
Report of the Chief Planning Officer

CITY PLANS PANEL

Date: 20th July 2017

Subject: 16/05226/OT - Outline planning application for circa 874 dwellings; a 66 bed care home; a 1 form entry primary school; a new local centre including a Class A1 convenience store (up to 420m²), a 5 unit parade of small retail units (up to 400m²), Class D1 uses (up to 750m²); onsite open space, including areas for both public access and biodiversity enhancements, together with associated highway and drainage and infrastructure on land at Thorp Arch Estate, Wetherby, LS23

Applicant – Rockspring Hanover Property Unit Trust

Electoral Wards Affected:

Wetherby

☐ Yes

Ward Members consulted

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION: To contest the appeal that has been made against the non-determination of the planning application for the following reasons:

- 1. The Local Planning Authority considers that the applicant has so far failed to demonstrate that the local highway infrastructure, specifically Thorp Arch Bridge and the junction of Bridge Road / High Street in Boston Spa, which will be affected by additional traffic as a result of this development, is capable of safely accommodating the proposed development and absorbing the additional pressures placed on it by the increase in traffic which will be brought about by the proposed development. The proposal is therefore considered to be contrary to policy T2 of the Leeds Core Strategy, policy GP5 of the adopted UDP Review and the sustainable transport guidance contained in the National Planning Policy Framework which combined requires development not to create or materially add to problems of safety, environment or efficiency on the highway network.**
- 2. The Local Planning Authority considers that the information submitted with the application fails to demonstrate that an acceptable level of accessibility can be achieved for the scale of development proposed. In the absence of sufficiently robust and viable measures, there is a danger that future residents will be overly**

reliant on the private car, resulting in an unsustainable form of development. The proposals are therefore considered to be contrary to policies SP1, T2 and H2 of the Leeds Core Strategy, policy GP5 of the adopted UDP Review and guidance in the National Planning Policy Framework.

3. In the absence of a signed Section 106 agreement the proposed development fails to provide necessary contributions and/or obligations for the provision and delivery of affordable housing, housing for independent living, greenspace, travel planning, public transport enhancements, local facilities and off site highway works, without which would result in an unsustainable form of development that fails to meet the identified needs of the city and prospective residents, contrary to the requirements of policies H5, H8, P9, T2, G4 and ID2 of the Leeds Core Strategy, policy GP5 of the adopted UDP Review and related Supplementary Planning Documents and guidance in the National Planning Policy Framework.
4. The proposals fail to make satisfactory provision for Affordable Housing, resulting in an unsustainable form of development that does not adequately address the identified need for such housing, contrary to Core Strategy policy H5 and guidance in the NPPF.
5. Development of the appeal site would predetermine decisions relating to the scale and phasing of new housing development set out within the (highly advanced) Submission Draft/Site Allocations Plan (SAP). The proposal would have a prejudicial, pre-determinative effect on decision-taking with regards to directing new development through the SAP and community involvement in the plan-making process. The appeal site accounts for 25% of the total housing site allocations for the Outer North East Housing Market Characteristic Area (HMCA). The development is considered to be unacceptably premature, contrary to the Planning Practice Guidance.

UPDATE SINCE 27TH APRIL CITY PLANS PANEL

1.0 Introduction:

- 1.1 Members will recall that this application was previously presented to the City Plans Panel meeting of 27th April 2017. A copy of that report is attached at Appendix 1. The application was presented to Panel following the submission of an appeal against non-determination to the Planning Inspectorate by the applicant. In these circumstances, the Local Planning Authority (LPA) is no longer able to determine the application itself. At the meeting, Members resolved to agree the putative reasons for refusal, as set out in that report, as the basis from which to defend the appeal. A copy of the relevant minutes from the meeting are attached at Appendix 2.
- 1.2 This report seeks to update Members on the continuing negotiations with the appellant and makes further recommendations based on the current position of the appeal and other matters, including the plan making process through advancement of the submission draft of the Site Allocations Plan (SAP).
- 1.3 The key issues relate to highway impact, accessibility, the lack of a signed S106 agreement (all as referred to in the previous report), together with the likely outcome of the viability appraisal, the shortfall of Affordable Housing and the prematurity of the proposals when considered against the plan making process. It was hoped to be

able to bring a report on viability matters, though the timing of the appeal, the necessity to prepare evidence and, at the time of writing, the lack of a submitted viability appraisal, means that this has not been possible. The implications of this are discussed later in the report.

- 1.4 In considering the above matters, and particularly in the context of the submission draft of the SAP which was sent to the Secretary of State in May 2017, officers have re-assessed the appeal proposals against the up to date policy positions as set out below, and as referenced in the Council's submitted Statement of Case for the appeal which was submitted to the Planning Inspectorate on 30th May 2017.

2.0 Planning Policy

National Planning Policy Framework (NPPF)

- 2.1 The NPPF compliments the requirement under section 38(6) of the Act that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.
- 2.2 The NPPF sets out the Government's planning policies for England and how these are expected to be applied, only to the extent that it is relevant, proportionate and necessary.
- 2.3 The overarching policy of the Framework is the presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. The presumption in favour of sustainable development is the 'golden thread' that should run through both plan making and decision-taking.
- 2.4 Paragraph 14 of the NPPF provides, specifically in the context of decision-taking, that development proposals that accord with the development plan should be approved without delay, and where the development plan policies are out of date etc., planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole (or where specific policies in the NPPF indicate development should be restricted).
- 2.5 The approach taken by officers to, and application of, paragraph 14 of the NPPF, is outlined below.
- 2.6 First, for the purposes of paragraph 14 and decision-taking, it is considered that the proposed development does not accord with the Development Plan. Indeed, multiple and significant conflicts arise, as confirmed by the terms of the suggested reasons for refusal (as stated above). This is therefore not a case in which planning permission should be approved "without delay".
- 2.7 Separately, there are Development Plan conflicts that arise with saved UDP policies E3B:21 and E3B:22 (Need for Additional Employment Land: Outside the City Centre) which carry forward as proposals in the UDP, unimplemented employment use allocations from adopted local plans which are unaffected by new UDP proposals allocate the employment use of land that is comprised within the appeal

site. It is also of note that all carried-through allocations that are relevant to the appeal site are respected in emerging policy under the SAP.

