agreement and provided that its Staff to whom Confidential Information is disclosed are subject to substantially the same obligations of confidentiality as are contained in this Agreement; and
  - (d) otherwise use or disclose to any third party any Confidential Information unless such use or disclosure is permitted by the disclosing Party.
- 8.6 The receiving Party shall inform the disclosing Party immediately if it comes to its notice that any Confidential Information has been or potentially may be improperly disclosed or misused.
- 8.7 Without affecting any other rights or remedies that the disclosing Party may have, the receiving Party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of its obligations of confidentiality in connection with this Agreement and the disclosing Party shall be entitled to seek the remedies of injunction, specific performance and/or other equitable relief for any actual or threatened breach of this Agreement whether by the receiving Party or its Staff.
- 8.8 The obligations of confidentiality shall survive for 6 (six) years from the Completion Date, except where the Confidential Information is IPR in which case the obligations shall survive indefinitely.
- 9. INTELLECTUAL PROPERTY RIGHTS**
- 9.1 Logos and trade marks
- No Party shall itself or by a third party use or reproduce or otherwise deal with the logos distinctive marks or trade marks of another Party or cause or permit the same without the consent in writing of the Party to whom the logos, distinctive marks or trade marks belong.
- 9.2 Background Rights

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- 9.2.1 Background Rights shall remain the property of the Party introducing them to the Project and each party agrees not to use another's Background Rights in any way that is inconsistent with the operation of this Agreement
- 9.2.2 Each Party hereby grants to the other Parties a royalty-free and charge-free (except where it is not able to do so and makes such declaration in accordance with Clause 9.2.4), world-wide, non-exclusive, non-transferable irrevocable licence for non-commercial purposes to use its Background Rights:
- (a) during the Project Period solely for the purpose of fulfilling its obligations arising from this Agreement whether by itself or by its Staff (which for the avoidance of doubt may include its contractors) in accordance with this Agreement, but otherwise without a right to sub-licence; and
  - (b) in order for the licensed Party to use any Foreground Rights insofar as is necessary for the purposes expressly permitted in this Agreement.
- Such licence shall be terminable only in cases of material breach of the provisions of the licence.
- 9.2.3 The licence set out in Clause 9.2.2 shall not permit the licensed Party to:
- (a) use the licensed Background Rights for any commercial purposes;
  - (b) sub-licence the Background Rights other than to the extent set out in Clause 9.2.2; or
  - (c) further develop the Background Rights other than to the extent necessary for the purposes of Clause 9.2.2(a).
- 9.2.4 Without prejudice to the generality of Clause 9.2.2, a Party may charge a reasonable royalty or to impose restrictions for use of such Background Rights only where that Party is itself subject to such obligations to a third party and only where the Parties have agreed in writing in advance of provision of those Background Rights a fair, reasonable and non-discriminatory fee for the use of them.
- 9.2.5 At the end of the Project Period each Party shall return all property in which Background Rights subsist to the Party introducing them to the Project. No such property or copies of it shall be retained other than where ongoing possession is required in order to use the Foreground Rights as permitted in this Agreement.
- 9.2.6 No Party shall supply Background Rights to another Party under this Agreement in the knowledge, information or belief that the use of the Background Rights by that Party will infringe the Intellectual Property Rights of any third party, and each Party;
- (a) warrants to the other Party and will warrant at the time of each such provision that to the best of its knowledge, information and belief at the time of provision none of the

- IPR, the Background Rights and Foreground Rights provided by that Party will be in breach of any third party's IPR; and
- (b) shall indemnify the other Party against any loss, liability or costs arising from third party claims in respect of any such breach whether actual or alleged.

### 9.3 Foreground Rights

- 9.3.1 The Agency shall own the Results and Foreground Rights and may take such steps as it may decide from time to time, and at its own expense, to register and maintain any protection for the Foreground Rights, including filing and prosecuting patent applications for any of the Results.
- 9.3.2 Each Party shall procure from its Staff (including any students) all Results and Foreground Rights and shall take such steps as are necessary in order to give effect to Clause 9.3.1.
- 9.3.3 The Agency hereby grants to the other Parties a royalty-free and charge-free, world-wide, non-exclusive, non-transferable irrevocable licence, without the right to sub-licence, in respect of all Foreground Rights necessary :
- (a) in order for each other Party to use the Results to fulfil its obligations arising from this Agreement in connection with the Project during the Project Period; and
- (b) in order for the licensed Party to use the Foreground Rights for its own internal business, research, teaching and/or statutory or regulatory purposes.
- 9.3.4 In each case set out in Clause 9.3.3 the licence shall permit use only insofar as is necessary for the use of such Foreground Rights for those purposes and without limiting the generality of the foregoing those purposes:
- (a) shall not include any commercial use or purpose;
- (b) shall not permit further development of the Foreground Rights; and
- (c) may involve a third party contractor carrying out work on its behalf, provided always that any licence of the Foreground Rights granted to third parties for those purposes shall be on terms that prohibit sub-licensing, transfer, assignment and commercial use or exploitation and other appropriate terms. The rights in this sub-clause are subject to the rules on publication in Clause 7.
- 9.3.5 Except in the case of sub-licence to a contractor carrying out work for a Party in accordance with Clause 9.3.3, the licensed Parties shall not sub-license any Foreground Rights or allow any third party to use such rights without the prior written consent(s) of the Agency, which if granted shall be subject to fair, reasonable and non-discriminatory terms.

- 9.3.6 Any use or sub-licensing of the Foreground Rights of another Party for commercial purposes shall be subject to the separate agreement of the Parties which if agreed shall be on fair, reasonable and non-discriminatory terms and subject to reasonable revenue sharing arrangements.
- 9.3.1 The owning Parties hereby grant to each other Party a royalty-free and charge-free, world-wide, non-exclusive, non-transferable irrevocable licence, without the right to sub-licence, in respect of all Foreground Rights necessary:
- (a) in order for each other Party to use the Results to fulfil its obligations arising from this Agreement in connection with the Project during the Project Period; and
  - (b) in order for the licensed Party to use the Foreground Rights for its own internal business, research, teaching and/or statutory or regulatory purposes.
- 9.3.1 In each case set out in Clause 9.3.4 the licence shall permit use only insofar as is necessary for the use of such Foreground Rights for those purposes and those purposes:
- (a) shall not include any commercial use or purpose;
  - (b) shall not permit further development of the Foreground Rights; and
  - (c) may involve a third party contractor carrying out work on its behalf, provided always that any licence of the Foreground Rights granted to third parties for those purposes shall be on terms that prohibit sub-licensing, transfer, assignment and commercial use or exploitation and other appropriate terms. The rights in this sub-clause are subject to the rules on publication in Clause 7.
- 9.3.2 Except in the case of sub-licence to a contractor carrying out work for a Party in accordance with Clause 9.3.5, the licensed Parties shall not sub-licence any Foreground Rights or allow any third party to use such rights without the prior written consent(s) of the owning Parties for those Foreground Rights which if granted shall be subject to fair, reasonable and non-discriminatory terms.
- 9.3.3 Any use or sub-licensing of the Foreground Rights of another Party for commercial purposes shall be subject to the separate agreement of the relevant Parties which if agreed shall be on fair, reasonable and non-discriminatory terms and subject to reasonable revenue sharing arrangements.
- 9.4 If a Party is prevented from carrying out its obligations under this Agreement due to any infringement or alleged infringement of any Intellectual Property Rights, that Party may

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without prejudice to any other rights and remedies exercise the powers and remedies available to it under Clauses 12 and 13 (Default and Termination).

9.5 No licence to use any Intellectual Property Rights is granted or implied by this Agreement except the rights expressly granted in this Agreement. Nothing in this Clause 9 is to be taken as a consent, authorisation or instruction for the purposes of clause 3.12 or Appendix 3 (Data Protection).

**10. LIABILITY**

10.1.1 Subject always to the provisions of Clause 10.3, each Party shall indemnify each other Party, and its Staff against:

- (a) all claims, demands, actions, costs, expenses, losses and damage made or notified to the indemnified Party and arising from or incurred by reason of the indemnifying Party or its Staff in carrying out work under this Agreement or any infringement of IPR in connection therewith; and
- (b) the acts, errors or omissions of its Staff that are a result of or due to the negligence of the indemnifying Party.

10.1.2 Each Party shall be liable for, and shall promptly discharge, payment of all salaries, expenses, costs, disbursements, income or other taxes, pensions, national insurance contributions and dues of any kind arising out of the employment or other engagement of the Staff and any other person carrying out work on behalf of a Party under this Agreement and subject always to the terms of Clause 10.3 each Party shall indemnify each other Party against all claims made and arising out of the payment, or non-payment, of any such items by the indemnifying Party.

10.1.3 Subject always to the terms of Clause 10.3, each Party shall indemnify each other Party against all claims, demands, actions, costs, expenses, losses and damage arising from or incurred by reason of any breach by it of Clause 3.12 or any provision of Appendix 3 (Data Protection) or any infringement by it or its Staff of the Data Protection Legislation in connection with its performance under this Agreement.

10.1.4 The Council shall be responsible for and shall indemnify and hold harmless the Agency against third party costs claims damages and liabilities which may arise out a result of any advice given as part of the Project, or as a result of any works carried out as part of the Project for the lifetime of the Project and beyond.

- 10.2 No Party seeks to exclude or limit its liability for death or personal injury caused by its negligence, or fraudulent misrepresentation made by it or on its behalf, or such other matters where exclusion of liability is constrained or prohibited by operation of law.
- 10.3 Except as otherwise expressed in this Agreement, no Party shall be liable to another for:
- (a) loss of actual or anticipated profits or any economic loss, loss of revenue or loss of contract, whether direct or indirect; or
  - (b) indirect, special or consequential loss or damage arising out of or in connection with this Agreement, whether for breach of contract, negligence or otherwise.

## **11. PROPERTY, INSURANCE & RECORDS**

- 11.1.1 The Parties shall each insure and maintain such insurances with a reputable insurer based in the UK as are necessary to cover its liability in respect of personal injury or death arising out of, or in the course of, its work under this Agreement.
- 11.1.2 Each Party shall insure with a reputable insurer based in the UK against any expense, liability, loss, claim or proceedings whatsoever in respect of any damage to any real or personal property to an amount of £5 million (five million pounds) for any one occurrence or series of occurrences arising out of any one event and due in whole or in part to the acts, errors or omissions of any person for whom that Party is responsible.
- 11.1.3 Each Party shall insure against professional indemnity liabilities with a reputable insurer which is based in the UK to an amount of £5 million (five million pounds) for any one occurrence or series of occurrences arising out of any one event and due in whole or in part to the acts, error or omissions of any person for whom that Party is responsible.
- 11.2 The Parties shall maintain such insurances for a period of 7 (seven) years after the end of the Project Period.
- 11.3 The requirements of Clause 11.1 may be waived for a Party where that Party can establish that it has in place self-insurance or other arrangements to provide cover for its liabilities and the nature of such arrangements are reasonably acceptable to the other Parties.
- 11.4 Each Party shall maintain all records and associated documentation required for the proper implementation and operation of the Project and used in connection with the Project and this

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Agreement for a period of 7 (seven) years following the Completion Date. This shall include full and accurate accounts and records together with supporting documentation of:

- (a) all expenses and expenditure incurred by it in connection with the Project and this Agreement;
- (b) all Contributions actually made by it; and
- (c) all Results and Foreground Rights produced by it.

11.5 Each Party shall on request provide the other Parties (including their auditors, agents and advisers) with such access to those records as may reasonably be required.

11.6 All Property provided by a Party to another Party shall remain the property of the providing Party and shall only be used for the purposes for which it was provided in carrying out the Project. The receiving Party shall keep all such Property in safe custody and good condition, shall ensure it is separately identified or identifiable and save where the Party providing the Property expressly agrees to the contrary shall ensure that the Property is fully returned to the providing Party.

