

North Yorkshire Council

Community Development Services

Planning Committee CONSTITUENCY COMMITTEE/STRATEGIC PLANNING COMMITTEE

31 MAY 2023

20/01333/FULMAJ - FULL PLANNING APPLICATION FOR 53 NO. RESIDENTIAL DWELLINGS WITH ASSOCIATED PARKING, PUBLIC OPEN SPACE AND LANDSCAPING (AMENDED SUBMISSION) AT LAND COMPRISING FIELD AT 429829 457681 KNOX LANE HARROGATE NORTH YORKSHIRE ON BEHALF OF JOMAST

Report of the Assistant Director – Planning

1.0 Purpose of the Report

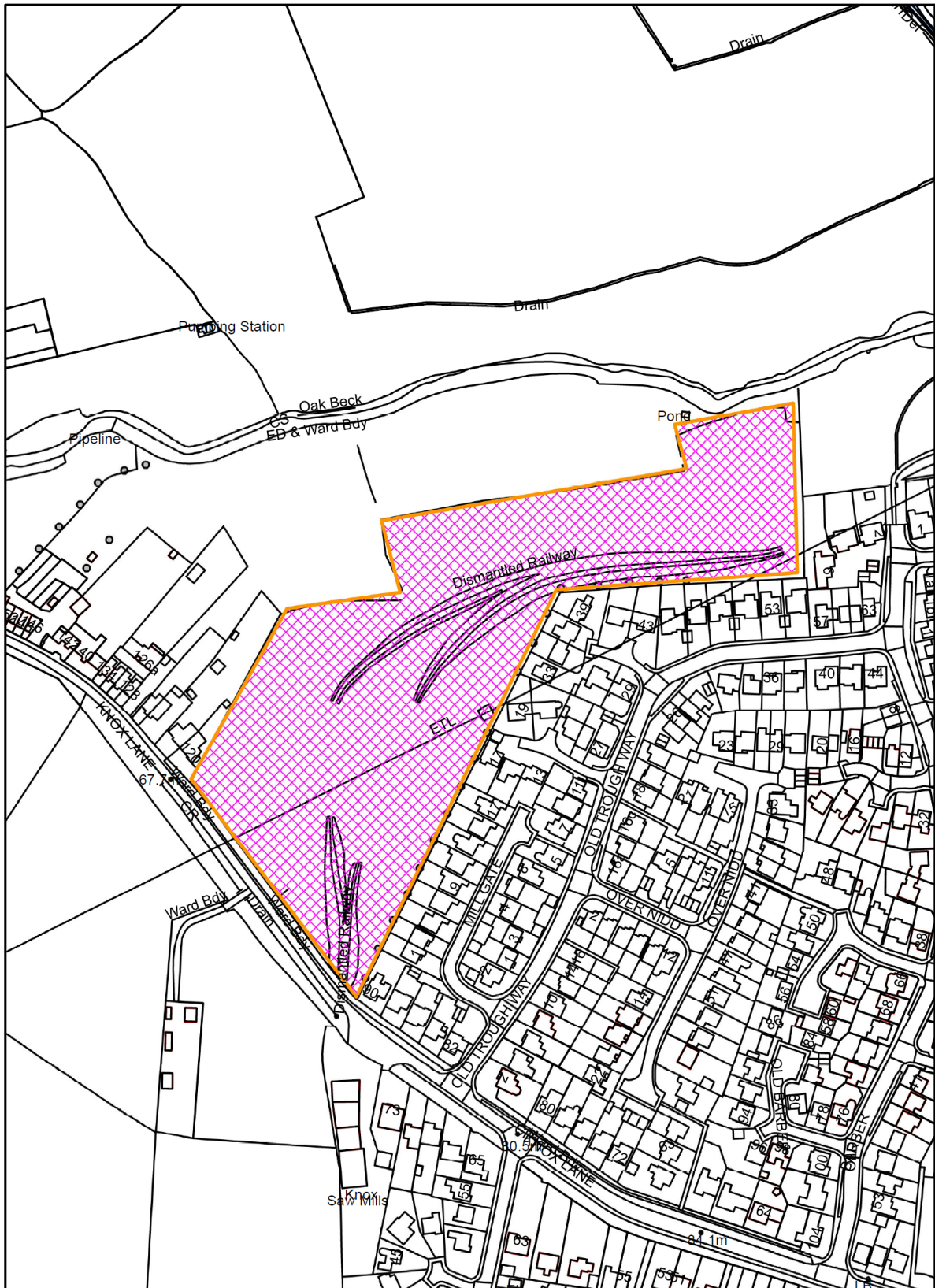
- 1.1 To determine a planning application for Full planning application for 53 no. residential dwellings with associated parking, public open space and landscaping (Amended submission) on land at Field At 429829 457681, Knox Lane Harrogate on behalf of Assistant Director – Planning
- 1.2 This application is brought to the Planning Committee due to former Harrogate Borough Councils Scheme of delegation and minutes of meeting of the 14 February Harrogate Borough Council Meeting.

2.0 SUMMARY

RECOMMENDATION: That planning permission be **APPROVED IN PRINCIPLE** and **DELEGATED TO THE ASSISTANT DIRECTOR FOR PLANNING TO BE GRANTED** subject to conditions listed below and the completion of a S106 agreement with terms as detailed in Table 1.

- 2.1. The proposal represents the development of an allocated residential site within the Harrogate District Local Plan (Site H2). The scheme proposes the development of 53 residential units with access taken from Knox Lane.
- 2.2. The scheme has been the subject of negotiation, resulting in a revised layout that is considered to meet the developer guidelines for the site as identified within the Harrogate District Local Plan 2014-2035, in accordance with Policy DM1. Although the site extends beyond the allocation identified in H2, the additional land take is to be utilised for biodiversity gain, green infrastructure and open space and is to remain undeveloped (with the exception of an underground attenuation tank).

- 2.3. The scheme in its revised form is considered to now be in compliance with development plan policy as identified in the report below.
- 2.4. The application has been considered and deferred by Members of Harrogate Planning Committee, however the reasons for deferral would not form reasonable reasons for refusal.
- 2.5. A section 106 agreement is required to secure affordable housing, commuted sums and biodiversity and as such it is recommend that the application is deferred for approval subject to the conditions and the completion of the S106 agreement.



Harrogate
BOROUGH COUNCIL

Location Plan

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Scale 1:2,500



16/05/2023

3.0 **Preliminary Matters**

3.1. Access to the case file on Public Access can be found [here](#).

3.2. Deferral update

The application was originally deferred consideration at Harrogate Borough Councils Planning Committee on 4 October 2022 for the following reasons:

- Receipt of comments from the local lead flood authority on drainage
- Amended house sizes to meet the national space standards
- Further information on ground contamination
- Further information on ecology
- Assessment of a covenant that may potentially impact upon the layout of the site

Members were advised that in relation to each point:

- The Local Lead Flood Authority have now provided further advice on the scheme and have confirmed that they would have no objection to the development subject to conditions.
- Amended plans have been received with revised house sizes to meet the national described space standards. The Housing department have been consulted and have commented upon the amendments, confirming that the affordable units now meet the space standards.
- The applicant has provided additional information in respect of potential ground contamination through the submission of a Phase II Ground investigation report and a Ground Gas Risk Assessment. These have been the subject of re-consultation with the Council's Environment protection team, who have re-affirmed that they have no objection to the development subject to the imposition of conditions.
- Members have been furnished with ecological information in relation to the protection of badgers, which was not available at the time of consideration of the application in October. A revised biodiversity metric has been received as a consequence of the amendments to the application. This has been the subject of consultation with the Council's ecologist, who has no objection to the revised information, which demonstrates no net loss of biodiversity as required by Local Plan Policy. The metric identifies a net gain in the region of 7%.
- The applicants have provided additional information regarding the electricity overhead line and covenant.

3.3. The application was subsequently presented to Harrogate Borough Councils Planning Committee on 14 February 2023 and was again deferred consideration for the following reasons:

- 1) for a further report regarding land contamination to include further sampling including sampling specifically in the area of the former railway line.

- 2) to seek additional comments from Northern Powergrid specifically in respect of the risks associated with childhood leukaemia

The applicants have provided additional information in respect of the location of the trial bore holes undertaken at the site in relation to the location of the former railway line.