- 2.8 Whilst a viability appraisal has yet to be submitted, it is clear from discussions that have taken place with the appellant that there is a very high likelihood that the costs, values and complexities associated with the development mean that it would not be able to support a policy compliant level of Affordable Housing, at 35%, in accordance with Core Strategy policy H5. There is therefore additionally the conflict that would arise by virtue of a failure of the appeal proposal to provide for a sufficient level of affordable housing, even were it the case that housing development were considered to be acceptable (which it is not).
- 2.9 Second, for the purposes of decision-taking under paragraph 14, officers note paragraph 49 of the NPPF which advises that housing applications should be considered in the context of the presumption in favour of sustainable development, where relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. Whilst the LPA is unable to demonstrate a five-year supply of deliverable housing sites (with the shortfall in housing land also having duly been taken into account by the LPA), meaning that any relevant policies for the supply of housing should not be considered to be up-to-date for the purposes of paragraph 14, nonetheless the proposed development does not amount to sustainable development for the purposes of positively applying the decision-taking presumption under paragraph 14.
- 2.10 The conclusion that the proposed development does not amount to sustainable development is had especially with regard to the economic and social dimensions of sustainability, as they are defined under paragraph 7 the NPPF, etc. In terms of the economic role not least, the appeal site is not the appropriate location for residential development (especially that of such a significant scale) which will fundamentally displace required general employment uses, which will in turn meaningfully support economic growth and the local and wider economy. Further and in terms of the social role not least, the residential development of the appeal site (again, especially on such a significant scale) will not be adequately accessible or responsive to community (or wider) transport or accessibility demands which is set out in detail in reason for Refusal 2 and referenced in paragraphs 10.6.15 – 10.6.16 of the previous City Panel report, attached at Appendix 1.
- 2.11 The LPA of course readily acknowledges that the appeal proposal promotes a significant quantum of housing and whilst this provision is to be welcomed in and of itself (as is the case in each housing scheme, especially in the absence of a five-year housing land supply), when viewed in the context of the proposed development when taken as a whole and considered on its merits, it is clearly neither sustainable nor acceptable.
- 2.12 Further, in the event that the appeal proposal fails also to include an appropriate level of affordable housing, this would further reinforce (and significantly so) the conclusion that the proposed development is not sustainable and should be rejected.
- 2.13 Third, this is therefore a case in which, ultimately, any grant of permission would give rise to (conspicuous) adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole (and obviously so), applying paragraph 14 of the NPPF. In the result therefore, the proposed development is not sustainable.

- 2.14 As such, in terms of the proposed development specifically, it is considered that no presumption positively applies in favour of approval.
- 2.15 These adverse impacts reflect the matters referenced in the putative reasons for refusal already agreed upon by the City Plans Panel on 27th April 2017 and referenced in Appendix 1, together with the significant conflicts with Development Plan UDP policy (carrying forward specific employment allocations that relate to the appeal site), obvious sustainability deficiencies (considered in the light of the NPPF), significant conflicts with emerging SAP policy (which are also consistent with the carried forward specific employment allocations under the UDP specifically in terms of the appeal site), and potentially also, a conflict with Development Plan policy that governs affordable housing provision (pending the consideration of a viability appraisal and the District Valuer's report).
- 2.16 Fourth, alternatively with regard to paragraph 14 of the NPPF, were the proposed development considered either not to engage or conflict with, relevant policies for the supply of housing (such that by operation of paragraph 14 the decision-taker would not need to turn to decide whether in light of one or more out-of-date policies the grant of permission would give rise to adverse impacts that would significantly and demonstrably outweigh the benefits etc.), it fundamentally remains the case that the proposed development is eminently not sustainable.
- 2.17 Accordingly, on any case, the decision-taking presumption under paragraph 14 does not apply in the particular circumstances to positively favour the appeal proposal.
- 2.18 Fifth, further and in any event, even were the decision-taking presumption under paragraph 14 to positively favour the appeal proposal (which it does not), for the purposes of section 38(6), the officers conclude that this material consideration would not prove significant enough as to indicate that planning permission should be granted, given the multiple, conspicuous and very harmful breaches with the Development Plan and having regard to the objectionable prematurity of the proposal in PPG terms (see further below).
- 2.19 As above, this is also a case in which emerging policy under the SAP (which strategically carries forward the above UDP-secured allocations, and which further provides for other fundamental allocations) means that the proposed development is objectionably premature.
- 2.20 Noting that paragraph 14 (decision-taking) is required to be considered in the light of all relevant policies of the NPPF, 12 core planning principles are identified at paragraph 17, which advise (amongst other matters) that planning should:
- Be genuinely plan-led
 - Proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving places, with every effort being made to objectively identify the development needs of an area
 - Encourage the effective use of land by reusing land that has been previously developed (brownfield land)
 - Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are, or can be, made sustainable.

- 2.21 Paragraph 111 of the NPPF gives guidance relevant to this proposal in respect of the use of previously developed land and related matters:
111. Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land.
- 2.22 At paragraph 32 of the NPPF, it is advised that developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment, and that decisions should take account of whether: (i) the opportunities for sustainable transport modes have been taken up; (ii) the residual cumulative impacts of development are severe.
- 2.23 At paragraph 35 of the NPPF, opportunities for sustainable transport modes should be exploited. Where practical, priority should be given to pedestrian and cycle movements and to ensuring access to high quality public transport services. Where practical, safe and secure layouts should be provided which minimise conflicts between traffic and cyclists or pedestrians.
- 2.24 The safety of the road user is also a general consideration which naturally underpins the promotion of sustainable transport and which must fall to be considered, for the purposes of Chapter 4 of the NPPF. Safety is expressly referenced in the NPPF in the context of the support that should be given by roadside facilities: paragraph 31.
- 2.25 Policy at Annex 1 to the NPPF (Implementation) includes paragraph 215 which is to the effect that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given. The degree of consistency between relevant, existing policies and the proposed development has been appropriately considered.
- 2.26 At paragraph 216 the NPPF also advises on the weight to be given to emerging plans, which is of relevance to the SAP (of which there is an Examination Submission/draft, and which is at a very advanced stage):
216. From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:
- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
 - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 2.27 As discussed below, further to the fact that no part of the appeal site is allocated for housing under the Development Plan (meaning that, on the proper application of saved UDP policy E3B (which is also respected by the emerging SAP) the proposed

development is objectionable), a further 4 sites that fall within the wider TATE site are intended to be allocated for general employment use under the SAP. The proposed development is also contrary to emerging policy.