11.7 Where any Property has been purchased during the Project using the Parties Contributions, on termination of this Agreement:

- (a) the Parties shall allocate ownership of such Property as they may agree; and
- (b) The residual value of Property allocated under Clause 11.7(a) shall be agreed by the Project Board, and allocated between the Parties in proportion to their respective shares of the total Financial Contributions. Within 3 (three) calendar months of termination of this Agreement the Party taking ownership of such Property shall pay to the other Parties such residual value as agreed. Any items which no Party wishes to retain shall be sold, and the proceeds shared between the Parties in proportion to their respective shares of the total Financial Contributions.

**12. DEFAULT**

12.1 A Party shall be in default if it:

- (a) fails to perform its obligations hereunder with reasonable skill, care, diligence and timeliness; or
- (b) is otherwise in breach of any provision of this Agreement.

12.2 It shall be a material breach of contract if a Party:

- (a) fails to fully perform and comply with its obligations under this Agreement; or

- (b) fails to use reasonable skill, care, diligence and timeliness in performing and complying with its obligations under this Agreement;
  - (c) fails to provide any Contributions or Deliverable at the times specified or agreed for delivery;
  - (d) misuses another Party's Contributions;
  - (e) breaches any third party's Intellectual Property Rights;
  - (f) deals with any Party's Intellectual Property Rights in a manner that is inconsistent with the provisions in this Agreement;
  - (g) is prevented from carrying out its obligations under this Agreement due to any infringement or alleged infringement by it of any Intellectual Property Rights;
  - (h) materially breaches any of the requirements of Clause 3.12 or Appendix 3 (Data Protection), Clause 16.1 (statutory obligations) or Clause 18.3 (Construction (Design and Management) Regulations 2015);
  - [(i) knowingly or persistently breaches Clause 5.5 to 5.8 (Key Personnel) or fails to replace any Key Personnel as required by Clause 5.6
  - [(j) breaches the conditions of its External Funding where such breach has an adverse impact on the availability of such funding to the Project, on the operation of the Project or on any other Party; or
  - (k) commits a series of defaults under Clause 12.1 of this Agreement which when taken together constitute a material breach.
- 12.3 The short temporary non-availability of Staff for reasons outside a Party's reasonable control or the occurrence of a Force Majeure Event shall not constitute events that give rise to a material breach of contract.
- 12.4 Where, in the reasonable opinion of a Party, another Party is in material breach of contract, the non-defaulting Party shall where reasonably practical first consult the Project Board regarding the appropriate course of action, and thereafter shall be entitled to serve a written notice upon the defaulting Party notifying that defaulting Party:
- (a) of the material breach of contract;
  - (b) whether the breach is capable of remedy or not and, if capable of remedy, requiring the defaulting Party to remedy the default; and
  - (c) provided that the breach is not due to the fault of the Party serving the notice, that the non-defaulting Party may terminate the Agreement if the defaulting Party does not take reasonable steps to remedy the specified breach within such reasonable period as the non-breaching Party may specify provided that the period is not less than 30 (thirty) calendar days.



12.5 If in the opinion of the Agency, the Council does not complete its obligations under this Agreement on time or with the specified degree of care and skill then the Agency shall be entitled to:

- (a) require the Council to rectify the situation at its own cost; or
- (b) arrange completion of the work at its own expense, such costs to be reimbursed by the defaulting Party.

### 13. TERMINATION

13.1 The Parties may terminate this Agreement by mutual consent at any time during the Project Period on such terms as the Parties may agree.

13.2 The Agency shall have a right to terminate its participation in this Agreement with immediate effect or if it so elects upon notice in the event that it considers in its sole discretion that to continue all or part of this Agreement does or will conflict with the Agency's functions, powers, duties aims or objective or is otherwise inconsistent with its obligations as a public body.

13.3 A Party shall be entitled to terminate this Agreement (or the participation of another Party in this Agreement) with immediate effect, without prejudice to any other rights and remedies under this Agreement, where another Party:

- (a) has served upon it a notice pursuant to Clause 12.4 specifying an irremediable breach, except where the breach is due to the default of the Party serving the notice;
- (b) has served upon it a notice pursuant to Clause 12.4 specifying a remediable breach and the defaulting Party has failed to remedy that breach or failed to take steps to remedy that breach which are reasonably satisfactory to the terminating Party within the time stated in the notice, except where the breach is due to the default of the Party serving the notice;
- (c) assigns or transfers any part of its benefits under this Agreement to a third party, save for the purposes of reorganisation or transfer to a successor body, without the prior written consent of all Parties; or

13.4 Where there are more than two Parties to the Agreement and the participation of a Party has been terminated for whatever reason, the non-defaulting or non-departing Parties may:

- (a) agree to terminate the Agreement entirely; or
- (b) agree that the Project may continue, and amend this Agreement as they agree appropriate; and
- (c) where and to the extent that the terms of this Clause 13.4 apply, this Agreement shall be deemed to survive the termination of the departing or defaulting Party's

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participation and all references in this Agreement to its termination shall in such circumstances be construed as reference to termination of the departing or defaulting Party's participation in the Agreement.

- 13.5 Upon termination of this Agreement (or upon termination of a Party's participation in it) then the Parties (or the departing Party in the latter case) shall:
- (a) pay over to the Lead Partner such portions of their respective Financial Contributions that is unpaid at the date of termination (whether or not the date for final payment has been reached) as may be necessary to cover their proportion of the reasonable costs and commitments reasonably and necessarily incurred in connection with the Project and not paid at that date;
  - (b) immediately return to each other Party all of its Property including all equipment, Background Rights, documentation and information (in the case of Personal Data, in accordance with Appendix 3);
  - (c) account to the other Parties in respect of any of the other Parties' Financial Contributions it holds provided that such Financial Contributions are not required to discharge reasonable costs and commitments necessarily incurred in connection with the Project but not paid at that date;
  - (d) repay any amount it is due to pay pursuant to Clause 6.4; and
  - (d) hand over to the other Parties copies of all Results held by it, including Interim Results.
- 13.6 Without prejudice to the generality of Clause 9 (Intellectual Property), each Party (excepting a Party in material breach of the Agreement) shall retain all rights granted to it under this Agreement to use Foreground Rights for the purposes permitted in Clause 9.
- 13.7 Termination of this Agreement (or the participation in it of a Party) shall not prejudice any rights of any Party which have arisen on or before the date of termination.
- 13.8 Without prejudice to the generality of this Agreement, where the terms of Clause 20 apply, the occurrence of a Force Majeure Event, whilst not a material breach of contract, may give rise to termination of this Agreement or a Party's participation in it where the circumstances envisaged by Clauses 20.3 or 20.4 apply.
- 13.9 Without prejudice to the generality of Clause 13.5 any outstanding reasonable costs and commitments reasonably and necessarily incurred in connection with the Project and not paid at the date of termination will be allocated between the Parties in proportion to their Contributions to the Project,

**14. DISPUTE RESOLUTION**

- 14.1 During the Project Period the Parties shall attempt to resolve all disputes and differences between themselves and if they are unable to do so such matters, it shall first be referred to the Project Board.
- 14.2 If the Project Board is unable to resolve the dispute or difference to the satisfaction of the Parties in dispute within two weeks, the Parties in dispute shall attempt to resolve the issue by negotiation between their Representatives or such other persons as those Parties may reasonably designate for resolving disputes. If the dispute or difference is not so resolved within a reasonable period, the Representatives shall refer the matter to their respective senior managers for resolution.
- 14.3 If any dispute arises after the Project Period, the Parties in dispute shall attempt to resolve it via their Representatives or such other persons as those Parties may reasonably designate for resolving disputes in such circumstances. If the Representatives or other persons are unable to resolve the dispute within a reasonable period, the matter shall be referred to their respective senior managers for resolution.
- 14.4 If the matter referred to the Parties' senior managers pursuant to Clause 14.2 or 14.3 cannot be resolved, the Parties in dispute shall consider referring the matter to mediation in accordance with Clause 14.5. If those Parties acting in good faith do not consider that mediation is an appropriate method of dispute resolution they shall consider such other methods of alternative dispute resolution as they reasonably consider to be appropriate in the circumstances and shall seek to resolve the matter using such methods as they may agree.
- 14.5 In the event that the Parties in dispute decide that mediation is appropriate, they will use the following procedure:
- (a) The Mediator shall be chosen by agreement between the Parties, provided that any Party may within 14 (fourteen) calendar days from the date of the proposal to appoint a mediator, or within 14(fourteen) calendar days of notice to any Party that the chosen mediator is unable or unwilling to act, apply to CEDR to appoint a mediator;
  - (b) The Parties to the dispute shall within 14 (fourteen) calendar days of the appointment of the Mediator agree a timetable for the mediation. If appropriate, the relevant Parties may at any stage seek guidance from CEDR on a suitable procedure;
  - (c) Unless otherwise agreed, all negotiations and proceedings in the mediation connected with the dispute shall be conducted in strict confidence and shall be without prejudice to the rights of the Parties in any future proceedings;

- (d) Where the Parties agree that mediation is appropriate, the dispute resolution procedure in this Clause 14 shall be binding on the Parties but the Parties shall not be bound by the outcome of the mediation unless and until the Parties agree to be so bound and set out the agreed resolution in a written agreement;
- (e) Failing agreement, any Party to the dispute may invite the Mediator to provide a non-binding but informative opinion in writing. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the dispute without the prior written consent of the relevant Parties. The Party requesting the opinion shall bear the costs incurred in obtaining that opinion unless the Parties agree otherwise;
- (f) For a period of 60 (sixty) calendar days from the date of the appointment of the Mediator, or such other period as the Parties to the dispute may agree, none of those Parties may commence any proceedings in relation to the matters referred to the Mediator save that those Parties shall be free to apply to the courts for interlocutory relief at any time.
- 14.6 For the avoidance of doubt, recourse to the means of alternative dispute resolution provided for in this Clause 14 shall not preclude the exercise of the rights under Clauses 12 (Default) and 13 (Termination) including the service of notices and termination provisions.
- 15. NOTICES**
- 15.1 All notices given under this Agreement shall be in writing and will be sent to the address of the Party being served as set out in the Specification or any other address a Party may from time to time designate by notice given in accordance with this Clause 15.
- 15.2 Notices may be delivered personally, by first class pre-paid letter or fax transmission.
- 15.3 Any notice served in accordance with Clauses 15.1 and 15.2 above will be deemed to have been served:
- (a) at the time of delivery when served in person;
  - (b) 2 (two) working days from the date of posting when served by first class post; or
  - (c) immediately on transmission when served by fax, provided that a confirmatory copy is sent by first class pre-paid post or by hand by the end of the next working day after transmission.
- 15.4 In proving service it shall be sufficient to show that:
- (a) when delivery is in person the notice was delivered to the appropriate address;
  - (b) when service is by post the notice was submitted to an appropriate carrier for delivery, was properly addressed and all postage was fully paid; or

- (c) where service is by fax transmission, an automatic delivery report produced at the time of transmission demonstrating that the telephone number of the facsimile machine to which the message was sent was the number designated for service.

## **16. STATUTORY OBLIGATIONS & PERMISSIONS**

- 16.1 The Parties shall each at their own expense comply, and procure that their Staff comply, with all laws and regulations applicable to the Project and their involvement in it including all health and safety legislation, Data Protection Legislation, the Race Relations Amendment Act 2000, Prevention of Corruption Acts 1889-1916, and the Freedom of Information Act 2000.
- 16.2 Each Party shall be responsible for securing and maintaining such permissions, licences, consents or approvals as it needs in connection with the Project.

## **17. ENVIRONMENT & SUSTAINABILITY**

- 17.1 The Parties shall ensure that sustainable development, which includes environmental, social and economic factors, is taken into account during all stages of the Project and this Agreement and in any relevant contracts entered into with third parties.
- 17.2 Unless there is a specific requirement otherwise the Parties require that all reports in connection with this Agreement will be made in electronic format. Where paper copies of reports or other hard copy communications are required and where there are written announcements or publications required they will be printed on minimum 80% post-consumer waste recycled paper and where possible will be printed double-sided.