- 3.4. The applicant has sought advice from land contamination consultants. The consultants advised that the Application Site, including the former railway line, has been comprehensively tested by the excavation of the 14 no. boreholes and trial pits. These excavations were evenly spread across the Site in accordance with best practice. The railway line and its immediate locality were subject to seven exploratory excavations. With respect to contamination testing, six samples were tested from across the site, of which three samples came from the aforementioned seven exploratory positions. No significantly elevated contamination was encountered within any of the six samples tested from across the site. It has been noted by Solmek that there is potential for Unexpected Contamination and this is controlled within the Councils Environmental Protection recommended conditions.
- 3.5. In order to satisfy the formation levels, the embankments are to be removed from site. If there is further made ground remaining following the removal of the embankments, there are three suitable options suggested by the applicant:
1. The made ground should be removed from site.
 2. The made ground should be encapsulated beneath permanent hardstanding (roads/pavements) or building footprints.
 3. The made ground should be tested to determine its suitability to remain on-site but not encapsulated (i.e. in soft landscaped areas).
- 3.6. The applicants maintain that the above approaches would ensure no contamination relating to the historic railway features can remain on-site.
- 3.7. The Environmental Protection Officer has re-affirmed that there is no objection to the approach undertaken at the site in respect of ground contamination.
- 3.8. Northern Powergrid have been notified of the Leukemia issue but at the time of writing this report no comments have been received, other than the initial response which identified prescribed amenity distances from the overhead lines and for which the applicant has adhered to.
- 3.9. The applicants have in addition, included examples of various Appeal Decision Notices where the presence of Power lines and potential impact upon children's health and living conditions have been identified and formed

part of the determination of the application. This includes an example where parameter distances from pylons have been achieved. These appeals highlight that the issue of the proximity of power lines to residential development has been considered on several occasions over the course of the past 20 years.

- 3.10. However, in all cases, the Planning Inspectorate has made clear that there is no justification within policy for withholding planning permission based on unsubstantiated evidence and claims of a link between ill health and the proximity of power lines, where guidance from statutory providers have been followed in respect to the design of the proposed housing scheme. This is the case in consideration of the proposed development. The scheme meets the requirements of Northern Power Grid in respect of prescribed amenity distances. Correspondence identifies a 30m corridor, although a smaller corridor may be achieved dependent upon a swing and sag profile (a paid service from Northern Powergrid). Gardens may be designed to fall within this 30m corridor- the exclusions are that their boundary should be a minimum of 9m from any tower base.
- 3.11. Furthermore, the Appeal examples also establish that the onus is not on the applicant to demonstrate there would be no risk to human health in these circumstances but is on the Council to show that demonstrable harm would be caused to interests of acknowledged importance if the scheme were to go ahead. The Council do not have such evidence.

4.0 Site and Surroundings

- 4.1. The site is located to the northern side of Knox Lane, with residential development abutting the eastern side of the site, situated on Mill Gate and Old Trough Way. The site slopes downwards in a general north-western direction towards Oak Beck. The site is characterised by mature tree planting to the boundaries. A stone wall situated on an embankment is located to the Knox Lane frontage, which is itself heavily planted with trees. Residential units fronting Knox Lane are located to the north west of the site fronting Knox Lane itself.
- 4.2. A country park is located to the north east of the site. The nearest heritage asset is the Grade II listed Spruisty Bridge located some 280 metres to the North West. Overhead power lines cross the site. The site includes the remains of a former railway line and embankment. The residential element of the site falls within the development limit for the town. The site as a whole falling within a Special Landscape Area designation in the Harrogate Local Plan 2014-235.

5.0 Description of Proposal

- 5.1. The application seeks the construction of 53 dwellings with access taken from a new access point from Knox Lane. Additional and compensatory tree planting is proposed to the northern section of the site , where a pedestrian footpath will link to the existing country park

6.0 Planning Policy and Guidance

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:

- The Harrogate and District Local Plan 2014-2035

Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:
- National Planning Policy Framework 2021
 - National Planning Practice Guidance
 - SPDNGB- Providing net gain for Biodiversity
 - SPDAFH – Affordable Housing
 - SPDPOS- Open Space with New Housing Development
 - SPDVH- Village Halls with New Housing Dev
 - SPGBIO – Biodiversity Design Guide
 - SPD – Green Infrastructure
 - SPGLAP- Landscape Character Assessment Harrogate District

7.0 Consultation Responses

- 7.1. The following consultation responses have been received and have been summarised below.

- 7.2. **Consultee:**

- 7.3. **NYC: HERITAGE:** No objection

- 7.4. **Environmental Protection:** Recommends Conditions to cover Contaminated Land, Noise and Dust during development and to protect future residents from potential noise source at Knox Sawmills.

- 7.5. **NYC: Local Highway Authority:** Confirm no objections to the revised layout.
- 7.6. **Arboricultural Officer:** No objection subject to conditions.
- 7.7. **HBC Ecologist:** No objection subject to conditions and S106.
- 7.8. **Housing Dept.:** No objection.
- 7.9. **Police Designing Out Crime Officer:** Comments that low railings are used to demarcate semi-private space (plots 42-43 and 4-7) and that defensive planting is used to the rear of plots 42 to 53 where they back onto open space.
- 7.10. **NYCC Education:** Require a financial contribution towards school expansion places.
- 7.11. **Yorkshire Water:** recommend the imposition of conditions.
- 7.12. **National Grid:** Advised that ground cover not be altered either above cables or below overhead lines. In addition no trees should be planted within 3m of underground cables or 10 metres of overhead lines. Should diversion be necessary an informative is recommended.
- 7.13. **Northern Gas:** The site falls outside of Cadens Network. Please contact National Grid and/or local Gas distributor.
- 7.14. **NYC LLFA:** No objection subject to conditions.
- 7.15. **DLAS Commuted Sum:** Identify Commuted sums are required for :
- Allotments and community Gardens
 - Amenity Green spaces
 - Cemeteries, Churchyards
 - Natural and semi natural green space
 - Outdoor Sports facilities
 - Parks and Gardens
 - Provision for children and young people
- Local Representations
- 7.16. Objections:
- 7.17. The applicants undertook Community engagement with drop in sessions following two leaflets drops at Bilton Community Centre on 15 February and 22 March 2018.
- 7.18. 326 representations have been received in total over the duration of the application. Many of these are repeat, or multiple objections based over the

initial submission and revised proposal. The objections include commissioned reports on Landscape /Ecology/Heritage Contamination and Highway Concerns.

- 7.19. Since 14th February 6 letters received from 3 addresses still raising concern over contamination and landscape.
- 7.20. Following presentation of the application in October 2022, a further 23 additional letters of objection have been received on the following grounds:
- Disputing the findings of the Phase II Ground Contamination Report
 - The site wasn't allocated in 2016 and shouldn't be now
 - An application to the rear of Old Trough Way for a domestic garden extension was refused under 21/03235/FUL due to an adverse impact upon the Special Landscape Area, the same principles should apply to this application
 - Too many affordable homes (greater than 40%)
 - The site is not suitable for wheelchair access
 - Parking space is below the NYCC standard
 - Additional traffic survey not undertaken
 - Electric vehicle charging points for all dwellings is not possible
 - TPO trees will be damaged
 - Conflict between providing a communal open space and protecting flora and fauna for biodiversity.
- 7.21. Following receipt of the amended scheme for 53 Units in December 2021 135 representations on the following grounds:
- Principle: The site should not be developed. Site H2 should not have been allocated in the Local Plan;
 - Highway Issues: Knox Lane is single width; not located near services; car dependant and not sustainable; increased congestion; road safety; No cycle lanes are provided; Gradients are too steep: adverse impact upon the local road network; increased air pollution;
 - Infrastructure; site is prone to flooding; drainage won't cope; schools are full; health facilities and other services are distant;
 - Amenity: Site is near Knox Sawmill; health concerns created by the overhead lines; development will create problems of overlooking; boundary treatment to Mill Gate is unclear;
 - Landscape: Loss of green space, loss of trees not justified; Potential damage from roots; who is responsible for future maintenance of the trees; adverse impact upon special landscape area; adverse impact upon rural edge location and rural character;
 - Design: Standard house types; contrary to local distinctiveness; materials not in keeping; house types not sufficient size to meet

affordable requirements; mix of housing including apartments not appropriate;

- Layout: Too many houses exceeding indicative yield; Green space should be retained. All traffic will use one access; cul de sac of 53 houses not appropriate;
- Biodiversity/Ecology: Loss of wildlife habitat; Badgers are protected by law;
- Heritage: Adverse impact upon Spruisty Bridge.

7.12 Similar issues were raised in respect of the initial submission but in addition objections included the number of units (73) and the extension into the Special Landscape Area that resulted.

8.0 Environment Impact Assessment (EIA)

8.1 The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

9.0 Main Issues

9.1. The key considerations in the assessment of this application are:

- Land use Principle
- Compliance with site requirements
- Highways and Accessibility
- Design and Layout
- Amenity
- Trees and Landscape
- Biodiversity
- Drainage
- Ground Contamination
- Other Matters
- Contributions and S106 Agreement

10.0 ASSESSMENT

Principle of Development

10.1. The proposed development has been amended since the original submission, reducing the number of dwellings proposed from 73 to 53 units with the dwellings provided on that part of the site forming the allocation in the Harrogate District Local Plan (Site H2). The application site still retains land to the north of the allocation and this is to be utilised for additional

landscaping, biodiversity, drainage, open space and to provide a pedestrian link through amenity open space to a network of footpaths to the north east of the site.