- 2.28 No part of the appeal site is proposed to be allocated for housing in the SAP in so far as it relates to Outer North East Area. Identified housing sites (under Submission draft/policy HG1) and housing allocations (under Submission draft/policy HG2) located within this Area provide for a cumulative housing allocation capacity/target of 5000 “new units” and which are proposed to be accommodated on assessed sites other than the appeal site. The delivery of this plan-led target is entirely achievable. Hence, it forms no part of the assessed requirement for meeting the housing target prescribed in the SAP for this Area, for any part of the appeal site to come forward for any housing development.
- 2.29 Indeed, as below, the proposed development positively conflicts, in substantial part and to a significant extent, with the SAP (just as it does with saved UDP policy which forms part of the Development Plan). Significant parts of the site (which are also very significant for strategic delivery purposes of the SAP) are identified as sites for general employment use, under Submission draft/policy EG1.
- 2.30 Of particular significance to the plan-led emphasis of the NPPF (together with all other relevant NPPF policies), the inevitable and very harmful consequence of the appeal proposal would be that, in significant and substantial part, it would fundamentally undermine the plan-making process by prejudicially predetermining decisions about the location (as well as scale and phasing) of new (general employment and housing) development that are evidently central to the SAP, as an emerging, key component of the Development Plan.
- 2.31 Consistently, with the online Planning Practice Guidance (PPG) on prematurity, it is considered that the refusal of permission, as per putative reason for Refusal 5, is entirely justified. In light of the substantial and/or significant cumulative effect of the proposed development, it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies of the NPPF and any other material considerations into account.

Online Planning Practice Guidance (PPG):

- 2.32 Further to the NPPF, appropriate regard has been had to the PPG, including to the section advising in respect of the circumstances in which it may be justifiable to refuse planning permission on the grounds of prematurity (in the present case, with regard to the SAP).

3.0 Site Allocations Plan (SAP)

- 3.1 For the purposes of paragraph 216 of the NPPF the SAP is at a very advanced stage of preparation and will be further advanced at the time of the scheduled appeal which is due to start in September 2017. The Submission draft was submitted to the Secretary of State for Examination on 5th May 2017. The expectation is that Examination will be held in Autumn 2017 with the likely adoption of the SAP in early 2018.
- 3.2 For the purposes of paragraph 216 of the NPPF also, the relevant (general employment and housing, etc.) policies of the SAP are considered to disclose a very high degree of consistency with the NPPF.

- 3.3 The appeal site largely comprises 'white land'. Land within the appeal boundary includes two employment allocations (under saved UDP policies E3B:21 and E3B:22). Accordingly, the proposed development gives rise to conflict in this regard, with the Development Plan.
- 3.4 No part of the appeal site is either identified or allocated for any housing under the SAP (just as is the case under the Development Plan). Indeed, any residential development of the appeal site would be positively contrary to emerging (and existing, under the UDP) allocations.
- 3.5 Further to the fact that no part of the appeal site is allocated for housing under the SAP, the SAP explains, at paragraph 3.6.9, that even in the case of the in principle acceptability of residential development (i.e. in the event that the specific site is allocated for housing), various site-specific and generic requirements (including schools delivery, ecology, flood risk and highways) additionally fall to be considered over and above the allocation, as part of the consideration of the particular proposal on the merits. Further to the in principle objection therefore, the site is not considered to even approach acceptability for the purposes of this paragraph.
- 3.6 The employment allocations set out above are also retained as (two) identified sites for general employment use intended under the SAP (reference EG1-63 and EG1-65) and total 12.4ha, which equates to circa 58% of the total employment land identified in the Outer North East Area. Having regard to these two sites alone, the appeal proposal would be fundamentally inconsistent with this intended general employment use, on a very significant scale. It will be noted that the area comprised in the Thorp Arch Trading Estate (TATE) (i.e. land which includes but exceeds the appeal site) does not identify or allocate sites for office-specific development, as office use is considered not to be compliant with the spatial strategy of the Core Strategy and national policy and guidance which seeks to direct offices to accessible locations (i.e. town and local centres).
- 3.7 SAP policy EG1 however has effect far beyond the above two sites (reference EG1-63 and EG1-65). These sites together with four further sites (reference EG1-8, EG1-9, EG1-64 and EG1-68) are all identified for general employment use. The two sites within the appeal site comprise circa 58% of the identified general employment land intended to be proposed for the Outer North East Area under the SAP. If these two sites fell to residential, this would inevitably weaken what has been a well-considered, intended clustering of general employment allocations (encompassing all 6 sites), as to severely prejudice the other four sites. This strongly reinforces the fact that the appeal proposal would be fundamentally inconsistent with this intended general employment use, on an overwhelming scale.
- 3.8 Further, the highly prejudicial and predetermining effects of the site could not reasonably be viewed as being confined to general employment use sites and allocations. Rather, the direct implications of the appeal proposal would necessarily prove more substantial, in cutting across the SAP. Any sizeable residential development of this site (especially on the scale of that proposed) would necessarily mean a very significant departure from the SAP elsewhere, undermining the assessed and strategically preferred sites intended for the delivery of housing consistently with the identified sites and allocations under SAP draft/policies HG1 and HG2.
- 3.9 For, there is no intention, nor is there any strategic requirement or indeed any coordinated planning justification, to deliver any more than the housing target of 5000 "new units" within the Outer North East Area (comprising 1,482 homes on sites

with planning permission or on existing UDP allocations, leaving 3,518 homes to be allocated). The SAP allocates land and has identified 10 sites throughout the HMCA, as set out in Policy HG2 of the SAP, in order to fully meet the housing target. Even were the housing target to be exceeded in consequence, this would necessarily offset harmfully by undermining the coordinated development requirements for the Outer North East Area, and indeed beyond this Area.