## **18. HEALTH & SAFETY**

- 18.1 Where Staff of one Party are working on the premises or under the direction of another Party, that Party shall make those Staff aware of its health and safety and security requirements and those Staff shall comply with all instructions and requirements of that other Party relating thereto. While working remotely, the Staff of any Party shall be subject to that Party's health and safety policies on remote and home working.
- 18.2 Each Party reserves the right to refuse access to their premises to any person at any time or to require such person to leave its premises, without being required to give any reason for its decision and without incurring any liability for any loss that may be suffered as a result of that refusal. Such reasons may include where it has reasonable grounds to believe that person is a risk to the health and safety of others on those premises.

18.3 The following provisions apply where any construction project is carried out under this Agreement ('the project'):

- a) The Council shall be treated for the purposes of the CDM Regulations as the only client in relation to the project;
- b) The Council shall perform its client duties in accordance with the CDM Regulations;
- c) The Council shall ensure that it has available to it from the Commencement Date the resources and expertise necessary to perform its client duties;
- d) in performing its client duties, The Council shall have regard to the Health and Safety Executive's guidance document L153 *Managing Health and Safety in Construction* (including any amendment or replacement from time to time);
- e) this clause 18.3 does not affect the application to any Party other than The Council of the duties specified in regulation 4(8)(c) of the CDM Regulations (pre-construction information and ongoing co-operation); and
- f) in this clause 18.3:

'the CDM Regulations' means the Construction (Design and Management) Regulations 2015;

'client' has the same meaning as in the CDM Regulations;

'client duties' means duties under the CDM Regulations as client for the project including in respect of the appointment of a principal designer and principal contractor under regulation 8(3);

'construction project' has the meaning given to 'project' in the CDM Regulations.

## 19. ASSIGNMENT & SUB-CONTRACTING

19.1 No Party shall be entitled to sub-contract, assign or otherwise transfer the whole or any part of its obligations under this Agreement (except in the case of assignment or transfer where for the purposes of solvent reorganisation or transfer to a successor body or by operation of law) without the prior written consent of all Parties. As the nature of the relationship between the Parties is to be a close collaborative relationship, it shall be reasonable in any case to refuse to consent to assignment or transfer.

19.2 No assignment, transfer or sub-contracting by a Party shall relieve it of any of its obligations or duties under this Agreement and that Party shall remain fully liable as though the matter assigned, transferred or sub-contracted matters were carried out by itself.

- 19.3 The terms of any sub-contract entered into by a Party in connection with this Agreement shall be consistent with and shall ensure compliance with this Agreement, including all auditing and financial requirements.
- 19.4 Any Party sub-contracting work under this Agreement shall ensure that it and any third party contractor to whom that work is sub-contracted has appropriate financial and auditing procedures in place to manage its commitments to the Project and that Party shall ensure that both it and its sub-contractor have complied with all relevant tax requirements relevant to the Agreement and their involvement with it.
- 19.5 The Council will be the contracting party in respect of any contracts entered into with third parties, including any persons employed for the purpose of delivering the Project (and who are not otherwise existing members of a Party's Staff, or where otherwise expressly agreed) and the Council shall be responsible for all concomitant liabilities to such persons in respect of, amongst other things, health and safety, training, pay and conditions, pension and redundancy, except where such liabilities arise due to the cause of another Party. For the avoidance of doubt nothing in this Clause shall serve to alter a Party's liability in respect of its Staff.

## 20. FORCE MAJEURE

- 20.1 If the performance by any Party of any of its obligations under this Agreement is prevented or delayed by a Force Majeure Event then that Party shall be excused from performance of that obligation for the duration of the Force Majeure Event.
- 20.2 If a Party becomes aware of a Force Majeure Event that is or is likely to give rise to a failure or delay on its part, then that Party shall notify the Project Board members as soon as reasonably practicable giving a description of the Force Majeure Event and, where possible, an estimate of its likely duration.
- 20.3 If the Force Majeure Event in question continues or is likely to continue for a continuous period in excess of 30 (thirty) calendar days the Parties shall enter into discussions with regard to alternative arrangements in respect of this Agreement which may include but are not limited to termination of it pursuant to Clause 13.
- 20.4 Where a Force Majeure Event has extended or is reasonably anticipated to extend for a period of more than 60 (sixty) calendar days or for periods in aggregate of more than 60 (sixty) calendar days in any 12 (twelve) month period then this Agreement or the continued

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## Appendix 1

participation in it of the Party subject to the Force Majeure Event may be terminated by any other Party with immediate effect.

### 21. THIRD PARTIES

21.1 Save where this Agreement expressly provides to the contrary, for the purposes of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions. This does not affect any right or remedy of any such party which exists or is available apart from that Act.

21.2 The members of the Project Board must be made aware of any third parties involved in the Project and must approve both any contractor selected and any award of contract to them, and payment of invoices to them, in each case such approval shall not be unreasonably withheld or delayed.

### 22. CONFLICT

22.1 The Parties shall not (whether directly or indirectly) and shall not allow, permit or instruct their Staff to undertake work which would cause a conflict with the work that Party is undertaking under this Agreement where such conflict would have a direct and adverse impact on the Party's ability to comply with its obligations under this Agreement or would otherwise impede or interfere with the Party's proper performance of this Agreement.

22.2 A Party shall forthwith notify the Project Board of actual or potential conflict of interest of which it becomes aware.

### 23. VARIATIONS

23.1 No change or variation to this Agreement will be effective unless and until it is agreed in writing, signed by all Parties and annexed to this Agreement.

### 24. WAIVER

24.1 No failure or delay or grant of indulgence by a Party to exercise or enforce any right, power or remedy available to it, will operate or be construed as a waiver of such right, power or remedy under this Agreement or otherwise, nor will any partial exercise preclude any further exercise of the same or of some other right, power or remedy.

### 25. SEVERABILITY

25.1 If any court or other competent authority finds that any part or provision of this Agreement is void, unlawful or unenforceable then that part or provision will be deemed to have been



severed from this Agreement and shall have no force and effect. The remaining provisions of this Agreement will continue to be valid and enforceable to the fullest extent permitted by law, and the Parties shall negotiate in good faith to agree the terms of a mutually acceptable and satisfactory alternative part or provision in that, as amended, it is valid and lawful and enforceable.

## 26. COUNTERPARTS

26.1 This Agreement may be executed in any number of counterparts or duplicates each of which shall be an original but such counterparts or duplicates shall together constitute one and the same agreement.

## 27. GOVERNING LAW & JURISDICTION

27.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales and subject to the agreed provisions in respect of alternative dispute resolution the Parties agree to submit to the exclusive jurisdiction of the courts of England and Wales regarding any claim or matter arising under this Agreement.

## 28. SURVIVAL

28.1 The provisions of Clauses 1 (Definitions), 6.4, (Payment & Financial Contributions), 7 (Publication & Publicity), 8 (Confidentiality), 9 (Intellectual Property Rights), 10 (Liability), 11 (Property, Insurance & Records), 13.5, 13.6, 13.7 and 13.9 (Termination), 14 (Dispute Resolution), 19 (Assignment & Contracting), 21 (Third Parties), 24 (Waiver), 25 (Severability), 26 (Counterparts), 27 (Governing Law & Jurisdiction), and 28 (Survival) shall survive termination of this Agreement.

**AS WITNESS** the hands of authorised signatories for the Parties hereby agree.

**SIGNED** for and on behalf of the  
**ENVIRONMENT AGENCY**

**SIGNED** for and on behalf of **NORTH  
YORKSHIRE COUNTY COUNCIL**

Name:

Name:

Position:

Position:



**Appendix 1****Project specification - collaboration  
ENV0003008C****1. Project summary**

The parties wish to undertake the Project in order to provide environmental enhancement in the Foss Catchment to deliver benefits to the Water Framework Directive (WFD) in mitigating the impact of sediment on ecology but also benefits for flood risk and for reducing maintenance for flood defence assets. The catchment will benefit from dedicated resource to facilitate education for land managers and raise awareness on how changes to land management practices could improve the riparian and fluvial habitats and the partners have agreed to collaborate in jointly managing the Project.

**2. Project partners**

Environment Agency and North Yorkshire County Council

**3. Overall strategic objective**

This is regarded as a flagship project for this management catchment both for our Catchment Partnership and for the North Yorkshire and York Local Nature Partnership to demonstrate partnerships working to deliver an integrated, multi benefit project, across political boundaries. By taking a catchment based approach this project will help us take a whole catchment view of the issues and remedies, in line with DEFRA's aspirations and those of our Partners.

In recent years DEFRA has committed to investing substantial sums of money into reducing flood risk in the City of York including the risk posed by the Foss Catchment. Due to the nature of land management practices in the wider catchment of the Foss, large volumes of sediment are currently deposited in the City of York. Whilst this project aims to reduce that volume in order to mitigate its impact on ecology, a wider benefit of reduced maintenance requirements for flood defence assets will also be achieved. It is also anticipated that this Project would have significant benefits for the urban areas of York by reducing the amount of sediment in the watercourses that pass through them.

Fields are heavily compacted. As a result, precipitation drains overland carrying sediment which settles out clogging road gullies, increasing the risk of surface water flooding. Soil erosion on the UK results in the annual loss of around 2.2m tonnes of topsoil. This costs farmers across the country £9m a year in lost production. (Defra 2009)

Phase 1 and two of this project were successfully completed in 2019/20 and 2020/21 respectively. Phase 1 of the project acted as a trial to access whether the Partners could work together to deliver improvements to the catchment whilst Phase 2 moved the project into the delivery of sediment reduction interventions in the form of: tree planting; river bank re-profiling; increases in field buffer strip sizes; fencing and livestock drinking troughs. Stakeholder engagement will continue to take place however, the main focus will be delivery of interventions. A large number of sites walkovers took place on land where potential interventions could be installed and engagement activities took place to promote good land management practice. Phase 3, which is covered by this agreement, brings together all of the work carried out in the first two phases and looks to deliver interventions across the catchment and realise the benefits discussed above.

**4. Specific objectives**

5. Plan and deliver interventions which are designed to deliver multiple benefits to the Foss Catchment by promoting and delivering Catchment Scale land management improvements.
6. Communicating the benefits of WFD and sediment and flood risk reduction objectives to local communities, stakeholders and wider audiences.
7. Work with landowners to enable sustainable delivery of water quality improvements and NFM across the catchment.
8. Further understand the natural capital costs and benefits (catchment resilience potential) of WFD actions in a lowland catchment, including its contribution to reducing flood risk to rural communities, improving water quality and habitat creation.

## 5. Programme of work and parties' responsibilities

### 5.1 Parties' responsibilities

#### Environment Agency

- Provide representatives for the project board
- Provide specialist advice relating to land management and agriculture to NYCC as required.
- Provide funding as outlined in the funding profile
- Provide a link to the Dales to Vales River Network through the Catchment Co-ordinator.

#### North Yorkshire County Council

- Appoint and employ a third party Project Officer
- Carry out engagement activities with land owners in the Foss Catchment
- Provide two members of staff (plus the project officer) to sit on the Project Board

### 5.2 Programme of work

#### 5.2.1 Phase One – continuation contract with Yorkshire Wildlife Trust – 1 April 2022 – 30 Sept 2022

1 April – 30 Sept 2022	
<b>Tasks</b>	<ul style="list-style-type: none"> <li>• Re-engage with IDB and steering group</li> <li>• Re-engage with community and reignite project through               <ul style="list-style-type: none"> <li>○ NFU/DVRN/Foss Society newsletters</li> <li>○ Social media</li> <li>○ local press/community bulletin boards etc.</li> <li>○ Mail-out to catchment</li> </ul> </li> <li>• Update relevant websites</li> <li>• Identify unknown land owners (via land registry)</li> <li>• Contact identified landowners to establish interest in delivering the work</li> <li>• Meet landowners and contractors to cost up first round of interventions</li> <li>• Create a costed initial programme of works to commence in 2022/3</li> </ul>

### 5.2.2 Phase Two (following procurement and appointment of Project Contractor for deliver period from 1 September 2022 – 31 March 2025. (Overlap with Phase One to ensure hand-over / continuity)

5.2.2.1 **Task 1** – Seek Consent for works beyond those carried out in Phase One where necessary

- Seek and obtain consent (formally or informally) from the relevant authority, landowner or stakeholder.