- 10.2. Policy DM1 of the Local Plan states that the sites allocated for housing in the plan will be developed in accordance with relevant Local Plan policy requirements and the development requirements identified in respect of each site
- 10.3. The site allocation H2 identifies that the site should provide an indicative yield of 52 units and has a number of site requirements, identified as follows:
 1. A high-voltage power line crosses the site and therefore development should ensure adequate amenity including in respect of safety, noise, visual impact, maintenance of the line, electric and magnetic fields, and other electrical effects.
 2. The design and layout of development should enhance the urban edge through locally distinctive development that reflects high-quality aspects of the local vernacular and displays a considered use of high-quality materials.
 3. Spruisty Bridge, to the north-west of the site, is Grade 2 listed; development of the site should minimise harm to, and seek to enhance, the significance of this designated heritage asset, including its setting.
 4. Provide Green Infrastructure which contributes to the creation of wider networks of connected Green Infrastructure linked in terms of habitat connectivity and, where appropriate, public access. This should include, in discussion with neighbouring landowners, securing linkages with off-site Green Infrastructure assets where possible, including: those planned on the nearby development site H69: Land to the east of Knox Hill and the open space to the rear of Peckett's Way.
 5. Retain mature trees and hedgerows along the site frontage with Knox Lane where possible. It is recognised that some loss may be unavoidable in order to gain appropriate access to the site but any loss should be compensated for by new planting of native trees and hedgerow on the site frontage and/or in the southern portion of the site amongst new built development.
 6. Retain the hedgerows and trees, including protected trees, on the other site boundaries.
 7. Provide vehicle, cycle and pedestrian access from Knox Lane; the location and design of the access should take account of the need to also provide vehicle, cycle and pedestrian access to site H69: Land to the east of Knox Hill.
 8. Provide pedestrian and cycle links within the site and from the site to create convenient and attractive routes through the development to local services, facilities and the public rights of way network.

9. The design and layout of development should protect and enhance the recreational and amenity value of nearby public rights of way; this should include the route of the Harrogate Ringway, which follows Knox Lane and Old Trough Way.

The amended scheme brings the total number of units very close to the indicative yield for the site with access taken from Knox Lane. The broad principle of development is considered acceptable given the allocation within the Local Plan.

Compliance with site requirements

- 10.4. The initial submission included an additional 20 units which were situated to the north-east of the allocated site, which is now to form an integrated area of open space and habitat creation to meet the biodiversity needs of the site. The scheme provides a site density of approximately 33 dwelling units per hectare based upon the developable area of the site. Policy HS1 seeks to ensure that new housing development will be expected to achieve a minimum net density of 30 dwellings per hectare, with development in the urban areas to achieve higher densities, so the proposal accords with this policy.
- 10.5. The developer has avoided built development under the high voltage lines that cross the site. Consultation has taken place with National Grid, who do not object to the development, subject to an informative providing additional advice to developers. The scheme has been designed in accordance with the National Grid safeguarding distances and is considered to meet bullet point 1 of the site requirements. Local residents have raised concern regarding a covenant which stipulates a greater distance than that provided on site. The case officer has made the Northern Powergrid Wayleave team aware of the covenant but despite attempts to garner a response to the covenant none has been forthcoming. Northern Power Grid have commented upon the planning submission and your case officer would re-iterate they have no objection to the scheme, re-iterating that a 30m easement is acceptable. The applicants have in addition provided their own legal advice, which identifies that the information provided by the resident relates to neighbouring land and not the application site. It is considered that the issue of the covenant (which would in any case fall outside planning legislation) should not prevent determination of the application. The applicants have satisfactorily addressed the issue of the overhead lines in terms of amenity distances recommended by Northern Powergrid.
- 10.6. The site at present represents a transition from the suburban development that is characteristic of the Old Trough area, to the more vernacular loose form of frontage development situated at the hamlet of Knox. The frontage to the site has a very rural feel. To aid transition, the houses situated on the

Knox Lane frontage have been set back into the site and are to be constructed at low density, behind new additional planting. As the site is elevated in relation to the lane, this is considered essential, so as not to overpower the street scene with built development, but also to ensure that a transitional feel is generated between the higher density development to the east and the more sporadic development to the west. By adopting such an approach together with additional planting the scheme is considered to enhance the urban edge as required by bullet point 2 of the site requirements.

- 10.7. With regards to bullet point 3, Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires a Local Planning Authority, when considering a planning application that affects a listed building, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 10.8. Spruisty Bridge is a designated Heritage asset. The bridge is a Grade II listed structure located approximately 280 metres to the north-west of the site. The Bridge is a former packhorse bridge spanning Oak Beck and is constructed of stone and not open to vehicular traffic. The development of the site by reason of its degree of separation will not impact upon the immediate setting of the bridge. It is acknowledged that the development would, however, bring more urban development closer to the bridge than at present. This will likely increase footfall over the bridge. To enhance the significance the applicants are looking to provide an information board, referencing the bridge and the route of the Harrogate Ringway public footpath route that fronts the application site.
- 10.9. Green infrastructure is provided throughout the site, with the retention of open space at the entrance to the site and centrally within the site (underneath the power lines) and a second larger area to the north east, which is to be supplemented by additional planting following the deletion of the larger number of units from the scheme. Site H68, which is referred to within the development guidelines is located on the opposite side of the road and is thus severed from the site. It is, however, acknowledged by providing a green boundary along the Knox Lane frontage, through new planting and the adoption of low density development some linkage can occur. The retention of the green infrastructure which is to be reinforced by habitat creation to the north east helps meet bullet point 4 of the site requirements above.
- 10.10. The provision of access onto Knox Lane inevitably has resulted in the loss of trees on the site frontage. This is as a consequence of the construction of a new access / change in levels and need to provide visibility. The trees which are predominantly Ash have also suffered from die back, which has resulted in an opportunity to look at tree planting throughout the site. Replacement

planting is proposed throughout the site, however, the presence of the overhead lines is a prohibiting feature in this respect (see National Grids comments). As a consequence, to meet both biodiversity requirements and to compensate for the inevitable loss of frontage trees, additional planting is proposed both within the site, to the northern boundary and upon land to the north and west, which in addition, will also include wildflower meadow planting as part of the proposal.

- 10.11. Trees to the remaining boundaries, which are visually dominant in the locality, are protected and incorporated into the scheme. The scheme as a consequence meets bullet points 5 and 6 of the developer guidelines.
- 10.12. In relation to bullet points 7, 8 and 9, the nature of the site does not lend itself to additional cycle and pedestrian links other than from Knox Lane. The applicants have confirmed that a pedestrian link is to be provided on land to the north, to link to the existing footpath network, including the Harrogate Ringway. The route of the Ringway passes the site frontage before following Old Trough Way, this route is not affected other than through the need to provide vehicular access to the site frontage.
- 10.13. The development has no adverse impact upon the existing public rights of way and enhancement is achieved through the provision of a connecting footpath to the network situated to the north-east of the site.
- 10.14. Having regard to the above, it is considered the scheme is compliant with the developer guidelines for the site.

Highways and Accessibility

- 10.15. Vehicular access is to be taken from Knox Lane. Knox Lane is at present single width, with a pedestrian footpath to the northern side of the site. The access will also serve as both the pedestrian and cycle entrance to the site.
- 10.16. The scheme is supported by a Transport Assessment. This report has examined the existing transport network in the vicinity of the site, considered relevant national and local transport planning policy, outlined the development proposals and determined the resulting impact on the transport network. The assessment demonstrates the following:
 - The proposals fully accord with relevant national and local planning policy. An appraisal of accessibility has been undertaken, demonstrating that the residents will be able to use sustainable modes of transport for key journey purposes.
 - The site is served by public transport. Bus stops are located in the vicinity of the site and are served by bus services towards Harrogate

town centre, Knaresborough, Leeds and Wetherby, as well as other local areas.

- Vehicular access can be satisfactorily accommodated from Knox Lane.
- Changes in traffic flows associated with the development would not represent a significant impact on the operation of the highway network.