- 3.10 The above sites include two larger strategic allocations: one at Parlington (MX2-39) for 1,850 homes (Phase 1) and one at land to the East of Wetherby (HG2-226) for 1,100 homes (Phase 1). The latter site is geographically close to TATE and forms an urban extension to the major settlement of Wetherby. The other is a stand-alone settlement, located to the south of the HMCA proposed in line with the Government's Garden Village prospectus.
- 3.11 The residential development of this site with circa 874 dwellings would mean an equivalent diversion away from the assessed and preferred locations of a very significant number of housing units, approaching one fifth of the total "new units" delivery.
- 3.12 The TATE (i.e. that exceeding the appeal site) is in mixed use with predominantly employment and retail uses, surrounded by rural land. As above, the TATE also comprises existing UDP employment allocations (for Development Plan purposes) which are intended to be retained under the SAP. Whilst it is intended under the SAP to promote a small (Phase 3) housing allocation on Homes and Communities Agency owned land within the TATE (but, notably, outside of the appeal site), located to the north of Wealstun Prison (site reference HG2-227) with an indicative capacity of 142 units, this does not undermine the significance of the intended general employment use of part of the appeal site itself. Not only is this proposed residential development site-specific but it is for comparatively modest residential development, for an indicative capacity of 142 units only. Accordingly, the scale of development intended for site reference HG2-227 is significantly less than the appeal proposal and would obviously not result in the magnitude or severity of impact that underlies the putative reasons for refusal. Nor would it give rise to any adverse predetermining effects in terms of the SAP.
- 3.13 Of further relevance to paragraph 216 of the NPPF, the site has been robustly considered through the SAP plan-making process.
- 3.14 The reasons for discounting the site are explained in the Housing Background Paper, Appendix 2. This confirms that the site is a: *"large brownfield site with current employment and retail uses. Local preference for the site to remain in employment use with additional land allocated for employment purposes. Concerns over the general sustainability credentials of the site. Parts of the site also have high ecological value. Significant highways mitigation measures would also be required which may not be deliverable. Site not required to meet the housing numbers due to local preference for an alternative strategic option."*

- 3.15 The TATE was specifically noted in the Executive Board Report (dated 21st September 2016) which sought endorsement for the Publication Draft Plan for the Outer North East Area. The Executive Board Report noted that:

“Thorp Arch Trading Estate

2.16.1.1 The idea of a new settlement at Thorp Arch Trading Estate (TATE) has been an aspiration of the landowners for over a decade, and previously promoted as part of the UDP Review, but there has yet to be a viable scheme which addresses local constraints. Various planning applications for residential schemes on this brownfield site have yet to come to a resolution, with deliverability and viability proving to be key challenges, alongside detailed highway, ecological, heritage and other material requirements. A planning application has been recently submitted to the Council for consideration for circa. 800 dwellings. TATE is recognised in the SAP as an established mixed use site with predominantly employment and retail uses serving the Outer North East. The TATE also contains parcels of undeveloped and underutilised land, part of which have Nature Conservation designations. To that end, the Publication Draft SAP detailed the extent of the existing Thorp Arch Trading Estate on the Policies Map and retained previous undeveloped UDP employment allocations as identified SAP allocations.”

- 3.16 For the purposes of paragraph 216 of the NPPF, it is not considered that the unresolved objections that relate to Submission draft/policies EG1, HG1 and HG2, and which fall to be considered at the Examination of the SAP, disclose any particular significance (either in terms of number or their content).
- 3.17 It is also of note that, historically, at Issues and Options Stage of the SAP (2013) options for TATE as a mixed-use housing and employment allocation received substantial objection from local people (153 objections out of 204 total comments on the site) who principally objected to the residential component.
- 3.18 The outcome of the consultations at both Publication Draft (September–November, 2015) and Revised Publication Draft (for the Outer North East) (September–November 2016) is set out in the Report of Consultation and accompanying background papers to the Submission Draft Site Allocation Plan, submitted to the Secretary of State on 5th May 2017. This summarise the issues raised in the paragraphs above in that the idea of a new settlement at TATE has been an aspiration of the landowners for over a decade, but there has yet to be a demonstrably viable scheme which addresses local constraints, therefore deliverability (as denoted in para 47 (and footnote 11) of the NPPF) has led the Council to discount the application site (or wider TATE site) as a housing allocation in the SAP. Instead the Submission Draft SAP identifies general employment allocations across TATE, including within the application site.
- 3.19 The site was neither progressed for any mixed uses incorporating residential use at Publication stage (2015) nor at revised Publication stage for the Outer North East (2016).

4.0 National Guidance – Five Year Supply

- 4.1 The NPPF advises that LPAs should identify and update annually a supply of specific deliverable sites to provide five years' worth of housing supply against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Deliverable sites should be available now, be in a suitable location and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. Sites with planning permission should be considered deliverable until permission expires subject to confidence that it will be delivered.
- 4.2 The LPA currently lacks a 5 year deliverable supply of housing land, and as above, under paragraphs 14 and 49 of the NPPF, any relevant policies for the supply of housing should be considered to be out of date. Even in this event however, they remain relevant under the Development Plan for decision-taking pursuant to section 38(6) of the 2004 Act, it being a matter of the weight to be attached to these relevant policies.
- 4.3 Further to above discussion of paragraph 14 of the NPPF and the view that the proposed development would not be sustainable, it is also considered that the appeal site would not be deliverable in terms of the proposal. Officers are seriously concerned that the appeal proposal demonstrably fails to show how footnote 11 (of paragraph 47) of the NPPF, would be met. This includes the delivery timescales of TATE given particular and significant onsite constraints, including those evidenced from previous planning applications.
- 4.4 Therefore, any housing development on the site would be unlikely to contribute swiftly to housing land supply in any event, and well after the sites allocated and identified in the HMCA, under the SAP.