5.2.2.2 **Task 2** – Engage landowners and stakeholders to develop site specific plans for potential interventions

- Continue to work and engage with landowners and the Internal Drainage Board to promote sustainable agricultural and watercourse management techniques.

5.2.2.3 **Task 3** – Deliver interventions on land from the site plans produced in Task 2. These could include:

- Undertake tree planting to increase soil stability and reduce run-off.
- Increase buffer strips to reduce loss of agricultural nutrients through seeding.
- Undertake bank re-profiling to reduce bank erosion.
- Where possible install alternative livestock drinking points and additional fencing to reduce, poaching and sediment loss.
- Targeted approach to removal of Invasive Non-Native Species – e.g. Mink and Himalayan Balsam.

## 6 Deliverables

Phase	Task No.	Deliverable	Responsible party	Date of completion, end: (for example, date or by week 2)
One		Costed initial programme to commence in 2022/23	The Council	30 Sept 2022
Two	1a	Seek consent for works in Phase One	The Council	December 2022
	1b	Seek consent for works in Phase Two	The Council	June 2023
	2	Engage landowners and stakeholders to develop site specific plans for potential interventions.	The Council	June 2023
	3	Deliver interventions on	The Council	March 2025

		land from the site plans produced in Task 2		
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## 7. Target audience

In order to deliver this project we are aiming to engage with the Foss Internal Drainage Board in the Foss Catchment as well as the farming community and other land managers in the catchment. The project will both inform and share knowledge of how alterations to land management practice can make an effective impact on the volume of sediment reaching the confluence where the River Foss joins the Ouse.

## 8. Administrative details

### 8.1 Timescales

Project Start date	01/04/2022
Project End date	31/03/2025 (following the delivery and acceptance of all the deliverables / milestones listed in Table 5.1)
Project Duration	36 Months

### 8.2 Partners' contact details

Environment Agency Representative:

Simon Stokes  
 Environment Agency, Lateral, 8 City Walk, Leeds, LS11 9AT.  
 Tel: 07766420326  
 simon.stokes1@environment-agency.gov.uk

North Yorkshire County Council Project Manager:

Hugh Clear Hill, North Yorkshire County Council, County Hall, North Allerton, North Yorkshire. DL7 8AD.  
 Tel: 01609 533340 / 07773 627838  
 Hugh.clearhill@northyorks.gov.uk

### 8.3 Partners' addresses for service of notices

Environment Agency	Sarah Bushnell Defra, Horizon House, Deanery Road, Bristol, BS1 5AH
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North Yorkshire County Council

Liz Small, Growth and Heritage Services Manager, NYCC, County Hall, Northallerton, North Yorks, DL7 9AD

### 8.4 Project Board

**Members:**

From the Environment Agency:

Simon Stokes – EA project representative  
Matt Chapman – EA NEAS Representative  
SUNO Catchment Co-ordinator – Board member

From NYCC:

Matthew Millington - Board member  
Hugh Clear Hill – Board member

A Project Board will be set up to:-

- steer the progress of the project and set project objectives and timescales;
- monitor progress and difficulties encountered with the project;
- manage any proposed changes to the manner in which the project is run;
- manage the time spent on the project;
- manage the financial spend/invoices during the previous period;
- act as the technical quality review panel for the work and outputs. Key outputs may be subject to external peer review. The Project Board will review all draft reports produced by sub-contractors, prior to acceptance;
- seek to resolve difference and disputes arising between the partners.

Frequency of meetings: Quarterly

Chair and administration for meetings: Matthew Millington

Voting rules for meetings – majority

## 9. Communication, publicity and delivery of outputs

All written communications and outputs are to be submitted in draft form to the Project Board for review and comment, prior to approval. E-mail communications are acceptable but the delivering partner is responsible for ensuring that the receiving partner does receive these in a timely manner, noting that the external gateways used for e-mails are not 100% reliable.

Except for progress reports, final versions of outputs are to be submitted in hard copy and disc version.

## 10 Environmental considerations

The partners will adopt a sound proactive environmental approach during the project, designed to minimise harm to the environment.

Considerations shall include:

**paper use:** all documents and reports prepared in the project shall be produced wherever possible on recycled paper containing at least 80% post consumer waste and printed double sided;

**travel:** use of public transport, reduce face to face meetings by using email and videoconferencing. Meetings to be held in locations to minimise travel and close to public transport links;

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## Appendix 1

**packaging:** should be kept to a minimum. Re-use and disposal issues must be considered;

**efficient energy and water use;**

**disposal of waste:** partners are responsible for the disposal of their own waste and should recycle where possible to minimise residual waste.

## Appendix 2

### Budgetary profile and payments - collaboration

Foss Catchment project  
ENV0003008C

#### 1. Budget

Partner		2021/22	2022/23	2023/24	2024/25	Total
Lead partner:	Staff time		£3000	£3000	£3000	£9000
Environment Agency:	Cash Staff Time		£50,000 £2500	£60000 £2500	£90000 £2500	£200000 £7500
<b>Total</b>			£55500	£65500	£95500	£216500

Values for staff time (and other contributions in kind) are estimated.

#### 2. Payment schedule

Partner	Amount	Date / Milestone
Environment Agency		Upon completion of tasks as set out in Appendix 1
	£20000	Completion of Phase 1
	£30000	Phase 2 – Completion of task 1
	£60000	Phase 2 – Completion of task 2



	£90000	Phase 2 – Completion of task 3.
<b>Total</b>	£200000 total	As above

**C: Payment procedures**

All invoices submitted must quote the Agency's **Purchase Order (to be confirmed)** and department number **ENV0003008C** to ensure prompt payment. A copy of the invoice should also be sent to the Agency's Project Manager.

Invoices are to be addressed to:

[APinvoices-ENV-U@gov.SSCL.com](mailto:APinvoices-ENV-U@gov.SSCL.com)

**APPENDIX 3 – DATA PROTECTION**

1. This Appendix 3 applies where one Party processes data on behalf of another Party within the meaning of the Data Protection Legislation. Where this Appendix 3 applies, ‘the Controller’ means the Party which is the ‘controller’, and ‘the Processor’ means the Party which is the ‘processor’, in relation to such processing within the meaning of the GDPR.

2. In this Appendix 3 (including its Annexes):

“Data Loss Event” means any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach

“Data Protection Impact Assessment” means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data

“Data Protection Legislation” means (i) the General Data Protection Regulation (Regulation (EU) 2016/679) or “GDPR”, the Law Enforcement Directive (Directive (EU) 2016/680) (“LED”) and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 1998 and/or the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy

“Data Subject”, “Personal Data”, “Personal Data Breach”, “Processing” (and cognate terms) and “Data Protection Officer” have the meanings given in the GDPR

“Data Subject Access Request” means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data

“Joint Controllers” means two or more controllers (within the meaning of the GDPR who jointly determine the purposes and means of processing (and “Joint Control” shall be construed accordingly)

“Law” means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Controller is bound to comply

“Processor Personnel” means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-processor engaged in the performance of its obligations under this Agreement

“Protective Measures” means appropriate technical and organisational measures which may include but are not limited to: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it including those outlined in Annex 1

“Sub-processor” means any third party appointed to process Personal Data on behalf of the Processor in relation to this Agreement

“Working Day” means any day which is not a Saturday, a Sunday or a public holiday in England

reference to a 'paragraph' or 'Annex' is to a paragraph of, or Annex to, this Appendix 3 (as the case may be).

3. The Processing that the Processor is authorised to do is as exhaustively set out in Annex 1 by the Controller and may not be determined by the Processor.
4. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
5. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
  - 5.1 a systematic description of the envisaged Processing operations and the purpose of the Processing;
  - 5.2 an assessment of the necessity and proportionality of the Processing operations in relation to the purposes of such operations;
  - 5.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 5.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Agreement:
  - 6.1 Process that Personal Data only in accordance with Annex 1, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;
  - 6.2 ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
    - (a) nature of the data to be protected;
    - (b) harm that might result from a Data Loss Event;
    - (c) state of technological development; and
    - (d) cost of implementing any measures;
  - 6.3 ensure that :
    - (a) the Processor Personnel do not Process Personal Data except in accordance with this Agreement (and in particular Annex 1);
    - (b) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      - (i) are aware of and comply with the Processor's duties under this paragraph 6;
      - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
      - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
      - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;

- 6.4 not transfer Personal Data outside of the United Kingdom and European Union unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (a) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
  - (b) the Data Subject has enforceable rights and effective legal remedies;
  - (c) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
  - (d) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- 6.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination or expiry of this Agreement unless the Processor is required by Law to retain the Personal Data.
7. Subject to paragraph 8, the Processor shall notify the Controller immediately if it:
- (a) receives a Data Subject Request (or purported Data Subject Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
  - (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - (f) becomes aware of a Data Loss Event.
8. The Processor's obligation to notify under paragraph 7 shall include the provision of further information to the Controller in phases, as details become available.
9. Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request relating to such obligations (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Controller following any Data Loss Event;
  - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Appendix 3. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;
  - (b) the Controller determines that the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or

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**Appendix 1**

- (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
11. The Processor shall allow for audits of its Personal Data Processing activity by the Controller or the Controller's designated auditor.
12. Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
13. Before allowing any Sub-processor to Process any Personal Data related to this Agreement, the Processor must:
- (a) notify the Controller in writing of the intended Sub-processor and Processing;
  - (b) obtain the written consent of the Controller;
  - (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Schedule such that they apply to the Sub-processor; and
  - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
14. The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
15. The Controller may, at any time on not less than 30 Working Days' notice, revise this Appendix 3 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall take effect on the expiry of such notice period).
16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Agency may on not less than 30 Working Days' notice to the other Parties amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office (and any such amendment shall take effect on the expiry of such notice period).
17. Where the Parties include two or more Joint Controllers as identified in Annex 1 in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Annex 2 in replacement of paragraphs 1-16 for the Personal Data under Joint Control.

### **APPENDIX 3 – ANNEX 1: SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS**

This Schedule shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Environment Agency's Data Protection Officer are:

Sam Lumb, Data Protection Officer  
DataProtection@environment-agency.gov.uk  
Horizon House, Deanery Road, Bristol BS1 5AH

2. The contact details of the North Yorkshire County Council's Data Protection Officer are:  
Veritau Ltd.

3. The Processor shall comply with any further written instructions with respect to Processing by the Controller.

4. Any such further instructions shall be incorporated into this Annex 1.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, Environment Agency is the Controller and North Yorkshire County Council is the Processor in accordance with Paragraph 1.
Subject matter of the processing	The processing is needed in order to ensure that the Processor can effectively deliver the contract to carry out the works as outlined in the Specification.
Duration of the processing	<i>be07</i> 1 April 2022 – 31 March 2025
Nature and purposes of the processing	<p>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</p> <p>The purpose might include: employment processing, recording volunteer attendance and days, distribution of newsletters and updates.</p>
Type of Personal Data being Processed	The type of data being processed may include, but not be limited to: name, address, date of birth, NI number, telephone number, pay, images.
Categories of Data Subject	Categories of data subject may include but not be limited to: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public.
<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under EU or member state law to preserve that type of data</p>	The data will be retained for up to one year after the end date of this agreement at which point it must have been destroyed through means of deletion in the case of digital records or the shredding of paper documents.