- 10.17. The scheme has been the subject of consultation with the Local Highway Authority (LHA). In order to accommodate the proposed development, it is necessary to widen Knox Lane, whilst retaining the pedestrian footway to the northern side of the lane.
- 10.18. Agreement has been reached with the LHA to limit the extent of the road widening works, to ensure that the rural character of the lane is maintained. In this respect the road will revert to its current width beyond the access into the site and a single footway provision only is to be retained on the application side of the site.
- 10.19. Internally within the site, amendments have been received to ensure appropriate parking, turning and bin reception areas. The LHA have been consulted upon the revised scheme and have confirmed that they have no objection to the revised proposals
- 10.20. To ensure and attract more sustainable transport options, a condition securing electric vehicle charging points is proposed.
- 10.21. There are currently no footpaths across the site, but there are several public rights of way outside the site's boundaries. There is an opportunity to enhance access, by adding a new link to the north of the site, which will link with the Harrogate Ringway and Knox Country Park to the north-east. There is currently no link from the land to the north. This land is, however, in the ownership of the Council and connection could be made. The proposed route would utilise the public open space through the development. The ecologist has confirmed the provision of the link would be acceptable in terms of connecting people with the natural environment. If a connecting route through the site was to be provided this would create a strong link to the existing public right of way up Knox Hill opposite the site entrance. This is considered to be compliant with the developer guidelines and Policy HP5, which identifies that opportunities for the enhancement of the existing network should be explored through the addition of new links to the existing network. The scheme will achieve this aim through the provision of the link.

Design and Layout

- 10.22. Local Plan policies HS1, HP2, HP3 and HP4 set out expectations of well-designed schemes. The NPPF also places great emphasis on the importance of good design. In this respect, it is necessary to ensure that that

the scale, density, layout and design, should make the best and efficient use of land and (a) be well integrated with and complementary to, neighbouring buildings and the spatial quality of the local area; and (b) be appropriate to the form and character of the settlement.

- 10.23. Local Plan Policy HP3 (Local Distinctiveness) identifies that development should incorporate high quality building, urban and landscape design that protects, enhances or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments.
- 10.24. The proposed dwellings are oriented towards the central spine access road within the site providing natural surveillance across the site from an active frontage. Further properties are situated off a number of cul-de-sac spurs from the main spine road, and orientated towards each private access road. Additionally, a number of dwellings are situated with views across the proposed public open space which sits within the power line easement. Dwellings adjacent to the site access are oriented towards Knox Lane providing views outwards.
- 10.25. The site is designed with a single point of access, which leads to a devolving road hierarchy, which is characterised by the central spine access road, which branches to the North East and South.
- 10.26. The site contains an area of public open space which occupies the land within the Western Easement, making best use of any undevelopable sections of the site, whilst creating a more pleasant environment for the potential end-user.
- 10.27. Knox Lane has very much a tree lined rural feel in this locality. To retain openness, the developers have avoided a structured street frontage, so that the dwellings, which topographically are set at a higher level than the road, do not dominate the street scene. This has been achieved so the dwellings front onto the main spine road leading into the site, so that the Knox Lane frontage, which extends to some 135m in length, only has 4 units situated along the frontage. These units themselves are set behind new hedgerow and tree planting with access taken internally from within the site. This gives an unbroken front boundary that is only punctuated by the proposed access road. The use of internal hedgerow planting and green infrastructure give a spacious feel to the entrance into the site with the parking areas to the south of the spine road screened and softened by new planting.
- 10.28. The overhead lines have dictated the siting of the dwellings internally within the site, with two developable areas either side of the lines. This has in effect created an area of green infrastructure running centrally within the site with further amenity areas provided to the north-east. This area (which

originally accommodated the additional but now deleted 20 units) is to be used for the SUDS attenuation storage tank. In addition, replacement planting for those trees lost at the frontage are to be provided and to enhance biodiversity, through the use of wildflower meadow planting. The amenity area also provides footpath links to the range of pathways situated to the north of Old Trough Way, including the Harrogate Ringway (helping meet the developer guidelines as referred to above).

- 10.29. Internally within the developable areas the applicants have utilised differing built forms to create high and lower densities of development. These incorporate off road parking areas, so as to ensure the access roads do not become dominated by parked vehicles.
- 10.30. The scheme itself utilises a mix of detached, semi-detached and terraced units, incorporating 12 apartments and 9 differing house types, providing a mix of accommodation ranging from 1 and 2 bedroom apartments and house types providing 1, 2, 3 and 4 bedroom accommodation, to provide a mix of accommodation across the site as a whole.
- 10.31. The affordable housing units, which exceed 40% provision in this instance, are situated throughout the site, ensuring integration with the market units. The scheme will require as part of that the provision of First Homes. The Housing Department have confirmed the acceptability of the scheme, with the affordable units providing the following accommodation:
- 22 houses and 8 apartments providing the following accommodation:
 - Housing: 4 x 1 bed, 10x 2 bed, 6x 3 bed, 2 x 4 bed
 - Apartments: 4 x 1 bed, 4 x 2 bed
- 10.32. The scheme is thus considered compliant with Local Plan Policy HS2 with the requisite number of adaptable and accessible homes.

Amenity

- 10.33. Local Plan Policy HP4 seeks to protect amenity, requiring development proposals to be designed so that they will not result in significant adverse impacts on the amenity of occupiers and neighbours.
- 10.34. Due to local topography, the site is undulating and careful consideration has taken place to ensure that the proposed dwellings do not dominate and overlook neighbouring units. This is particularly relevant toward the north-western boundary, where adjacent dwellings are located at a lower level than the application site.
- 10.35. A key component to ensure amenity can be retained has been the submission of a topographical survey and details of finished floor levels for

the proposed units. These demonstrate that adequate amenity distances and separation distances are to be provided to ensure no domineering or overlooking of neighbouring units occurs.

- 10.36. The site is located in close proximity to Knox Sawmills and as such the Chief Environmental Health Officer has requested a condition to secure a noise report to protect amenity of future occupiers of the dwellings.
- 10.37. It is acknowledged that the proposed residential site is crossed by a lower voltage electricity transmission overhead line (132kV).
- 10.38. Northern Powergrid prefers that buildings are not built directly beneath its overhead lines. This is for two reasons, the amenity of potential occupiers of properties in the vicinity of lines and because of the potential need for quick access to carry out maintenance.
- 10.39. National Grid has produced 'A Sense of Place' guidelines, which looks at how to create high quality development near overhead lines and offers practical solutions which can assist in avoiding the unnecessary sterilisation of land in the vicinity of high voltage overhead lines. The document recognises that land beneath and adjacent to the overhead line route can be used to make a positive contribution to the development of a site and can for example be used for nature conservation, open space, landscaping areas or used as a parking court.
- 10.40. In preparation of the planning application, the applicant's consulted Northern Powergrid, the operators of the overhead power lines. Northern Powergrid confirmed that the easement corridor should be 15m either side of the centre line of conductors, so a total 30m corridor. Therefore, no houses should be built nearer than 15m from the centre line of the overhead lines.
- 10.41. This easement to the overhead power lines has been taken account in the applicant's housing layout. In addition, the land underneath the power lines has been proposed for public open space in accordance with National Grid's guidance.
- 10.42. The house types have all been designed so as to fully comply with the requirements of Policies HS1 and HS2 in terms of ensuring the dwellings are accessible and adaptable with three of the affordable units also being wheelchair accessible. It is noted that local residents have raised concerns as to the gradient of the access roads within the site. This is noted and acknowledged. The applicants have provided the homes and this is welcomed, Policy HS2 does acknowledge that the provision of such homes is subject to site suitability. Your officer considers the provision of the homes is a site benefit and that they should be retained rather than not provided. It

is also noted that accessibility is taken from the parking area to the property threshold and not the roads leading to the site.

- 10.43. Following consideration of the scheme in October the applicants have amended the house types and the Housing Department have confirmed that the Affordable units all now meet the national Space standards.

Trees and Landscape

- 10.44. Policy NE4 (Landscape Character) states that proposals will protect, enhance or restore the landscape character of Harrogate District. Clearly, the allocation in the Local Plan ensures that the character of the site will change, however, there are features that should be protected and enhanced, particularly in reference to the tree cover, both within and adjacent to the site. In this respect, Local Plan Policy NE7 seeks to protect and enhance existing trees that have landscape amenity and contribute to the character, or setting, of a settlement. Policy HP3 seeks inter alia, to take into account urban and landscape design that protects, enhances or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the area. Landscaping is a key aspect in consideration of the proposal.
- 10.45. The majority of the site falls within the development limits for the town, with the exception of the northern section which falls within an area of land designated as a Special Landscape Area (SLA). The SLA includes that area also within the development limit for the town. The countryside to the north and west of the application site is an intimate landscape of local valleys and hills above the River Nidd flood plain and its tributaries, including Oak Beck. The site falls within Harrogate Landscape Character Assessment Area 24 (Lower Nidderdale Valley).
- 10.46. The site is currently used as pasture with mature trees along all sides, although a number to the north are outside the site boundary. There is a group of trees and shrubs on the steeper gradients within the site on the remnants of former railway lines and embankments across the site. A belt of mature Beech trees, approximately 40 metres tall along the southern boundary, are a dominant feature.
- 10.47. The scheme is supported with a landscape and visual impact assessment of the site and a planting scheme to provide mitigation to the wider surroundings, with additional planting proposed upon the SLA boundary.
- 10.48. The development, as a consequence of the proposed access, results in the loss of some trees on the frontage of the development. Where possible, trees have however been retained and additional planting and hedgerow has been included. The tree-lined rural character of the lane will be

compromised, however, the developer has tried to retain the transitional feel of leaving the built-up suburban character of Old Trough Way to the more rural Knox, by setting development behind the frontage trees and creating areas of open space. The frontage, which is of low density built development, is supplemented by both tree and hedgerow planting, whilst retaining some of the existing planting along the frontage.