Current Housing supply

- 4.5 In terms of housing delivery within the Wetherby and Boston Spa area, a number of sites are on, or coming, to the market assisting in providing for local housing need. This equates to 711 units (14%) of the Core Strategy Target, within the plan period so far. The SAP identifies alternative sites to adequately meet the remainder of the target.
- 4.6 In total, there are currently 18 sites with capacity for 740 units with planning permission in Outer North East as at 31st December 2016 – 67 units have been completed which leaves an outstanding capacity of 673 units. In Wetherby, there are 8 sites with current planning permission and 1 UDP allocation with no permission with an outstanding capacity of 478 units. Of these sites, 3 are under construction (with a capacity of 127). This leaves 5 with planning permission for 367 units left to start.
- 4.7 In addition:
- there is the remaining UDP allocation for 30 units at Bowcliffe Road, Bramham;
 - there are 15 completed sites that have been brought forward in the Core Strategy period (2012-2028). In total, 284 units across 15 sites – 8 of those

in Wetherby with a total of 217 units including the 153 at Churchfields, Boston Spa with the final completions on that site in December 2015;

- there is the recently granted Grove Road (104), Boston Spa Protected Area of Search (PAS) site which was upheld at appeal.

Affordable Housing

- 4.8 In conformity with national planning policy and guidance, affordable housing is required to meet local needs. Core Strategy Policy H5 seeks a contribution of 35% in the Outer North East Area. The target of 35% has been set at this level and tested thoroughly by the Economic Viability Study (January 2013) and Position Update (May 2014) which accompanied the Core Strategy Examination. It provides realistic and deliverable targets for the provision of affordable housing in this HMCA. Affordable housing targets for the North were set at a modest rate to ensure delivery in this relatively affluent part of Leeds. In this particular HMCA the affordable ratio between earnings and house prices is more pronounced and there is also a smaller stock of existing social housing in this area. Consequently there is a strong driver for policy compliant schemes in this area.
- 4.9 At the time of writing it is known that the appeal proposal will be subject to a viability appraisal, though this is yet to be submitted and assessed. Discussions between the appellant, LPA and District Valuer are ongoing with a view to making further progress. If such sufficient meaningful progress has been made in time, a verbal update will be provided to Members. Nevertheless, it is known that the development of the site is will be subject to significant costs and even when balanced against the likely sales figures, it is highly likely that the proposals will be deficient in Affordable Housing provision to some degree.
- 4.10 Given the position on progress with the SAP (and the weight that it may therefore be afforded) and the LPAs promotion of other sites as housing allocations in the Outer North East area, where the expectation would be that new development would be policy compliant, it would not be logical to agree anything less than the policy compliant level of Affordable Housing on the application site. Therefore, whilst the level of shortfall and thus non-compliance with policy is unknown at this time, it is recommended that Members support a further reason for refusal in relation to the failure to make satisfactory provision for Affordable Housing, as set out in putative reason for Refusal 4. Where the appellant is able to demonstrate a scheme that is policy compliant in Affordable Housing terms, such a reason for refusal would fall away.

5.0 Update on highway impact (Reason for Refusal 1):

- 5.1 The surrounding highway network is predominantly rural in nature. To the north of the site Walton Road/Wetherby Road/Wighill Lane connects the site to the A1(M) and Wetherby to the west, and Tadcaster to the east. To the west of the site Walton Road/Church Causeway/Bridge Road, which lies on a predominantly north/south alignment, connects Walton, Thorp Arch Village and Boston Spa.
- 5.2 A key issue arising under putative reason for Refusal 1 is the inability of the local highway network to accommodate both the number and nature of trips that would likely arise from the proposed development. This concern relates to the impact that additional traffic would have over Thorp Arch Bridge (a Grade II Listed structure), which is of a single carriageway width and does not have the capacity to

accommodate significant extra traffic movements. In addition the junction of Bridge Road / High Street is very constrained and on-street parking on Bridge Road means that this length of road is subject to queuing and delay. These features of the highway network significantly inhibit any ability to adequately accommodate the level of traffic likely to be generated by this development.

- 5.3 The appeal proposal fails to demonstrate that the local highway infrastructure, specifically Thorp Arch Bridge and the junction of Bridge Road / High Street in Boston Spa - which will be affected by additional traffic as a result of the appeal proposal, is capable of satisfactorily absorbing the significant additional pressures which will be placed upon it by the corresponding increase in traffic, and separately, of safely accommodating the increase in vehicle movements likely to be generated by the appeal proposal.
- 5.4 It is anticipated that vehicular traffic will approach the site via the junction of Wighill Lane/Street 5, junction of Wighill Lane/Street C East roundabout. A bus only gate is proposed, connecting to Church Causeway. The appellant has proposed potential mitigation to accommodate the impacts of the development, including the signalisation of the junction of Wighill Lane/Street 5, signalised pedestrian crossing of Wighill Lane and signalisation of High Street Boston Spa/Bridge Road (including signal control across Thorp Arch Bridge) in order to coordinate traffic flows through this part of the network.
- 5.5 The application has been submitted with a Transport Assessment, which has been considered by the Council's Highway officers. It rejects the content of the Transport Assessment in relation to trip purpose and trip assignment, and further, in relation to the modelling of the impact on Thorp Arch Bridge and Bridge Road / High Street, Boston Spa.
- 5.6 It is considered that the additional traffic generated by the site which routes via Thorp Arch and Boston Spa will give rise to severe, residual cumulative impacts in terms of traffic and traffic congestion.
- 5.7 It is separately considered that the additional traffic generated by the appeal proposal will give rise to unacceptable issues of road safety.