**APPENDIX 3 – ANNEX 2: JOINT CONTROLLER AGREEMENT**

**[Guidance:** insert only where Joint Controller applies in Annex 1]

In this Annex the Parties must outline each Party's responsibilities for:

- providing information to Data Subjects under [Article 13 and 14](#) of the GDPR;
- responding to Data Subject Requests under [Articles 15-22](#) of the GDPR;
- notifying the Information Commissioner (and Data Subjects) where necessary about Personal Data Breaches;
- maintaining records of Processing under [Article 30](#) of the GDPR;
- carrying out any required Data Protection Impact Assessment.

The agreement must include a statement as to who is the point of contact for Data Subjects. The essence of this relationship shall be published.

You may wish to incorporate some clauses equivalent to those specified in paragraphs 4-16.

You may also wish to include an additional paragraph apportioning liability between the Parties arising out of the Data Protection Legislation in relation to data that is Jointly Controlled.

Where there is a Joint Control relationship, but no controller to processor relationship under the Agreement, this completed Annex 2 should be used instead of paragraph 1-17.

**APPENDIX 4 – BACKGROUND RIGHTS**
**DETAILS OF BACKGROUND RIGHTS HELD BY THE PARTIES**
**Background Rights declared at the Commencement Date (to be updated during the Project)**

Held by the Environment Agency

Proprietary owner of the Background Right	Name and description of Background Right (incl. type of IPR, format, date, product description, number, product number, geographical area, version number)	Proposed use in the Project

 Held by **[Party A]**

Proprietary owner of the Background Right	Name and description of Background Right (incl. type of IPR, format, date, product description, number, product number, geographical area, version number)	Proposed use in the Project

 Held by **[Party B]**

Proprietary owner of the Background Right	Name and description of Background Right (incl. type of IPR, format, date, product description, number, product number, geographical area, version number)	Proposed use in the Project



**FORM OF PERIODIC INTELLECTUAL PROPERTY RETURN**  
**to be completed by the Parties periodically throughout the Project Period as set out in Clause**  
**[ 9.2.1 (Background Rights) ]**

Background Rights owned or lawfully used by a Party, whether under licence or otherwise, which it introduces to the Project for the purposes of fulfilling its obligations under the Agreement during the Period from [ ] to [ ]

Held by the Environment Agency

Proprietary owner of the Background Right	Name and description of Background Right (incl. type of IPR, format, date, product description, number, product number, geographical area, version number)	Proposed use in the Project

Held by **[Party A]**

Proprietary owner of the Background Right	Name and description of Background Right (incl. type of IPR, format, date, product description, number, product number, geographical area, version number)	Proposed use in the Project

Held by **[Party B]**

Proprietary owner of the Background Right	Name and description of Background Right (incl. type of IPR, format, date, product description, number, product number, geographical area, version number)	Proposed use in the Project



## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

24 June 2022

### DEFRA environmental targets consultation – approval for submission of NYCC response (consultation deadline Monday 27 June 2022)

#### Report of the Assistant Director – Growth, Planning and Trading Standards

#### 1.0 Purpose Of Report

- 1.1 To seek approval from Business and Environmental Services (BES) Executive Members for submission of North Yorkshire County Council (NYCC) response to DEFRA consultation on long-term environmental targets associated with the Environment Act 2021

#### 2.0 Background

- 2.1 DEFRA is currently consulting on proposals for new long term environmental targets that will be key part of delivering the government's objectives in the Environment Act 2021 and drive action to protect and enhance the natural world. This consultation was originally due to close in early May (at the same time as the Nature Recovery Green Paper consultation to which NYCC has responded already) but that was subsequently extended until late June due to delayed publication of some supporting material.
- 2.2 The targets consultation includes the following proposals:
- Halt the decline in species by 2030 and then bend the curve to increase species abundance by 10% by 2042. We will create or restore in excess of 500,000 hectares of a range of wildlife-rich habitat outside protected sites by 2042, compared to 2022 levels;
  - Reduce residual waste (excluding major mineral wastes) kg per capita by 50% by 2042. It is proposed that this will be measured as a reduction from 2019 levels, which are estimated to be approximately 560 kg per capita;
  - A maximum annual mean concentration of fine particulate matter (PM2.5) 10 µg/m<sup>3</sup> across England by 2040 and a 35% reduction in population exposure to PM2.5 by 2040 (compared to a base year of 2018);
  - Reduce nutrient pollution in water by reducing phosphorus loading from treated wastewater by 80% by 2037 and reducing nitrogen, phosphorous and sediment from agriculture to the water environment by 40% by 2037;
  - Improve our marine environment with 70% of designated features in the MPA network to be in favourable condition by 2042, with the remainder in recovering condition, and additional reporting on changes in individual feature condition; and
  - Increase tree canopy and woodland cover from 14.5% to 17.5% of total land area in England by 2050.

- 2.3 Attached is a draft of proposed NYCC response to this consultation – this has been prepared with input from specialists in ecology and waste, and also informed by a number of workshops and other discussions over recent weeks where aspects of the consultation have been considered. This draft response is presented in the form of a spreadsheet with the questions, options and individual draft responses set out. This proposed response has been reviewed and approved by the AD Growth, Planning and Trading Standards and the BES Executive Director.
- 2.4 If approved by BES Executive Members, the NYCC response will be submitted via the online consultation response platform provided by Defra on Monday 27 June 2022.

### **3.0 Finance**

- 3.1 There are no financial implications arising directly from responding to the consultation. There may be financial implications of resultant actions to comply with the requirements arising from adoption of the targets by the Government but these will be the subject of a further report at the appropriate time.

### **4.0 Equalities**

- 4.1 None

### **5.0 Legal**

- 5.1 There are no legal implications arising directly from responding to the consultation. There may be legal implications of resultant actions to comply with the requirements arising from adoption of the targets by the Government but these will be the subject of a further report at the appropriate time

### **6.0 Climate Change**

- 6.1 None directly from this consultation – though in the long term, if these targets are adopted many of them will help deliver national climate change objectives.

<b>7.0 Recommendation</b>
7.1 It is recommended that Authorisation be granted for submission of the proposed NYCC consultation response as attached

DAVID CAULFIELD, Assistant Director – Growth, Planning and Trading Standards

Author of Report: Hugh Clear Hill, Principal Environmental Policy and Project Officer

Background Documents: Defra consultation on environmental targets:  
[Environment Targets Public Consultation.pdf \(defra.gov.uk\)](#)  
Proposed NYCC consultation response

## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

24 June 2022

### HM Government consultation on household waste recycling centres and preventing charges to householders for the disposal of “DIY” waste and a call for evidence on booking systems.

#### Report of Assistant Director – Travel, Environmental and Countryside Services

#### 1.0 Purpose of Report

- 1.1 To inform the Corporate Director of Business and Environmental Services and Executive Members of the Government consultation on preventing charges to householders for the disposal of “DIY” waste at household waste recycling centres.
- 1.2 To seek approval for the attached response to the above consultation on behalf of the County Council to be submitted to UK Government.

#### 2.0 Background

- 2.1 Department for Environment Food & Rural Affairs (DEFRA) are seeking views on preventing households being charged for the disposal of DIY waste and seeking evidence on the impact of booking systems at Household Waste Recycling Centres (HWRCs).
- 2.2 The stated aim of the proposal is to ensure that DIY waste is disposed of properly, and to reduce the potential risk of fly tipping, littering and backyard burning.
- 2.3 DEFRA consider DIY activities to include any construction work, such as building, decorating, or repairing activities, carried out by householders by themselves in their own homes. This would not include, for example, a whole house renovation, or any work done by a tradesperson, but it might include the householder tiling a kitchen, plumbing in a sink, plastering a room, building and installing shelving, building a raised bed for a garden etc.
- 2.4 The government’s policy is clear that householders should not be charged to dispose of DIY waste at HWRCs. In order to do so DEFRA aim to clarify in legislation that construction waste should be considered DIY waste and classified as household waste in the Controlled Waste (England and Wales) 2012 Regulations when it meets certain criteria. Those criteria are:
  - construction waste is produced by householders whilst carrying out construction works themselves at their home. Construction is defined in the Controlled Waste (England and Wales) 2012 Regulations as including improvement, repair or alteration.
  - construction waste is not produced because of commercial activities or by a commercial contractor charging for work in a domestic premise.
  - construction waste is of a volume, which is no greater than 300L (based on the approximate boot size of a family car).
  - construction waste is not produced on a regular basis requiring HWRC visits more frequently than once a week.

- 2.5 The proposed criteria will allow householders to deposit DIY household waste without charge. Local authorities will be able to charge for other construction waste, which is classified as industrial waste.

### **3.0 Key Responses**

- 3.1 The proposed key responses to the consultation are:

- The aims of the proposal to ensure that DIY waste is disposed of properly, and to reduce the potential risk of fly tipping, littering and backyard burning, are unlikely to be met. Research carried out by WRAP in 2021 concludes that there is no identifiable link between DIY waste charging at HWRCs and fly tipping.
- The proposed criteria defining DIY waste will lead to perverse outcomes as some trade persons carrying out specialist construction activities will leave the waste generated with the householder to dispose of. Further, it is difficult to see how limiting quantities to a car boot size of 300 litres per week can be recorded, evidenced or regulated, especially as many types of vehicle are capable of carrying different volumes.
- The proposal aims to support the government's wider strategy on environmental protection as 'it will remove a financial disincentive to dispose of waste properly'. Unless government can support the link between charging and disposing of waste properly, the available evidence suggests there is no link. Moreover, the practical obstacles in enforcing the proposed criteria will lead to increased waste volumes that all council taxpayers will fund, which cuts across the polluter pays principle.
- North Yorkshire County Council does not operate a booking system at HWRCs. We are aware that some local authorities did implement booking systems when HWRCs reopened following the initial coronavirus pandemic, in order to manage demand. Some local authorities have now withdrawn such booking systems; others without government intervention intend to retain them.

- 3.2 Waste created from improvements, repairs and alterations to a domestic property is not household waste and there is no currently legal duty to accept it, therefore North Yorkshire County Council policy is to charge for the disposal of inert and plasterboard across all HWRCs with the exception of Harrogate Stonefall HWRC, which does not accept this waste type.

### **4.0 Finance**

- 4.1 There are no financial implications arising directly from responding to the consultation. There could however, be financial implications in the future if the proposals which are set out in the consultation are enacted. North Yorkshire County Council introduced a limit of two full car boot equivalents per month in 2009 for DIY waste, and then in August 2014 introduced a charge for DIY material. We estimate that if these proposals are enacted, the net cost (additional disposal cost and lost revenue) arising from the government proposal in North Yorkshire will be between £500,000 and £821,000pa dependant on our ability to effectively limit and regulate waste quantities to those proposed in the consultation. In addition, the projected increase in waste volumes may require Yorwaste to invest in additional service vehicles to increase capacity and meet demand.

### **5.0 Equalities**

- 5.1 The proposals are part of a consultation exercise and there is insufficient information on which to base an Equalities Impact Assessment. The government is of the view that there are no likely significant impacts of the proposal on those who may have protected characteristics under the Public Sector Equality Duty.

## **6.0 Legal**

- 6.1 Section 51 of the Environment Protection Act 1990 requires councils who are Waste Disposal Authorities to provide residents with a place to dispose of their household waste. These are usually called Household Waste Recycling Centres.
- 6.2 The Local Government (Prohibition of Charges at Household Waste Recycling Centres) (England) Order 2015 and The Local Authorities (Prohibition of Charging Residents to Deposit Household Waste) Order 2015 prevent councils in England from charging residents to deposit household waste at HWRCs.
- 6.3 The consultation aims to review the criteria of small-scale 'DIY waste' generated by residents and reclassify as Household Waste, and to amend the Controlled Waste (England and Wales) Regulations 2012 in order to prevent charging.
- 6.4 North Yorkshire County Council's current HWRC policy will need to be changed and updated if the proposal goes ahead as drafted.