- 10.49. The routes of existing electricity pylon, cables and sewage pipes (along the undeveloped northern section of the site) have been positively utilised to create a strong green infrastructure and significant area of public open space.
- 10.50. The central public open space will create an attractive park for residents and include a publicly accessible footpath route for pedestrians and cyclists. Proposed areas of wild flora grassland, trees and shrub planting with the emphasis on native species appropriate to the location will encourage connectivity with existing habitats and add to the existing green infrastructure around the site boundaries and beyond.
- 10.51. The area to the north-east of the site falls outside of the Local Plan allocated site, but remains within the red line boundary of the application site. This land falls within a Special Landscape Area (Warren Top). SLA's have played an important role in helping to protect locally important landscapes for many years. While the use of local landscape designations, such as SLAs, is supported by the NPPF, national policy is clear that distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status. By avoiding built development in this area and the additional landscape proposals for this part of the site, it is considered that significant adverse impact on the quality of the SLA is avoided.
- 10.52. Policy NE7 (Trees and Woodland) seeks to protect and enhance existing trees that contribute to the character and/or setting of a settlement, unless there are clear and demonstrable reasons why removal would aid delivery of a better development. Development that results in the loss of, or damage to trees will be required to provide replacement trees on-site or, if this is not possible, compensatory planting off-site that is equivalent to the public value of the trees to be removed.
- 10.53. The tree lined frontage will be partly lost as a consequence of the need to provide access and the frontage Ash trees are themselves suffering from die back. The substantial trees to the remaining boundaries are to be retained with the north western boundary supplemented by additional planting.
- 10.54. The Council's Arboricultural Officer has confirmed that there is no objection to the development, highlighting that site frontage and access has a

dominance of Ash trees that are succumbing to Ash die-back. Irrespective of the development of the site, these trees will need to be removed over a short period and the development provides an opportunity to secure new tree planting over the site. The replacement planting for the site is 22 for each tree removed.

- 10.55. The design of the development has thus ensured, as far as possible, that key characteristics and biodiversity qualities have been retained and that the development integrates with the urban edge. The physical separation of the site from Knox by the Oak Beck watercourse and the green buffer on the lower valley slopes would not result in coalescence with Knox.

Biodiversity

- 10.56. Harrogate District Local Plan Policy NE3 (Protecting the Natural Environment seeks to protect and enhance features of ecological interest and supports proposals which provide net gain in biodiversity. Criteria E of the policy, identifies that major development such as the application proposal, will be required to avoid a net loss of biodiversity. The policy requires proposals to increase connectivity of habitats by locating features, which enlarge, connect or support existing green corridors and natural and semi-natural green spaces in line with policy NE5 Green and Blue Infrastructure and the Green Infrastructure Supplementary Planning Document (2014).
- 10.57. Since consideration of the application in October 2022, Harrogate Members were made fully aware of the supporting documentation in relation to ecology and in particular information in relation to badgers at the site.
- 10.58. Following deletion of the 20 houses to the northern parcel of land this area has been utilised as an opportunity to add ecological value to the site. It is also an area where protected species are known to be located.
- 10.59. The application is supported with an Ecological Impact Assessment that has been the subject of consultation with the Council's Ecologist.
- 10.60. The Ecological Impact Assessment (EclA), Naturally Wild, Nov. 2021 found that the site to be of moderate ecological value, dominated by relatively species-poor semi-improved grassland, with the field containing a dismantled and disused railway embankment with scrub and small trees, with mature trees and woodland and patches of bracken along the site boundaries. The northern site boundary borders the wooded corridor of Oak Beck, which adds to its ecological value and Oak Beck is likely to support a number of additional protected and priority species, although these would not be directly affected by the proposed development. The boundary trees and off-site woodland also offer suitable commuting and foraging habitat for bats and a number of potential roost features (PRFs) although only one PRF was

identified in the trees which are proposed to be removed. The majority of the trees are proposed to be retained and bat activity surveys concluded that the site supports only moderate levels of bat activity. Trees and scrub on and adjacent to the site provide nesting opportunities for birds, with much of the scrub proposed to be lost. Terrestrial mammals were also found to be using the site, including a protected species, breeding on adjacent land, which is dealt with separately. The report finds that there is also suitable habitat for common toads and hedgehogs, which may also be present. A number of invasive species were recorded on and directly adjacent to the site including Himalayan balsam, variegated yellow archangel, and grey squirrel.

- 10.61. The EclA proposes that a number of ecological mitigation and enhancement measures should be incorporated into the development proposals. These include commencing site works outside of bird nesting season, or carrying out a pre-commencement survey shortly prior to removal of vegetation to confirm the absence of any active nests; soft-felling of a mature tree with a shallow PRF on the western site boundary; precautionary working in relation to reptiles, common toads and hedgehogs and other terrestrial mammals; appropriate treatment of invasive species; protection of retained vegetation; best practice in relation to pollution prevention; implementation of a sensitive lighting scheme; incorporation of bird nesting and bat roosting features into the new properties (including at least six integrated swift bricks); and appropriate soft landscaping to provide a biodiversity net gain post-development. A Construction Ecological Management Plan will be required to be submitted for the approval of the local planning authority in order to minimise impacts of the development on retained habitats and protected species during the course of construction, including a requirement for further bat surveys should any additional trees be proposed to be felled, and in order to prevent the spread of invasive non-native species and to incorporate swift bricks and bat bricks into a proportion of the proposed new dwellings.
- 10.62. The proposed development requires clearance of on-site vegetation, predominantly species-poor semi-improved grassland, trees and scrub, although the majority of mature boundary trees and woodland will be retained. It was not possible to compensate fully for the anticipated habitat losses within the originally proposed footprint for the proposed development of 53 dwellings, but the red-line of the development site has been extended to include the area to the east which lies outside of the H2 housing allocation, in order to facilitate habitat creation which will enable the development to achieve a small overall 'net gain' of biodiversity using the DEFRA biodiversity metric. A biodiversity net gain calculation has been undertaken using the DEFRA Biodiversity Metric 3.0 to determine the number of 'biodiversity units' present on site prior to the works, which is then compared with the anticipated post-development situation for habitat retention, creation and enhancement which is illustrated in the submitted landscape scheme. The landscaping includes the creation of modified

grassland as public open space, neutral grassland with wildflower species, a large area of mixed scrub comprising of native species and the planting of specimen native trees. The metric has built-in fractional multipliers which take account of the fact that some of the proposed compensatory habitats may take many years to reach maturity so that a greater than one to one area of proposed habitat is therefore required in compensation for that which is lost. The proposed area of scrub and woodland habitat to the east of the development will also provide access to nature for the residents of the development and of the surrounding area, and will link in with HBC owned public open space at 'Old Barber'.

- 10.63. The applicant has demonstrated that the requirements of Local Plan Policy NE3(e) can be achieved, providing that the Planting Plan (2159.02, Leeming Associates, May 2022) together with the Biodiversity Enhancement Management Plan (R2, Naturally Wild, May 2022) are implemented in accordance with the quantitative (habitat area) and qualitative (habitat condition) targets which are set out in the Biodiversity Metric calculations (Naturally Wild, 05.05.2022) and that the implementation (and monitoring of these enhancements by a suitably qualified ecologist) must be secured for 30 years through a Section 106 agreement.
- 10.64. The development retains, restores and manages existing traditional field boundaries, which form the site boundaries on three sides. The development maintains significant tree cover within the site, along the southern boundary and promotes habitat diversification by introducing native groundcover to the existing mature stands of trees and wild flora grassland in areas of public open space to replace species-poor pasture.
- 10.65. A Construction Management Plan and an Ecological Mitigation and Enhancement Scheme will be conditioned as part of the recommended conditions.
- 10.66. The Badger Survey Report (R5, Naturally Wild, August 2022) summarises the results of a series of badger surveys which have been undertaken between 2018 and July 2022, which found that there is an active main sett centred just off-site, together with two outliers located offsite further to the east. These setts and associated foraging habitat support the existence of a thriving badger clan in the area. A small number of entrance holes to the main sett are located within the site, beneath the boundary wall. Badgers forage over the site although none of the setts would be physically impacted by the development proposals. However, there is some potential to disturb badgers in their setts in the absence of appropriate mitigation. Appropriate mitigation and compensation is proposed in the report, which will need to be implemented under a licence from Natural England, in combination with an appropriate planning condition, as is standard procedure in these situations. A single entrance to the main sett is proposed to be closed, to be

compensated for by the provision of an artificial sett. A 30 meter buffer zone will be secured around the remainder of the main sett entrances, within which any works will only be permitted with the written consent of the licence-holding ecological consultant. The closure of a single sett entrance under licence would therefore provide a solution which would enable the development to proceed, while causing minimal disruption to the badger clan using the main sett, the major part of which would remain unaffected by the impacts of the development.