Trip Rates:

- 5.8 The appellant's Transport Assessment uses trip rates based on surveys undertaken at the existing nearby residential developments of Woodland Drive and Walton Chase. As a sensitivity test, Highway Officers had requested the use of alternative higher trip rates used on recently approved residential developments in the Wetherby area. The use of alternative higher trip rates was requested as a sensitivity test so that the effect of using higher trip rates could be better understood. Whilst this work was undertaken, the appellant did not agree with this approach.

Impact of Development:

- 5.9 The LPA is of the view that the assessment methodology should properly take a consistent approach with regard to trip rates and peak periods, which should be based on the identified local network peak hours (i.e. 07.30 08.30 and 16.30 17.30).
- 5.10 The surveys upon which the locally derived trip rates have been calculated, suggest that the majority of school related travel takes place outside the morning network peak i.e. after 08.30. The LPA is of the view that the primary purpose of trips during

the morning network peak hour are journeys to work and that therefore no special consideration of education trips is needed. The appellant's transport consultant has assumed a large number of school related trips stopping in Thorp Arch and not re-appearing on the highway network in the peak hour. This artificially reduces the traffic impact (especially across Thorp Arch Bridge and through Boston Spa) and is not acceptable to the LPA. The LPA is of the view that the proposed methodology is fundamentally flawed.

Distribution/Assignment:

- 5.11 The LPA is of the view that the surveyed turning movements to/from the developments of Woodland Drive and Walton Chase (used to calculate the trip rate) provide for a good reflection of how existing residential traffic is assigned on the local highway network and that this assignment offers the most appropriate representation of how traffic from the proposed development will be assigned on the local network.
- 5.12 The LPA disputes the percentage distributions advocated by the appellant. The LPA is of the view that development traffic approaching the Wetherby Road/Wighill Lane/Walton Road junction should be assigned in accordance with the arrival/departure characteristics of the existing residential developments and local network peak periods. There needs to be a consistent use of the survey data used to derive the trip rates and this data should not be manipulated to reduce the traffic impact through Thorp Arch and Boston Spa as in the appellants' Transport Assessment.
- 5.13 The LPA remain of the view is that the proposed assignment methodology fails to assess the true impact of traffic generated by the proposed development, particularly its impact on the operation of Thorp Arch Bridge and Bridge Road/High Street junction, areas of the local highway network which are known to be sensitive to variations in traffic flow and vulnerable to congestion.

Thorp Arch Bridge and High Street Junction, and Wighill Lane/Street 5 Junction:

- 5.14 At present, the LPA does not consider that the signalisation of the Thorp Arch Bridge and High Street Junction provides any appropriate form of mitigation in order to adequately deal with the level of traffic that is considered likely to arise in consequence of the application. Severe residual cumulative impacts are concluded to arise.
- 5.15 Due to the presence of on-street parking on the southern side of Bridge Road, which regularly obstructs the free flow of traffic between Thorp Arch Bridge and the High Street/Bridge Road junction, the LPA has serious concerns regarding the validity of the modelling and whether this provides a true reflection of how the junctions will operate in practice.
- 5.16 There are also concerns regarding the cycle times, which are considered to be high and may actually increase queueing during peak periods.
- 5.17 The LPA has not been provided with any detailed consideration of any other method of satisfactorily managing/controlling traffic flows over Thorp Arch Bridge and through Boston Spa.

Highway Safety:

- 5.18 The LPA have concerns regarding the design of the proposed highway works. As is standard practice, the LPA has requested an independent third party road safety audit.
- 5.19 Stage 1 Safety Audits are required for the proposed bus gate on to Church Causeway, the signalised Wighill Lane/Street 5 junction, the signalised pedestrian crossing on Wighill Lane and signalised High Street/Bridge Road/Thorp Arch Bridge junction.
- 5.20 The LPA further considers that the proposed signalisation of Thorp Arch Bridge and Bridge Road / High Street junction is not safe due to extremely long traffic light cycle times, leading to long queues and potential for short cutting the traffic lights through the public car park and driver frustration.
- 5.21 Also the suggestion that the signals will form platoons is not accepted by virtue of inadequate green times to clear each manoeuvre and traffic movements entering the network within the green light phases.
- 5.22 The restricted road width and on-street car parking / bus stop also impedes the necessary platoon movements and leads to vehicles mounting the footway to the detriment of pedestrian and cyclist safety. An unrestricted side road is proposed to emerge in advance of the stop line which will lead to unacceptable vehicular conflict.
- 5.23 Therefore the mitigation works proposed to date by the appellant are not considered to be acceptable as, together, they fail to produce any safe solution.

Summary

- 5.24 Highway officers remain unsatisfied by the appellant's traffic assessment methodology. It is unsatisfactory in terms of trip purpose and trip assignment, which should properly be based on the locally derived trip rates, identified local network peak hours and assignment characteristics of the existing residential developments of Woodland Drive and Walton Chase (used to calculate the trip rate).
- 5.25 Consequently, the methodology critically fails to properly assess the true impact of traffic generated by the proposed development on the local highway network, in particular the impact and operation of the Thorp Arch Bridge and High Street / Bridge Road junction.
- 5.26 There arises a conflict with Core Strategy Policy T2 and UDP Policy GP5 and also to demonstrable harm caused to highway safety, in addition to the creation of severe and unacceptable traffic congestion impacts, fully taking into account mitigation strategies.
- 5.27 It should be noted as regards the reference stated within the putative reason for refusal to the sustainable transport guidance in the NPPF and to problems of the efficiency of the highway network, the LPA's view has been arrived at consistently with paragraph 32 of the NPPF, it having been determined that the residual cumulative transport impacts of the development will be severe.