## **7.0 Climate Change**

- 7.1 The consultation on preventing households being charged for the disposal of DIY waste would help the UK achieve its decarbonisation targets. A small number of householders will currently be disposing of small quantities of DIY waste in their wheeled bins, whereas under the free of charge proposal they will be more inclined to dispose of it at a HWRC.
- 7.2 A Climate Change Impact Assessment has been completed, and concluded a minor positive impact will arise. The impact assessment is included in Annex 2.

## **8.0 Conclusion**

- 8.1 The Government is not consulting on the broad intent that DIY household waste should be free to dispose of for local residents. However, our proposed response to Government is that we strongly disagree with this proposal.
- 8.2 One of Government's stated aims of this proposal is that it will ensure that DIY waste is disposed of properly, and will reduce the potential risk of fly tipping.
- 8.3 The available evidence suggests that there is no link between charging and increased levels of fly tipping and that very few incidences of fly tipping are from a truly household source.
- 8.4 The technical principles underlying this proposal cannot be put into practice or enforced which will lead to increased waste volumes that all council tax payers will fund as opposed to those undertaking construction and demolition activities which undermines the polluter pays principle.

## **9.0 Recommendations**

- 9.1 It is recommended that the Corporate Director Business and Environmental Services (BES) and BES Executive Members consider the issues raised by the consultation on preventing charges to householders for the disposal of “DIY” waste at household waste recycling centres.
- 9.2 It is recommended that the Corporate Director BES in consultation with BES Executive Members approve the attached responses to the above consultations on behalf of the County Council to be submitted to UK Government.

MICHAEL LEAH

Assistant Director – Travel, Environmental and Countryside Services

Authors of Report:

Peter Jeffreys – Head of Waste

Leanne Taylor – Service Development Manager, Waste

Background documents: None



## Consultation on household waste recycling centres and preventing charges to householders for the disposal of “DIY” waste and a call for evidence on booking systems.

11 April 2022

### Our Proposals

**Q1. Do you agree or disagree with these technical principles when the government amends the 2012 regulations?**

- a) Agree
- b) Disagree

If you answered ‘Disagree’ above, please give your reason.

NYCC disagree with the proposed amendment to allow householders to deposit DIY waste for free with the objective being to reduce fly tipping rates.

Furthermore, the implications of enabling DIY waste to be disposed of without a charge would be significant in terms of overall service provision.

Research carried out by WRAP in 2021 concludes that there is no identifiable link between DIY waste charging and fly tipping. The WRAP data covered 301 local authorities out of a possible 317. Of these, 132 operated some type of charge for HWRC waste (typically DIY waste, tyres and asbestos) while 169 did not have any charging in place. Results found that:

- the average number of fly-tips for local authorities that charge at HWRCs is 13.3 per 1,000 people per year
- The average number of fly-tips that do not charge at HWRCs is 15.3 per 1,000 people per year

A difference small enough to conclude that there is no evidence that charging at HWRCs increases fly-tipping rates.

It is difficult to see how limiting quantities to a car boot size of 300 litres per week can be recorded, evidenced or regulated, especially as many types of vehicle are capable of carrying different volumes.

The criteria for limitations set out in the consultation are unenforceable for the following reasons:

- 1) There is a risk that trade persons will leave waste generated by specialist construction work with the householder to dispose of.
- 2) Limiting quantities to a car boot size per week cannot be recorded, evidenced or regulated. It would be very difficult for site staff to adequately monitor inputs and be able to quickly and confidently say whether a householder had already attended a site that week, and this will lead to significant additional costs to monitor and enforce.

Equally, it would not be possible for site staff to ascertain, at the point of disposal, whether the waste arose from the activities of the householder themselves or a commercial contractor doing works on behalf of the householder.

3) There is no standard size of car boot and many types of vehicle including vans, SUV estates, MPVs, pickups etc. are all capable of carrying different volumes.

The technical principles cannot be put into practice leading to increased waste volumes that all council tax payers will fund as opposed to those undertaking construction & demolition activities which undermines the polluter pays principle.

**Q2. Given the government’s stated policy, do you agree or disagree with these tests on whether construction waste should be treated as DIY waste and classified as household waste, and should not be charged for when disposed of at a HWRC, when:**

	<b>Agree – this should be included</b>	<b>Disagree – this should be excluded</b>	<b>Not sure / don’t have an opinion / not applicable</b>
The waste is produced by householders whilst carrying out small-scale construction or demolition works at their home	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The waste does not arise from activities that generate an income for the person who carried them out	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The waste is not produced on a regular basis requiring HWRC visits more frequently than once a week	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The volume of waste is no greater than 300L (based on the approximate boot size of a family car)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Q3: If you have disagreed with the inclusion of any of the above criteria, please state why, indicating which part of the criteria you are referring to in your response.**

<p>The waste is produced by householders whilst carrying out small-scale construction or demolition works at their home</p>	<p>NYCC disagree with the criteria in principle. We also believe that the financial impact on Councils due to DLUHC Ministers deciding to waive the New Burdens Doctrine should be reviewed.</p> <p>North Yorkshire County Council introduced a limit of 2 full car boot equivalents per month in 2009 for DIY waste, and then in August 2014 introduced a charge for DIY material.</p> <p>We estimate that the net cost (disposal cost and lost revenue) arising from the government proposal in North Yorkshire will be between £500,000 and £821,000pa.</p> <p>Again the technical principles cannot be put into practice which will lead to increased waste volumes that all council tax payers will fund as opposed to those undertaking construction &amp; demolition activities. This undermines the polluter pays principle.</p> <p>Income from charges currently go back into the service so the authority can continue to offer safe and legal means of disposal for these DIY materials to the residents who utilise the facilities without impacting every tax payer in the County who don't all necessarily utilise the HWRC service.</p> <p>Also the criteria for limitations set out are unenforceable since the definition of small scale will be interpreted differently by residents without introducing a number of costly monitoring systems, and could result in a possible increase in conflict on HWRC sites as operatives will be required to challenge residents/visitors on the source of the waste they are disposing of.</p>
<p>The waste does not arise from activities that generate an income for the person who carried them out</p>	<p>How will the policy ensure that the system is not abused by those seeking to dispose of trade waste for free?</p> <p>It is our view that it will not be possible for site staff to determine at the point of disposal, whether or not the waste arose from the activities of the householder themselves or from a tradesperson carrying out the works on their behalf.</p> <p>There is a risk that tradespersons will leave waste generated by specialist construction work with the householder to dispose of.</p> <p>Checking and monitoring waste brought into the HWRC will incur additional management time and cost to Councils, and could also cause delays or queues for all site users which may result in reduced customer satisfaction and increased complaints to the Council (which also take officer time to respond to).</p>

<p>The waste is not produced on a regular basis requiring HWRC visits more frequently than once a week</p>	<p>It is our view that the criteria for limitations set out are unenforceable without introducing a number of costly monitoring systems, and is open to misuse by both residents and commercial customers.</p> <p>HWRC sites operatives will be unable to monitor cross-county use and frequent visitors, without back office support systems, management time and investment leading to further pressure on budgets and possible cost to tax payers.</p> <p>Monitoring the frequency of visits is most easily done using an ANPR systems, and a number of authorities have combined this with booking systems to accurately manage customer numbers and frequency of visits.</p> <p>Whilst NYCC does not have a booking system in operation, we do have ANPR and we can see why some authorities have chosen to combine the two and the benefits that they would offer in trying to enforce the proposal.</p> <p>Without some sort of monitoring or booking system, it will be virtually impossible to quickly check the number of visits by a single vehicle within a week, whilst at the site entrance.</p>
<p>The volume of waste is no greater than 300L (based on the approximate boot size of a family car)</p>	<p>There is no standard size of car boot and many types of vehicle including vans, SUV estates, MPVs, pickups etc. are all capable of carrying different volumes of waste, a lot in excess of the 300L capacity proposed.</p> <p>This could lead to increased conflict at HWRCs arising from differences in opinion and will result in additional operatives being required on site, or increased officer time to deal with complaints, both of which have an additional cost.</p>

**Q4: Do you have any other views on the technical circumstances in which construction waste should be considered DIY waste and classified as householdwaste?**

Evidence does not support the base assumption that charging for these materials leads to fly tipping and there is no evidence to suggest that by removing the charges there will be a reduction of it or the associated £392 million cost that the Government has quoted.

We believe that the government should seek to tackle the root causes of fly tipping through various measures including better enforcement and sentencing of offenders, as well as make best use of the proposed legislative measure on Carriers, Brokers and Dealers registration and Digital Waste tracking.

Both of these will lead to greater visibility of waste movements and assist with any fly tipping enforcement action.

## Call for evidence on booking systems at HWRCs

**Q5: Do you currently have a HWRC booking system in place?**

- a) Yes
- b) No

**Q6: What type of booking system do you operate?**

- a) Residents contact us to book a specific slot
- b) Residents use sites at certain times based on address, number plate, etc.
- c) Other (please specify) – Not Applicable

**Q7: Please outline the key reasons why you have a booking system in place.**

Not Applicable

**Q8: Please outline the key reasons why you do not have a booking system in place.**

A booking system was developed during the first Coronavirus lockdown but never implemented when the HWRC reopened on a phased basis in May 2020.

In discussions with the contractor, we felt that queues could be managed without the need to implement a booking system.

However, we did employ traffic management teams at our busiest sites for a period of time after we first reopened.

**Q9: What are your future plans for the booking system?**

- a) Retain indefinitely
- b) Retain until some point in 2022
- c) Unsure
- d) In the process of removing
- e) Will remove by a certain date
- f) Other (please specify) – Not Applicable

**Q10: Please outline any evidence you have on the impacts of booking systems on recycling levels in your area.**

Not Applicable

**Q11: Please outline what other restrictions, if any, you impose on residents bringing waste to your HWRC? For example, limits on size, or on vehicles type can use.**

Residents using a commercial or commercial-like vehicle to deliver household waste e.g. any vehicle that appears to or could be used for a trade or business or commercial purpose such as a van, pickup, flat bed, land rover with a cargo area or similar vehicle are required to register.

People who live outside the county can use our HWRCs but they will be charged unless mutual arrangements are in place with neighbouring councils.

All residents using Stokesley Household Waste Recycling Centre need to register and display a valid permit to use the facility unless they are using a commercial or commercial like vehicle and have a commercial or commercial like vehicle pass.

This is to identify any non-North Yorkshire resident, as we impose charges for residents of Teesside to use the Stokesley HWRC as that site is considerably closer to some households than the relevant Teesside council HWRC. The site has historically suffered from high levels of cross-boundary waste inputs.

**Q12: Do you use measures such as ANPR or similar approaches at your HWRCs?**

ANPR is able to monitor high frequency users, and assists with the identification of individuals seeking to dispose of commercial waste illegally at a HWRC by identifying patterns and frequency of use.

However, ANPR alone will not help implement this proposal unless other enforcement measures are also implemented at the same time.



## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

### Version 2: amended 11 August 2021

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission  
Environmental Impact Assessment  
Strategic Environmental Assessment

However, you will still need to summarise your findings in the summary section of the form below.  
Please contact [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk) for advice.

<b>Title of proposal</b>	DEFRA Technical consultation on preventing charges to householders for the disposal of “DIY” waste at household waste recycling centres and Call for evidence on booking systems at household waste recycling centres.
<b>Brief description of proposal</b>	To inform and seek approval from the Corporate Director Business and Environmental Services (BES) and the BES Executive Members of the following DEFRA consultations: <ul style="list-style-type: none"> <li>Preventing charges to householders for the disposal of “DIY” waste at household waste recycling centres.</li> </ul>
<b>Directorate</b>	Business and Environmental Services
<b>Service area</b>	Transport, Environment and Countryside Services
<b>Lead officer</b>	Peter Jeffreys, Head of Waste
<b>Names and roles of other people involved in carrying out the impact assessment</b>	Leanne Taylor, Waste Management
<b>Date impact assessment started</b>	May 2022

**Options appraisal**

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

No. This is a Government consultation document on their stated policy.