- 10.67. Post-development, badgers would be excluded by fencing from the gardens immediately adjacent to the main sett, but would be free to access the newly created scrub-woodland to the east of the development footprint, which will ensure that adequate foraging habitat remains available to the badger clan following the completion of the development. The above and other mitigation/compensation measures proposed in the report, supplemented by and secured by the recommended condition below would prevent harm to badgers during the course of works and to ensure the badger clan is able to continue to be able to thrive in the area following the implementation of the development.
- 10.68. On the basis of the principles of the mitigation and compensation strategy described above, there is confidence that Natural England will issue the necessary licence to ensure that this development can be implemented lawfully and that the proposed conditions will enable the LPA to retain the ability to control the details of the implementation of the development in relation to badgers. The submitted biodiversity net gain calculations demonstrate a small BNG for the proposals and in particular, the creation of a substantial area of scrub woodland to the east of the development footprint will provide good foraging habitat for badgers, with good connectivity to the existing setts following completion of the development.

Drainage

- 10.69. Harrogate District Local Plan Policy CC1: (Flood Risk and Sustainable Drainage) identifies that development proposals will not be permitted where they would have an adverse effect on watercourses, or increase the risk of flooding elsewhere. Development will only be permitted where it has an acceptably low risk of being affected by flooding.
- 10.70. The majority of the site falls within Flood Zone 1 at the lowest risk of flooding. The exception is an area to the north-east corner of the site, which falls within Flood Zones 2 and 3. This area now forms amenity open space to be used for biodiversity gain with dwellings restricted to the area of site identified as falling within Zone 1. The nearest dwelling is situated some 140 metres to the south west of Flood Zone 2.

- 10.71. The application is supported with a Flood Risk Assessment that has been the subject of consultation with the Local Lead Flood Authority (LLFA). Following initial submission, the LLFA required additional information. The revised details in the report (Flood Risk Assessment and Surface Water Management Strategy, iD Civils, Ref 5083/FRA01 (A), April 2020) satisfy much of the information previously requested detail, however, the LLFA recommended that the applicant provided further information before any planning permission is granted by the LPA.
- 10.72. The LLFA requested that the Volume Control calculations are provided for each of the drainage systems. This information has been received and the Local Lead Flood Authority have confirmed that there is sufficient attenuation capacity provided at the site. On this basis the Local Lead Flood Authority have confirmed that they would have no objection to the development subject to the imposition of a compliance condition to ensure that the attenuation detailing is provided and the development is carried out in accordance with the submitted details.
- 10.73. Yorkshire Water, who had previously objected to the proposal due to the initial layout not taking into account the siting of existing public sewerage infrastructure, have confirmed that the revised layout and drainage details are acceptable subject to the imposition of a condition to safeguard the local aquatic environment and Yorkshire Water infrastructure.

Ground Contamination

- 10.74. As part of the consideration of the application in October 2022, members requested additional information in respect of ground contamination. Following this request the applicants have provided additional information in the form of a Phase II Ground Investigation report supplemented by Ground Gas Risk Assessment. Both documents have been the subject of consultation with the Council's Environment Protection team, together with the additional information following deferral on 14th February 2023.
- 10.75. The Environmental Protection team have confirmed that the Gas Risk assessment identifies that gas protection measures are not necessary and that along with the Phase II assessment, which identifies low risk of contamination, conditions can be attached to secure the safe development of the site. This would include a condition to secure the reporting of any unexpected land contamination. Such an approach is consistent with sites where contamination is a known issue.
- 10.76. The Environmental Protection Team note that the additional information supplied after the 14th February meeting is not new research as suggested by members but additional clarification of where the samples and boreholes have been undertaken. The information provided would not alter their

consideration of the scheme which is to recommend the imposition of controlling conditions to ensure the safe development of the site.

- 10.77. It is noted that local residents have commissioned their own report with alternative conclusions regarding contamination at the site. The Environmental Protection team have reviewed this report and have confirmed the report would not change their recommendation. The conditions put forward would ensure that the site is properly investigated and remediated to the appropriate level.

Other Matters

- 10.78. The application is supported with an energy strategy submitted in accordance with Local Plan Policy CC4. The Energy Report has been prepared by Award Energy Consultants. Award Energy have used SAP 2012 to analyse the potential energy efficiencies and carbon emission reductions aligning with the Government's Energy Hierarchy. This was initially calculated using a fabric first approach but has been expanded to explore renewable and low carbon technologies as required by the hierarchy.
- 10.79. The applicants note that whilst the dwellings at Knox Lane will be built to the requirements of Part L 2021 of the building regulations, the detailed design to calculate these metrics has not yet been sufficiently developed, therefore this Report is founded in Part L1a 2013 to analyse the potential carbon savings that can be achieved through an enhanced fabric specification, highly efficient mechanical and electrical services and a bolt-on renewable technology strategy in the form of photovoltaic panels.
- 10.80. It has been demonstrated that the proposal reduces average Energy Demand on the site by a total of 10.54% over the 2013 Building Regulations. Combined with highly efficient mechanical and electrical services (Step 2) and 78 kWp of photovoltaics across the site, anticipated average carbon emissions are reduced by 42.74% over Part L1a 2013.
- 10.81. Water consumption per person per day is anticipated to be less than that required by Building Regulations. In addition, sustainable measures are proposed that are in line with the National Planning Policy Framework 2019, which emphasises sustainable development and energy efficiency. The proposed sustainability strategy for Knox Lane, Harrogate places great importance on the efficiency of a property's thermal envelope and internal building services, therefore ensuring that each dwelling on the development benefits from built-in energy reduction measures. A condition is proposed should air source heat pumps be implemented.

- 10.82. The scheme itself has attracted significant local interest on matters highlighted within the representation section of the report. The report addresses those concerns in the following respect:

Principle: The Local Plan is the development plan for which all planning applications must be determined against. The development has been reduced in housing quantum to meet the requirements of the site and allocation within the Local Plan.

Highways: Amendments have been received which satisfy the highway authority's requirements for the site, including widening of Knox Lane (but only as far as the access into the site).

Infrastructure: A Flood Risk Assessment has been submitted which has been the subject of approval by the Local Lead Flood Authority. Dwellings have been removed from the area of highest flood risk. Financial contributions are to be sought through the S106 Legal process to provide mitigation and contributions towards both education and healthcare provision.

Amenity: The layout meets the guidelines of the National Grid advice and a condition can be imposed to ensure that sound attenuation is provided for future occupiers given the location of Knox Sawmill.

Landscape: Extensive compensatory replacement tree planting is proposed as part of the development. The scheme has been designed so as to provide a frontage which aids transition from the suburban edge of the town to the countryside.

Design: The scheme provides for multiple different house types on the site itself. The immediate character of the locality is dominated by the adjacent brick built housing estate. The scheme builds on this character.

Layout: The layout has been informed by the constraints of the site. The presence of the tree lined boundaries and Power lines have dictated the siting of the housing within the scheme.

Biodiversity/Ecology: New wildlife habitat is proposed to provide a net gain as required by Local Plan Policy. Appropriate mitigation measures will be implemented on site to protect badgers on the site.

Heritage: Information boards are to be provided to inform residents and walkers of the significance of Spruisty Bridge and the Harrogate Ringway footpath.

Ground conditions: The Environmental Protection team have recommended ground contamination conditions to secure the safe development of the site,

given the location of the former railway and attendant potential for contamination.

Site History: Reference is made to the site not been allocated in 2016. The planning officer can advise that a larger residential site (in comparison to H2) was not included in the draft plan in 2016 as there were other sites that scored better that could be allocated to meet the need for homes in the plan period. However, in 2017 the additional sites stage was prompted by a review of the evidence base, which concluded that the objectively assessed need for new homes was greater than previously identified. As a result there was a need to increase the number of homes in the plan by a little over 2000. Assessments of newly submitted sites and existing assessments of previously submitted sites were considered to identify further sites to allocate based on allocating those with overall best results. Unless a site allocated at this stage was newly submitted it should be expected that it scores less well than the first batch of allocations otherwise it would have been allocated first time around. The additional site stage review resulted in the larger site being included as a draft allocation. The site extend was subsequently reduced to what is now the H2 allocation in part response to comments that the site was too large and to protect ecological interest / trees and removal of that part of the site at risk of flooding.