6.0 Update on accessibility (Reason for Refusal 2):

- 6.1 Insufficient information has been submitted with the application to demonstrate that an acceptable level of accessibility, with regard to the scale of development proposed. In the absence of such information and measures, as may be secured, there is a serious concern that future residents will be overly reliant on the private car, contrary to development plan policy and the NPPF.
- 6.2 It is noted that the location of the site and the nature of the existing public transport infrastructure is such that the site falls significantly short of the Core Strategy accessibility standards.
- 6.3 It is for the appellant to demonstrate that they can make the development sustainable. In the context of the application, officers have had regard to the level of on-site provision of community facilities (school, open space, shops etc. and improvements to local bus services to provide an appropriate alternative to the use of the private car.
- 6.4 It is noted that paragraph 4.6.16 of the Core Strategy states that:

“Notwithstanding the distribution set out in Table 2, the Council will consider opportunities outside the Settlement Hierarchy, where the delivery of sites is consistent with the overall principles of the Core Strategy, including the regeneration of previously developed land, and are in locations which are or can be made sustainable. Land at Thorp Arch has been identified as one such example.”

- 6.5 Historically, the complete TATE site has been regarded as previously developed land. It is acknowledged that the appeal site comprises areas which are clearly developed, areas which have been developed and re-vegetated to some degree over the passage of time and areas which have the appearance of being undeveloped. Large parts of the greenfield areas are not proposed to be developed.
- 6.6 However, for the purposes of paragraph 4.6.16, the acceptability of development depends upon whether a sustainable location, for which sustainable development is proposed, can be achieved and, implicitly, whether the technical aspects of the appeal proposal can be satisfactorily resolved. As discussed above, the site is not sustainable for development of the nature or scale of the appeal proposal. The appeal proposal is not sustainable development in and of itself.
- 6.7 Even were the residential development of the site acceptable in principle under the Core Strategy specifically (which it is not, given that the site cannot be made sustainable with regard to the appeal proposal), officers nonetheless have serious concerns that the application does not fully set out how such a housing scheme could be progressed and completed sufficiently swiftly.
- 6.8 In addition, without the relevant and appropriate infrastructure to be provided as part of the proposals, accessibility and sustainability remain strong concerns in terms of policies SP1 and H2.

Accessibility:

- 6.9 The accessibility standards for residential development serving 5 or more dwellings are set out in the Core Strategy. Although these standards apply across the whole of the Leeds District, as the site is at the outer edge of the Leeds District, some of the

standards may be more difficult to be met and it may be reasonable to substitute Leeds, Bradford and Wakefield for York or Harrogate.

- 6.10 The appellant's current offer of accessibility enhancements is summarised in the draft heads of terms for a S106 agreement – attached at Appendix 3. These matters are considered in more detail below:

Buses:

- 6.11 The appellant has indicated that it would be willing to commit to the costs of diverting the existing 770 / 771 Service through the site via the proposed bus gate on Church Causeway, which will provide a combined service frequency of 2 buses per hour between Leeds, Wetherby and Harrogate. This will only maintain the existing 30 minute service between Leeds, Wetherby and Harrogate, which, falls significantly below the adopted Core Strategy Accessibility Standards, which requires a 15 minute service frequency to a major transport interchange, (defined as the City Centres of Leeds, Bradford and Wakefield).
- 6.12 It is the understanding of Highways officers that the appellant's position regarding public transport provision is that they are willing to fund diversion of the 770/771 service through the appeal site, via the proposed bus gate off Church Causeway, to maintain the existing 30 minute service frequency between Leeds, Wetherby and Harrogate, for the build out period of the development, anticipated to be up to 10 years. This would be in addition to the provision of a school bus service to serve the local secondary school, which shall also be funded for up to 10 years.
- 6.13 The appellant has indicated that they are willing to provide the requisite additional bus stops with real time bus information. With regard to the S106 heads of terms, it is considered that this needs to be expanded to include amendments to existing stops which will be affected by the development.
- 6.14 The proposed level of provision does not meet Core Strategy accessibility standards or satisfy the site specific public transport needs. The notable shortfall in provision, and policy conflict that arises, remains unacceptable even if it is the case that no higher level of provision than that which is proposed is practically possible in terms of the appeal site. Indeed, where this is the case, the fact only serves to underscore the unacceptably unsustainable nature of the appeal proposal.

Walking/Cycling:

- 6.15 The proposed pedestrian and cycle facilities remain demonstrably unclear.
- 6.16 Officers consider that existing pedestrian infrastructure serving the appeal site is limited and/or unattractive and that the appeal proposal would be likely to unacceptably increase reliance on the car.
- 6.17 The Council is developing, in conjunction with Sustrans, proposals to create cycle/pedestrian links from Walton to NCR 665 (Walton Cycle Link) and a link from Thorp Arch Estate to NCR 665 where it crosses the old railway bridge to the south of the site linking to Newton Kyme.
- 6.18 To enhance pedestrian/cycle accessibility the LPA would otherwise be seeking the provision of, or an appropriate contribution towards, these links as well as improvements on the footway routes between the site and Walton, Thorp Arch and Boston Spa.

- 6.19 Overall, the site currently falls significantly short of the LPA's Accessibility Standard. In transport terms, the site is not considered to be sustainable, resulting in a high reliance on the use of the private car. The rural location of the site exacerbates the limited public transport provision as journey times will also be unattractive, as set out below.

	Local Services	To employment	To primary health / education	To secondary education	To town centres / city centre
Accessibility Standard	15 minute walk to small convenience shop, grocers, post office, newsagents, etc.	5 minute walk to a bus stop offering a 15 minute service frequency to a major public transport interchange	20 minute walk or a 5 minute walk to a bus stop offering a direct service at a 15 minute frequency	Within a 30 minute direct walk or 5 minute walk to a bus stop offering a 15 minute service frequency to a major public transport interchange	Within a 5 minute walk to a bus stop offering a direct 15 minute frequency service
Thorp Arch Provision	No current provision – proposal for convenience shop on site. Facilities in Boston Spa are beyond the 15 minute walk distance	No – bus service has 30 minute frequency to major PT interchange	Primary Health: No – Proposed D1 uses could incorporate primary health use but no firm proposal Primary Education: YES – Lady Elizabeth Hastings PS – 18 minute walk and proposed 1FE primary school on site	No – 3.5km walk (44 minutes) and 30 minute frequency bus service	No – 30 minute frequency