**What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

The proposed changes to the charges to householders disposing of DIY waste at household waste recycling centres will increase budget costs through:

- Increase in overall tonnage and disposal costs for Inert & Plasterboard waste, plus a reduction in income. (Figures attached).
- Yorwaste currently operate a designated HWRC fleet of 7 x RORO (roll-on, roll-off) collection vehicles on behalf of NYCC - any increase in tonnage from HWRCs would require an additional RORO to increase the capacity for waste removal.
- Increase in Commercial Waste from non-licensed waste removal companies/sole traders disguised as residential DIY waste delivered to HWRCs or fly tipped whilst profiting from residents who have paid for their services.
- Household Waste Recycling Centres being used by a large number of people from outside of North Yorkshire.

A cost comparison exercise evidenced that in 2013-14 when HWRCs within North Yorkshire accepted 'DIY Waste' without charge or limitation the average

For the last two years (2006-7 and 2007-08) when DIY waste was accepted without any charge or limitation, the average tonnage for DIY waste was approx. 22,227 tonnes, with a disposal charge to the authority of £755k. With the introduction of a 2 boot limit for DIY waste and plasterboard in 2009, this average reduced to 7,117 tonnes, costing £480k. Once charges were introduced in August 2014, tonnage reduced further to an average of 3723 tonnes, with a cost to the authority of £133k.

The loss of this income (average £200k) coupled with the estimated increase in tonnage and disposal costs identified means that the proposed changes could result in increased costs of between £500k with limitations enforced and £821k without the limitations being enforced.



How will this proposal impact on the environment?  N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.		Positive impact (Place a X in the box below where	No impact (Place a X in the box below where	Negative impact (Place a X in the box below where	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel		x		If builders are leaving this with the householder to recycle rather than recycling it themselves, then no change.		N/A
	Emissions from construction		x				
	Emissions from running of buildings		x				
	Emissions from data storage		x				
	Other						
Minimise <b>waste</b> : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic	x			Some householders will currently be disposing of small quantities in their wheeled bins, whereas under the FoC proposal they will be more likely take to a HWRC.	Recycling/ reuse options are available for most types of wastes and there are no charges for some of these wastes.	Continue to encourage separation of wastes and recycling /reuse	

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where</p>	<p><b>No impact</b> (Place a X in the box below where</p>	<p><b>Negative impact</b> (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
Reduce <b>water</b> consumption		x				
Minimise <b>pollution</b> (including air, land, water, light and noise)	x			Preventing disposal of small quantities in domestic wheeled bins will prevent it being processed via the Energy from Waste site and increase recycling.		
Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers		x				
Enhance <b>conservation</b> and wildlife		x				
Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b>		x				
Other (please state below)						

**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

N/A

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

### Sign off section

This climate change impact assessment was completed by:

<b>Name</b>	<b>Leanne Taylor</b>
<b>Job title</b>	<b>Service Development Manager</b>
<b>Service area</b>	<b>Transport, Environment and Countryside Services</b>
<b>Directorate</b>	<b>BES</b>
<b>Signature</b>	<b>L Taylor</b>
<b>Completion date</b>	<b>May 2022</b>

**Authorised by relevant Assistant Director (signature):**

**Date:**

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## North Yorkshire County Council

### Business and Environmental Services

#### Executive Members

24 June 2022

#### YorBus Pilot Project Extension

#### Report of the Assistant Director – Travel, Environmental & Countryside Services

##### **1.0 Purpose Of Report**

- 1.1 To update the Corporate Director, Business and Environmental Services (BES), and Business and Environmental Services Executive Members on the YorBus pilot project over the last 12 months.
- 1.2 Seek approval from The Corporate Director, BES and BES, Executive Members to extend the YorBus pilot scheme for up to 12 additional months from July 2022.

##### **2.0 Background**

- 2.1 As part of the wider review of transport across the authority, The Council wanted to investigate alternative delivery options for providing transport services across the county. A proof of concept activity for a digital demand responsive service in a rural town and its surrounding villages was agreed as a pilot project. This was agreed for a period of 12 months and its aim was to offer customers a more flexible and responsive service, improving the customer experience.
- 2.2 The service is provided on two 14 seater , wheelchair accessible buses using NYCC “in house” fleet vehicles and staff resource and was launched in Ripon, Masham, Bedale and surrounding villages in July 2021 covering an area of 217km<sup>2</sup>.The service operates from 06:55 to 18:00 Monday to Friday, and 09:00 to 18:00 on Saturdays.
- 2.3 Customers using the service are required to book ‘on demand’ via the dedicated YorBus app or through the NYCC Customer Service Centre. The service cannot currently be pre-booked and this model offers the service maximum flexibility in terms of aggregating rides and also maximises the ability of the service to meet passenger demand.
- 2.4 There is a flat fare of £1.20 for adults to travel within the service area, or 65p for a child, with under-fives travelling for free. Customers with a concessionary bus pass may use their bus pass to travel for free within concessionary bus pass hours.

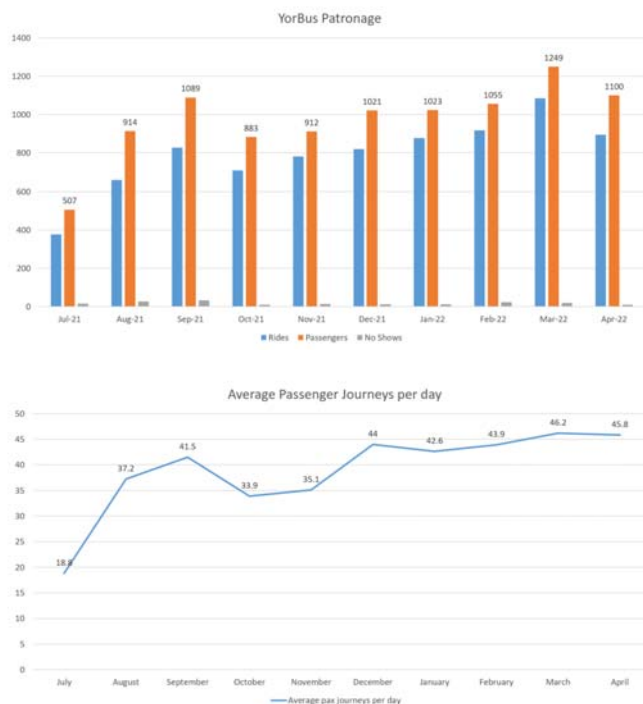
##### **3.0 Performance of YorBus 2021/22**

- 3.1 The business case for the project identified a set of Key Performance Indicators (KPIs) for the service. The table below sets out these KPIs and the progress the pilot has made in achieving them

<b>KPI</b>	<b>Measure</b>	<b>Target</b>	<b>Progress (09/05/22)</b>
Passenger mode shift from fixed timetable to YorBus	Number of pick ups	758 at 3 months 885 at 6 months	9,765 Patronage data on LBS suggests this is latent demand rather than modal shift
Customer satisfaction	Ride rating	85% of riders give a 4 or 5 star rating	92% 5 star rating
Awareness of service	Citizens Panel survey responses which indicate they have heard of the YorBus service	50% respondents indicate they are aware of the service (6 months post Go Live)	Survey in progress, initial results indicate 89% of respondents who live in Hambleton or Harrogate districts (where the pilot operates) are aware of the service
Customer base	Number of customer accounts created	171 at 3 months 398 at 6 months	2,416 accounts created
Journey availability	% requests which receive a ride proposal	80% requests receive a proposal	82% requests received a proposal
Pick up times	% ride proposals within 45 minutes of search time	65% requests offered a journey within 45 minutes of search time	Average wait time 31 minutes (73% of all scheduled rides* offered a journey within 45 minutes of search)  *Figure not obtainable where proposal was not confirmed
Punctuality	Average pick up time: Scheduled v Actual	Average pick up time: Scheduled v Actual to be less than 5 minutes	Average pick up time: Scheduled v Actual 0.4 minutes
Service suitability	% accepted proposals	60% proposals accepted at 6 months	47.4% - although lower than target, this is higher than other DR services when looked at in a benchmarking exercise
Mid project reviews and final assessment on wider rollout recommendation	Reviews will monitor as a minimum: Objective: Costs (internal and external), income and customer demand (pilot and existing subsidised services) Subjective: Customer satisfaction and experience evidence.	Review reports at month 1, 3, 6 and 9	2 reviews complete, review 3 in progress

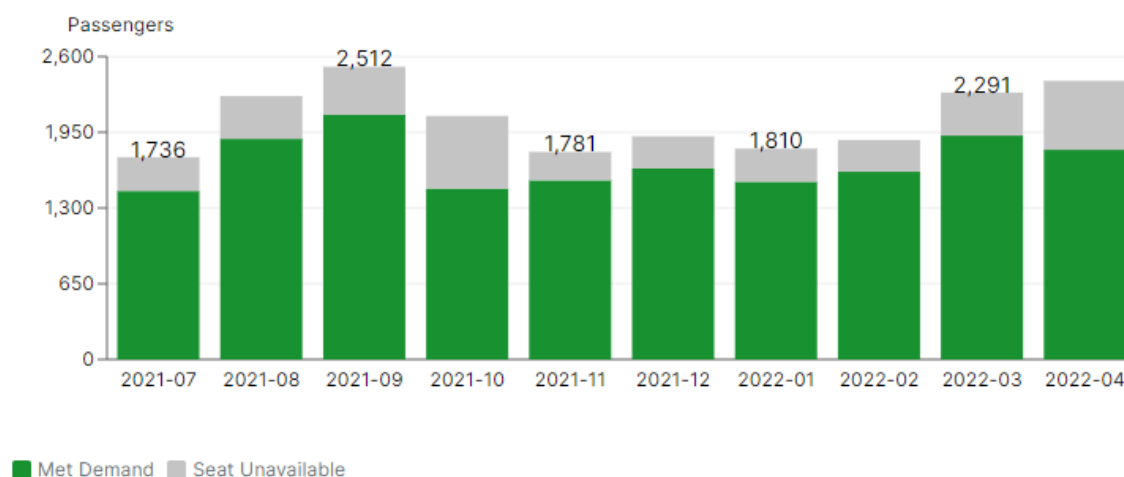
3.2 Comparator data has been sought from Via (the system provider) in relation to other schemes operating across the country to benchmark, the YorBus pilot service. The comparator data demonstrates that YorBus is slightly ahead of peers in completion rate and seat availability.

3.3 Patronage of the YorBus service has been stronger than forecast during the project pilot, and exceeded the key performance indicators associated with patronage.



### Met Demand

Number of ride requests (passengers) met with a ride proposal.



### 4.0 Customer Feedback

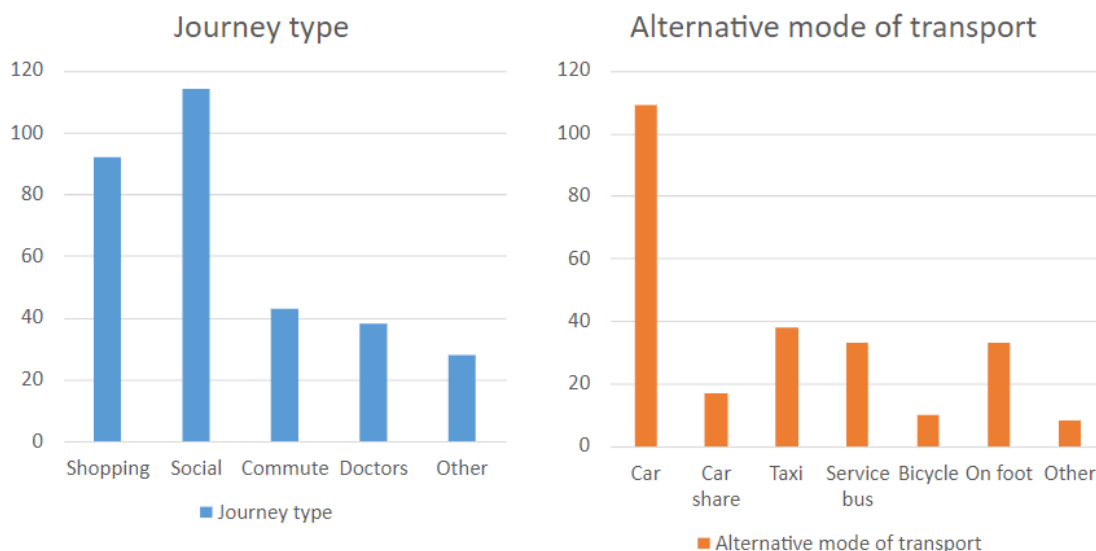
4.1 Feedback from customers has been very positive, and the high levels of customer satisfaction are reflected in the number of repeat passengers using the service.