Appeal: A planning application was refused and dismissed at appeal under 21/03235/FUL on land to the rear of Old Trough Way due its adverse impact upon the Special landscape area. This land is adjacent to that area of the site where development has been removed and is intended to be utilised for Biodiversity Net Gain and replacement tree planting. It will not accommodate domestic paraphernalia and is considered consistent with the natural environment and habit creation.

Parking: NYCC parking standards in Harrogate identify that both a one and two bed unit should provide a single parking space and that a three and four bedroom unit should provide 2 parking spaces. The scheme meets this requirement.

Reports: Various reports submitted on behalf of residents relating to Contamination /Landscape/ Ecology /Heritage and Highway concerns have been forwarded to the relevant consultees prior to submission of final responses. NB the scheme was amended and reduced in size in terms of quantum of development following initial receipt.

S106 Legal Agreement

- 10.83. Contributions are required for the proposed residential use to mitigate against impacts on local infrastructure. It is noted that residents are concerned in respect of the health care facilities and in this respect the

scheme with generate a financial contribution towards such facilities as recognised by NHS Integrated Care Board (ICB), formerly known as the CCG (Clinical Commissioning Group). This contribution has been accepted by the applicants and will form part of the S106 Agreement

- 10.84. The following Heads of Terms have been agreed with the applicant for this applications.

Table 1		
Category/Type	Contribution	Amount & Trigger
Affordable housing		To be provided at no less than 40%
Education	School Expansion Places valued at £139,818.77 and identified for Harrogate Grammar, Rossett and Harrogate High Schools	£139,818.77
Healthcare	NHS Integrated Care Board (ICB)	£63,974
Open space	Off-site Provision valued at £66022.15,	Maintenance payment due either to the Council or to a Management Company as financial security for ongoing maintenance of on-site public open space obligations over 10 years £38659.62
Biodiversity	Biodiversity Enhancement Management Plan for 30 years – achievable on-site only	Requirement for a bond as financial backing for the maintenance obligations

- 10.85. The affordable housing requirement is needed to meet the requirements of Local Plan Policy HS2.
- 10.86. Policy TI4 deals with Delivery of New Infrastructure and recognises that to deliver the infrastructure to support growth, new development should be fully integrated with existing settlements and deliver adequate infrastructure and services to support itself. The proposal generates 53 new households and a corresponding need for both new physical and social infrastructure in the form of open space, education healthcare and habitat creation/maintenance.
- 10.87. It is considered that the above S106 Heads of Terms are necessary, directly related to the development and fairly and reasonably related in scale and
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kind to the development and as such complies with the Community Infrastructure Levy (CIL) Regulations 2010.

11.0. PLANNING BALANCE AND CONCLUSION

- 11.1. The proposal represents the development of an allocated housing site within the Harrogate District Local Plan 2014-2035 in accordance with Policy DM1. The development of the site, which has been extensively amended and reduced since submission, will contribute towards the district's housing need across the plan period.
- 11.2. The site is located within a sustainable location for housing and has been designed in such a way that the layout takes into account the constraints of the site, whilst ensuring that it retains and builds upon the natural features of the site. The scheme provides a new pedestrian route through the site utilising the new green infrastructure to link directly into Knox Country Park, reducing the length of the Nidderdale Way, passing through the housing areas in Bilton.
- 11.3. It will provide a betterment for flood risk and ecology in the area through the establishment of new habitats on land to the north east of the residential allocation.
- 11.4. The scheme in its revised form is considered compliant with the developer guidelines for the site as identified within the allocation of site H2 in the Local Plan.
- 11.5. The scheme is in accordance with the development plan policies as a whole and represents sustainable development as required by the National Planning Policy Framework

12.0 RECOMMENDATION

- 12.1 That the application be APPROVED IN PRINCIPLE and DELEGATED TO THE ASSISTANT DIRECTOR FOR PLANNING TO BE GRANTED subject to conditions and the completion of a S106 Agreement to secure the provision of affordable housing, financial education and open space contributions and future management, the long term ecological improvement and future management and contributions to the ICB.

Recommended conditions:

- 0 That the application be deferred for approval subject to conditions and the completion of a S106 Agreement the Heads of terms of which are as follows;

To secure Affordable Housing Provision
 Education Contribution
 Open Space contribution and future management
 Health Care Contributions
 Biodiversity maintenance and future management.

- 1 The development hereby permitted shall be begun on or before 3 years from date of this permission.
- 2 The development hereby approved shall be carried out in accordance with the submitted details as amended by other conditions of consent and the following approved plans:

Location Plan: 3308-1-000 A
 Proposed Layout: 3308-1-001 Revision CC

House Type A: 3308-1-022 Rev E
 House Type B: 3308-1-023 Revision E
 House Type C: 3308 - 024 Rev F
 House Type D: 3308-1-025 -D
 House Type E: 3308-1-026 -D
 House Type F: 3308-1-027
 House Type G: 3308-1-028 -G
 House Type H: 3308-1-029 -D
 House Type I: 3308-1-030-C
 Plans and Elevation AP A and AP B 3308-1-020 Rev F
 Plans and Elevation AP C and AP D 3308-1-021 Rev E
 Plans and Elevation AP E and AP F 3308-1-031 Rev E

Planting Plan 21.59.02
 Site Levels C-0106 Rev P6

- 3 Prior to the commencement of the exterior external walling of the development hereby approved samples of external materials and /or a schedule of materials must be submitted for the written approval of the local planning authority for the external walls and roof of the development. Thereafter the approved materials must be implemented unless a variance of the schedule has at first been agreed in writing.

- 4 Groundworks shall not commence until a land contamination Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.
- 5 Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 4 groundworks shall not commence until a land contamination remediation strategy has been submitted to and approved in writing by the local planning authority. The remediation strategy shall include a timetable for the implementation and completion of the approved remediation measures.
- 6 Land contamination remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 5. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
- 7 Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a land contamination Verification Report shall be submitted to the local planning authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for that part of the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the local planning authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.
- 8 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00- 13:00 on Saturdays. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

- 9 The development shall not be commenced until a construction management plan specifying the provisions to be made to control dust and noise emanating from the site has been submitted to and approved in writing by the local planning authority. The agreed scheme shall then be implemented in full before the proposed development is started, including demolition and site clearance.
- 10 If air source heat pumps are to be installed at the proposed dwellings the location and noise level associated with the operation of the units should be considered to ensure they do not give rise to a noise nuisance to existing and proposed dwellings in proximity to it.

The rating level of sound emitted from the air source heat pump and any associated equipment shall not exceed background sound levels (taken as a LA90 at the nearest sound sensitive premises) in accordance with the methodology of BS4142 (2019) (Method for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Where access to the nearest sound-sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound-sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.

- 11 Before construction work commences a report specifying the measures to be taken to protect the future occupants of the proposed dwellings from noise shall be submitted to and approved in writing by the LPA.

The report shall

- a) Determine the existing noise environment.
- b) Predict the noise climate in the gardens, living rooms (daytime), bedrooms (night-time) and other habitable rooms of the development.
- c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

- 12 An electric vehicle infrastructure strategy and implementation plan must be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling hereby permitted. The plan should contain a charging point dedicated to each dwelling and should be of Mode

3 type (specific socket on a dedicated circuit with a minimum current rating of 16 Amp). Buildings and parking spaces that are to be provided with charging points should not be brought into use until associated charging points are installed in strict accordance with the approved details and are operational. The charging points installed must be retained thereafter.

- 13 Before any development or construction work begins, a pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural specialist, the site manager/foreman and a representative from the Local Planning Authority (LPA) to discuss details of the working procedures to ensure that all tree protection measures have been installed in accordance with the approved RPA. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.
- 14 No development shall commence on site before the approved tree report detail (Elliot Consultancy AIA, AMS and TPP report dated November 2021) including root protection area (RPA) fencing in line with the requirements of British Standard BS 5837: 2012 (section 6.2.2 figure 2) Trees in Relation to Construction - Recommendations, or any subsequent amendments to that document, around the trees or shrubs or planting to be retained, as indicated on the approved plan. The developer shall maintain such fences until all development subject of this permission is completed and implement the tree reports recommendations.
- 15 Prior to works commencing on site an Arboricultural Oversight Statement (AOS) is to be submitted for approval by a suitably qualified and pre-appointed tree specialist. The AOS will outline the schedule of site supervision and monitoring of the arboricultural protection measures as approved in the above condition (Elliot Consultancy AIA, AMS and TPP report dated November 2021). The AOS will outline a regular site visit regime noting the responsible officers, contacts and reporting to the LPA. The AOS will be retained for the duration of the build phase in line with the submitted detail using the LPA arboricultural section for guidance as issues arise. This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and preappointed tree specialist.
- 16 The development shall be carried out in strict accordance with the details indicated within the submitted drawing, "C0105 (revision P4) dated 28/10/2021", unless otherwise agreed in writing with the Local Planning Authority.

- 17 Prior to commencement of any part of the development hereby permitted a detailed plan indication existing site levels and proposed finished ground floor levels of the development shall be submitted to and approved in writing by the Local Planning Authority. The detailed plan to be submitted shall include the precise finished ground floor levels of the new dwellings relative to the existing development on the boundary of the site, including the adjacent highway and adjacent properties.

Thereafter, the development shall be carried out and completed strictly in accordance with the approved details prior to any occupation of the dwellings hereby permitted.

- 18 A Construction Ecological Management Plan, based on the recommendations of section 5 of the Ecological Impact Assessment (EclA, Naturally Wild, Nov. 2021 must be submitted for the written agreement of the local planning authority prior to the commencement of works (including site preparation and access works). The CEcMP must include appropriate precautions to be taken during the course of works, to avoid harm to nesting birds and bats and terrestrial mammals (including surveys for bat roost potential for any additional tree-removal that may be proposed) and to prevent the spread of non-native invasive species. In particular, no works must be undertaken in areas which have been identified as supporting Himalayan balsam until a scheme has been agreed to prevent its spread including that of its seeds in the surrounding soil. The CEcMP must provide for the inclusion of integrated bat and swift bricks, a sensitive lighting scheme for the development and the provision of access to gardens by hedgehogs. All subsequent works must be undertaken in accordance with the agreed CEcMP and a copy of the CEcMP must be available on site for access by site operatives at all times during construction.

- 19 An updated badger survey must be undertaken prior to the start of any site clearance works within the 30 meter zone around currently active badger setts, identified in Figure 5 of the Badger Survey Report (R5, Naturally Wild, August 2022) to confirm which holes are currently active and to ensure that the exclusion zones proposed to be implemented remain appropriate. The updated survey report must be submitted for the written approval of the local planning authority, prior to the commencement of works.

Badgers must be excluded from the built footprint of the development during construction. In particular, a 30 meter buffer zone must be established, using heras-type fencing, around any active sett entrances and works within that zone should only be undertaken with the specific written permission of the badger licence holder to ensure that they do not

breach the terms of the licence. A record of any such permitted works must be made available to the local planning authority on request.

Works must be undertaken strictly in accordance with the mitigation, compensation and enhancement measures set out in section 5 of the Badger Survey Report (R5, Naturally Wild, August 2022). Any changes to these proposals, required as result of updated surveys or to meet the requirements of a Natural England licence, must be agreed in writing with the local planning authority prior to their implementation.

- 20 Prior to the first occupation of the development hereby approved the developer shall submit details of the interpretation/ information panel identifying Spruisty Bridge and the Harrogate Ringway together with a scheme identifying when and where the interpretation/ information panel will be provided and this is to be agreed in writing with the Local Planning Authority.
- 21 A scheme for replacement tree planting shall be submitted for the written approval of the local planning authority in accordance with the details submitted in the arboriculture report at 22 trees for each tree removed. Details of species, size and siting shall be agreed in writing with the local planning authority together with the timing of planting. Thereafter the trees shall be planted in accordance with the agreed scheme.
- 22 In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to survive for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced by the developer with such live specimens of such species in such number as may be approved by the Local Planning Authority.
- 23 No development shall take place until drawings illustrating that the 25% of the market and subject to site suitability all affordable dwelling(s) hereby permitted complies with Building Regulation (M4(2) 'accessible and adaptable dwellings' have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to the occupation of the building.
- 24 No development shall take place until drawings illustrating that 10% of the affordable dwelling(s) hereby permitted comply with Building Regulation requirement M4(3) 'wheelchair user dwellings' have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to the occupation of the building.
- 25 Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any

road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority.

The development must only be carried out in compliance with the approved engineering drawings.

- 26 No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation. The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

The following schemes of off-site highway mitigation measures must be completed as indicated below:

Knox Lane must be widened to 5.5 metres in width from the proposed development access to the start of the kerb at Knox Sawmills, to the satisfaction of the Local Highway Authority.

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme unless otherwise approved in writing by the Local Highway Authority.

- 27 No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been

constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

- 28 No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. No HGV deliveries to site will be permitted before 9.30 a.m.
3. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
4. the parking of contractors' site operatives and visitor's vehicles;
5. areas for storage of plant and materials used in constructing the development clear of the highway;
6. details of site working hours;
7. A full Highway condition survey from the proposed access to Crab Lane.
8. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

- 29 Prior to the commencement of development details of how Secured by Design principles have been incorporated into the scheme shall be submitted for the written approval of the Local Planning Authority and once approved thereafter implemented prior to the occupation of any of the units hereby approved.

- 30 The site shall be developed with separate systems of drainage for foul and surface water.

- 31 No building or other obstruction including landscape features shall be located over or within 5 (five) metres either side of the centre line of the public sewers i.e. a protected strip width of 10 (ten) metres, that crosses the site. If the required stand-off distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.

- 32 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in

accordance with details submitted to and approved by the Local Planning Authority.

- 33 Details of the proposed boundary treatments must be submitted for the written approval of the Local Planning authority. The existing stone wall to the Knox Lane frontage must be retained and re aligned as necessary in accordance with the approved boundary treatment plan.
- 34 Prior to the construction of the external walling of the development a scheme a lighting scheme must be submitted for the written approval of the Local Planning Authority. The scheme must take into account the comments of the Police designing out Crime officer and ecological requirements for the site.
- 35 The development hereby approved shall be carried out in accordance with the proposed drainage strategy "Drainage Proposals Toppings Engineers - Drawing No C-0105 Revision P7 Dated 9 November 2022" unless an otherwise agreed alternative is at first agreed in writing with the Local planning Authority.

Reasons for Conditions:-

- 1 To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.
- 2 To secure the satisfactory implementation of the proposal.
- 3 In order to ensure that the materials used conform to the amenity requirements of the locality.
- 4 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 5 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 6 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the

development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 7 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 8 In the interests of amenity
- 9 In the interests of amenity
- 10 In the interests of amenity
- 11 In the interests of amenity
- 12 In the interests of providing opportunities for sustainable transport and to improve air quality across the District in accordance with Policies TI1 and NE1 of the Harrogate District Local Plan (adopted 2020).
- 13 In the interests of good arboricultural practise and to ensure compliance with Local Plan Policy NE7.
- 14 In the interests of good arboricultural practise and to ensure compliance with Local Plan Policy NE7.
- 15 In the interests of good arboricultural practise and to ensure compliance with Local Plan Policy NE7.
- 16 In the interest of satisfactory and sustainable drainage.
- 17 The agreement of a detailed plan showing existing site levels and proposed finished ground floor levels of the development prior to the commencement of the development is fundamental to ensure that the development is carried out in a satisfactory manner, having due regard to visual and residential amenity in accordance with Policy HP4 of the Harrogate District Local Plan (adopted 2020).
- 18 To ensure that the risk of harm to protected species and to retained vegetation and habitats is minimised and that the spread of invasive species is avoided during site preparation and construction.
- 19 To prevent harm to badgers during the course of development and to ensure that badgers are able to continue to be able to thrive in the area following the implementation of the development.

- 20 In the interests of heritage enhancement of the site and to inform visitors regarding the history of Spruisty Bridge and the Harrogate Ringway.
- 21 To ensure compensatory planting is provided for those trees felled as part of the proposal.
- 22 To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 23 To ensure compliance with Harrogate District Local Plan Policy HS1.
- 24 To ensure compliance with Harrogate District Local Plan Policy HS2.
- 25 To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.
- 26 To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.
- 27 To ensure that the design is appropriate in the interests of the safety and convenience of highway users.
- 28 To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
- 29 In the interest of public safety and amenity.
- 30 In the interests of planning out crime at the site.
- 31 To prevent pollution of the water environment.
- 32 In order to allow sufficient access for maintenance and repair work at all times.
- 33 To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.
- 34 To ensure the development accords with the amenity requirements of the locality.
- 35 In the interests of crime prevention and ecological interest of the site.

Informative**1. Northern Powergrid advice:**

Please note ground cover must not be altered either above our cables or below overhead lines. In addition no trees should be planted within 3 metres of existing underground cables or 10 metres of overhead lines. All our apparatus is legally covered by a wayleave agreement, lease or deed or alternatively protected under the Electricity Act 1989. Should any alteration / diversion of our company's apparatus be necessary to allow work to be carried out , budget costs can be provided by writing to Network Connections , Alix House , Falcon Court , Stockton on Tees TS18 3TU Tel. 0800 0113433

Target Determination Date: 13 November 2022

Case Officer: Andy Hough
Andy.hough@northyorks.gov.uk