4.2 In the period 01/07/21 - 09/05/22, YorBus has seen more than 650 active riders, with 39% of these customers completing more than 5 journeys on the service. There are a number of customers who have completed more than 100 rides on the service.

4.3 Customers who leave feedback via the app leave an average rating of 4.9 out of 5 stars, with 92% of rides being given a 5 star rating.

4.4 A survey carried out in May 2022 has found that customers have been using the YorBus service to travel to work, essential services and for social trips, and that the most common mode of transport which would have been used if YorBus wasn't available was a car. This clearly evidences that YorBus is helping to tempt North Yorkshire residents away from the private motor vehicle and onto public transport.

- What do/would you use the service for? How would you travel otherwise?



## 5.0 Pilot Extension

5.1 As the service approaches one year of operation, both the planned end date of the pilot and the end date of the contract with the software provider are approaching.

5.2 There are three options we have considered:

1. cease the pilot and remove the service from the operating zone
2. cease the pilot and mainstream the service in the operating zone only
3. extend the pilot while options are considered around the expansion of the service to other parts of the county.

5.3 Having evaluated each option using a 5-point business model we have identified the risks/benefits of each option and the preferred option is 3 as:

- The YorBus pilot has clearly evidenced that digital demand responsive transport is filling a gap in public transport provision, enabling people to travel to work, essential services and to make social trips – and it is helping to reduce car use.
- The YorBus pilot has evidenced that this delivery model appeals to a wide range of customers, encompassing children, fare paying adults and concessionary pass holders.
- It is likely that the success of the pilot could be replicated in other areas of the county, and provide a public transport option for many North Yorkshire residents in rural locations.

5.4 The recommendation is to extend the pilot for the duration of up to 12 months (until 30 June 2023), to enable options for wider rollout to be explored in more detail, including assessing potential zones and a review of the overall delivery model



## 6.0 Next Steps

- 6.1 There are areas for development that we would like to give attention to should approval be given to extend the pilot. Some of the key areas are:
- Develop our telephone contact option for a better customer experience
  - Consider how to roll out return booking experience for the customer
  - Undertake a fares review and look at incentivising certain areas like group bookings
  - Consider if we can widen the current offer to other villages bordering the zone
  - Re-launch a comms campaign over the summer
  - Following the confirmation from the DfT that BSIP funding will not be forthcoming, seek alternative funding sources for future roll out to other parts of the County.

## 7.0 Equalities

- 7.1 Consideration has been given to the potential for any adverse equality impacts arising from this decision (see Appendix A). The extension of the pilot scheme will allow all passengers to continue to benefit from the service and provide travel options for all members of the community to access essential services.
- 7.2 Maintaining the YorBus service levels will help to avoid any adverse impact to groups of people with protected characteristics.

## 8.0 Finance

- 8.1 During 2020/21 £15,000 expenditure was incurred as one off set up costs with Via, the software provider. Expenditure and income during 2021/22 (Jul-21 – Mar-22) was as follows:

Item	Cost
Printing	£664
IT Software	£11,045
Marketing	£16,653
Fleet Operational Costs	£143,337
CSC charge	£1,684
Fares	-£6,366
<b>Total</b>	<b>£167,017</b>

The costs in the 21/22 financial year were met from the ENCTS budget

- 8.2 Should the pilot be extended the costs during 2022/23 (April 22 – March 23) are detailed below:

Item	Cost
Fleet Operational Costs	£207,564
Admin	£9,672
IT Software	£15,960
CSC charge	£8,536
Fares income*	-£12,833
<b>Total</b>	<b>£228,899</b>

\* Estimated income based on most recent complete month of operation.

- 8.3 The costs in the 21/22 financial year in 8.1 cover 9 months of operation from July 2021 to March 2022 and the costs in 8.2 cover 12 months of operation from April 22 to March 23. Costs from April 23 until July 23 will be met from 2023/24 IPT budget allocations.
- 8.4 It should be noted that the fleet operational costs have increased this financial year due to additional costs in fuel and staffing and CSC costs are larger in the current year due to the requirement for increased staff support hours to cover increased operational hours.
- 8.5 The income is estimated on current fares so will increase if the fares increase is put in place as planned in August 2022.

## **9.0 Legal**

- 9.1 The Council's obligations as set out in the Transport Act 1985 section 63 (as amended by the Transport Act 2008), places the following duty on the Council:
- to secure the provision of such public passenger transport services as the Council consider it appropriate to secure to meet any public transport requirements within the county which would not in their view be met apart from any action taken by them for that purpose;
  - in exercising or performing any of their functions pursuant to section 63 the Council shall have regard to the transport needs of members of the public who are elderly or disabled
- 9.2 The Procurement and Contract Procedure Rules shall be followed to extend the contract with ViaVan for access to a technology platform system to manage demand responsive transport services for a further 12 months.

## **10.0 Climate Change**

- 10.1 The continuation of the pilot will allow passengers continued access to a flexible bus service that allows them to continue accessing essential services. Maintaining the bus service level for another twelve months will not have any positive or adverse impacts. Impacts will remain the same as existing, see Appendix B.

## **11.0 Recommendation**

- 11.1 That the Corporate Director, Business and Environmental Services in consultation with Business and Environmental Services Executive Members agrees to the extension of the YorBus Pilot Project for up to 12 additional months from July 2022 and notes that the additional costs of £228,899 during 2022/23 will be funded from existing IPT budget allocations

MICHAEL LEAH  
Assistant Director – Travel, Environmental & Countryside Services

Author of Report: Catherine Price/Emma Pemberton

Background documents: None

Initial equality impact assessment screening form			
This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.			
Directorate	Business and Environmental Services		
Service area	Integrated Passenger Transport		
Proposal being screened	YorBus Pilot Project Extension		
Officer(s) carrying out screening	Catherine Price		
What are you proposing to do?	Continue the current provision of the YorBus service with for an extended pilot period		
Why are you proposing this? What are the desired outcomes?	to enable options for wider rollout to be explored in more detail, including assessing potential zones and a review of the overall delivery model		
Does the proposal involve a significant commitment or removal of resources? Please give details.	No		
<b>Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics</b> As part of this assessment, please consider the following questions: <ul style="list-style-type: none"> <li>To what extent is this service used by particular groups of people with protected characteristics?</li> <li>Does the proposal relate to functions that previous consultation has identified as important?</li> <li>Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul> <p>If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your <u>Equality rep</u> for advice if you are in any doubt.</p>			
Protected characteristic	Potential for adverse impact		Don't know/No info available
	Yes	No	
Age		X	
Disability		X	
Sex		X	
Race		X	
Sexual orientation		X	
Gender reassignment		X	
Religion or belief		X	
Pregnancy or maternity		X	
Marriage or civil partnership		X	
<b>NYCC additional characteristics</b>			
People in rural areas		X	
People on a low income		X	
Carer (unpaid family or friend)		X	
Does the proposal relate to an area where there are known inequalities/probable	Yes, the proposals relate to public transport.		

<b>impacts</b> (e.g. disabled people's access to public transport)? Please give details.				
<b>Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics?</b> Please explain why you have reached this conclusion.	No			
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:	<input checked="" type="checkbox"/>	Continue to full EIA:	
<b>Reason for decision</b>	<p>The extension of the pilot scheme will allow all passengers to continue to benefit from the service and provide travel options for all members of the community to access essential services.</p> <p>Maintaining bus service levels will avoid any adverse impact to groups of people with protected characteristics.</p>			
<b>Signed (Assistant Director or equivalent)</b>	Michael Leah			
<b>Date</b>	18/05/2021			



## Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk)

**Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:**

Planning Permission  
Environmental Impact Assessment  
Strategic Environmental Assessment

However, you will still need to summarise your findings in in the summary section of the form below.

Please contact [climatechange@northyorks.gov.uk](mailto:climatechange@northyorks.gov.uk) for advice.

<b>Title of proposal</b>	YorBus Pilot Project Extension
<b>Brief description of proposal</b>	To extend the current YorBus service for a further 12 months
<b>Directorate</b>	Business and Environmental Services
<b>Service area</b>	Integrated Passenger Transport
<b>Lead officer</b>	Catherine Price
<b>Names and roles of other people involved in carrying out the impact assessment</b>	None
<b>Date impact assessment started</b>	May 2022

**Options appraisal**

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

The other option consider is not to submit the acceptance declaration. However the council would not receive the grant funding available which in turn would have adverse impacts in maintaining the bus service levels needed to help key workers get to work and allowing the public to access essential services.

**What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

10.1 The Council will allocate funds to extend the pilot project from existing resources for the extension period.

How will this proposal impact on the environment?  N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.		Positive impact (Place a X in the box below where	No impact (Place a X in the box below where	Negative impact (Place a X in the box below where	Explain why will it have this effect and over what timescale?  Where possible/relevant please include: <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Minimise <b>greenhouse gas emissions</b> e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel		X		Maintain bus service levels needed to help the public to access essential services will result in no impact.		
	Emissions from construction		X		No impact.		
	Emissions from running of buildings		X		No impact.		
	Other		X		No impact		
Minimise <b>waste</b> : Reduce, reuse, recycle and compost e.g. reducing use of single use plastic		X			No impact.		
Reduce <b>water</b> consumption		X			No impact		
Minimise <b>pollution</b> (including air, land, water, light and noise)		X			Maintain bus service levels needed to allow the public to access essential services will result in no impact.		

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p><b>Positive impact</b> (Place a X in the box below where</p>	<p><b>No impact</b> (Place a X in the box below where</p>	<p><b>Negative impact</b> (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> <li>• Changes over and above business as usual</li> <li>• Evidence or measurement of effect</li> <li>• Figures for CO<sub>2</sub>e</li> <li>• Links to relevant documents</li> </ul>	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Ensure <b>resilience</b> to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers</p>		X		<p>No impact anticipated at this stage.</p>		
<p>Enhance <b>conservation</b> and wildlife</p>		X		<p>No impact anticipated at this stage.</p>		
<p>Safeguard the distinctive characteristics, features and special qualities of <b>North Yorkshire's landscape</b></p>		X		<p>No impact anticipated at this stage.</p>		
<p>Other (please state below)</p>		X		<p>No impact anticipated at this stage.</p>		



**Are there any recognised good practice environmental standards in relation to this proposal?** If so, please detail how this proposal meets those standards.

Not currently aware of any good practice environmental standards relating to this proposal.

**Summary** Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The continuation of the pilot will allow passengers continued access to a flexible bus service that allows them to continue accessing essential services. Maintaining the bus service level for another twelve months will not have any positive or adverse impacts. Impacts will remain the same as existing.

Maintaining bus service levels will not have any positive or adverse impacts. Impacts will remain the same as existing.

#### Sign off section

This climate change impact assessment was completed by:

<b>Name</b>	Catherine Price
<b>Job title</b>	Head of Transport Services
<b>Service area</b>	Integrated Passenger Transport
<b>Directorate</b>	Business and Environmental Services
<b>Signature</b>	C Price
<b>Completion date</b>	18/05/2022

**Authorised by relevant Assistant Director (signature): Michael Leah**

**Date: 18/05/2022**

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