Additional comments on current S106 heads of terms

- 6.20 As noted above, the appellant has drafted initial heads of terms for a S106 agreement – attached at Appendix 3. The appellant has set out a number of

measures in an attempt to address the shortcomings of accessibility on the appeal site. At the time of writing, officers have provided the following comments:

- Bus shelters – As discussed above, this section needs expanding to provide for amendments to existing stops affected by the development.
- Transport mitigation – The final paragraph is unacceptable as it could result in foregoing the contribution prematurely, before the development has been completed.
- Bus infrastructure – Notwithstanding the unacceptability of the accessibility of the site, bus penetration needs to be enabled at an appropriate time and so the bus gate / link needs to be completed at a relatively early stage.
- Bus diversion contribution - Generally, it is recognised that the level of provision, as discussed above, is the most that is likely to be viable in this location, albeit this does not make it acceptable.
- Off-site traffic calming (financial contribution) – consideration is currently being given to whether these sums are sufficient.

6.21 Notwithstanding the above, it is still considered that the proposed development falls short of an acceptable level of accessibility and is therefore contrary to policies SP1, T2 and H2 of the Core Strategy and policies T2 and GP5 of the adopted UDP Review in addition to the NPPF.

6.22 Notwithstanding the measures proposed in the draft S106 heads of terms, officers consider that these are insufficient to overcome the intrinsic lack of accessibility and the harm caused due to the scale of development, as described above. It is therefore recommended to Members that the proposed measures fail to overcome the issues at the heart of reason for Refusal 2, as reported to Members at 27th April 2017 City Plans Panel, as per the reported appended at Appendix 1.

7.0 Update on S106 planning obligations (Reasons for Refusal 3 and 4) and Affordable Housing:

7.1 The Community Infrastructure Levy Regulations 2010 set out legal tests for the imposition of planning obligations. These provide that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is –:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

7.2 The Council's CIL charging schedule has been adopted and requires a payment of £90 per square metre of residential floor space in this part of the city.

7.3 CIL adoption means that S106 payments previously identified relating to greenspace and education are no longer applicable.

7.4 It remains necessary for the appellant to enter into a S106 agreement relating to affordable housing, public transport infrastructure, travel planning, off-site traffic calming, off-site highway works, country park management scheme, greenspace provisions, mechanisms to deliver the on-site primary school, local centre and care home and provisions to relocate the existing concrete batching plant. The appellant has prepared draft heads of terms of a S106 agreement, appended at Appendix 3 for information. At the time of writing, this is not agreed.

- 7.5 In principle, the obligations have all been appropriately considered against the legal tests. Each is considered necessary, directly related to the development and fairly and reasonably related in scale and kind to the appeal proposal.
- 7.6 The appellant will be required to submit a S106 Agreement to address the policy requirements for this application should permission be granted (Spatial Policy ID2).
- 7.7 As discussed above, it is understood that the appellant is preparing a viability appraisal and intends to liaise with the LPA and District Valuer so that the LPA can finalise the scope of planning obligations to be taken forward under a S106 Agreement for the purposes of the appeal.
- 7.8 In the absence of any signed agreement, the Council must protect its position. Without a S106 Agreement, the appeal proposal will fall far short of being policy compliant specifically in terms of contributions and planning obligations.
- 7.9 As the appeal proposal stands, it is considered to be contrary to the requirements of Policy GP5 of the adopted UDP Review and related Supplementary Planning Documents and contrary to Policies H5, H8, P9, T2, G4 and ID2 of the Leeds Core Strategy and guidance in the NPPF.
- 7.10 At the time of writing it is known that the appeal proposal will be subject to a viability appraisal. Whilst the outcome of this assessment is presently unknown, it is anticipated that there will be a shortfall of Affordable Housing, when measured against policy.
- 7.11 Discussions between the appellant, LPA and District Valuer are ongoing with a view to making further progress on the viability appraisal. Nevertheless, it is known that development of the site is will be subject to significant costs and even when balanced against the likely sales figures, it is highly likely that the proposals will be deficient in Affordable Housing provision to some degree. Given the policy context set out above, where policy compliant delivery could reasonably be expected on sites to be allocated in the SAP, there is, on the face of it, no good reason for agreeing anything less than a policy compliant level of Affordable Housing on the appeal site. A putative reason for refusal on this basis is therefore also included for Members' consideration – reason for Refusal 4.

8.0 Issues arising from the Plan Making process (Reason for Refusal 5):

- 8.1 Since the City Plans Panel meeting of 27th April 2017, further progress has been made in relation to the Site Allocations Plan, which has consequences for the appeal proposals and the Council's case.

Housing Allocations in Outer North East

- 8.2 The indicative target for the Outer North East, as set out in the CS, is 5,000 units. The target does not mean that land for 5,000 homes needs to be found as there are already 1,482 identified homes with planning permission or comprised within existing allocations.
- 8.3 The residual target is 3,518 homes.
- 8.4 In line with Policy H1 of the CS on the managed release of sites, the SAP allocates 3,301 homes in Phase 1 on 5 sites and 217 homes in Phase 3 of the Plan on 5

sites. By far the largest allocations are in Phase 1 and include HG2-226 – 1,100 homes on land to the east of Wetherby and MX2-39 – 1,850 homes on land at the Parlington Estate, Aberford.

- 8.5 This provides a total supply from allocations of 3,518 homes, which together with identified homes brings the total SAP allocations to 5,000 homes, in accordance with the CS. The scale of the appeal site, at 874 units is equivalent to 25% of the total number of homes to be allocated.

Site Allocations Plan (SAP) - Submission Draft

- 8.6 The LPA considers that the application proposal should properly be viewed as substantial and overwhelming in its scale. It is wholly inconsistent with the SAP. In residential terms and the SAP, the proposal would represent a quarter of the total housing intended to be allocated in the HMCA. In respect of general employment uses intended under the SAP, the appeal proposal would directly displace circa 58% of this land.
- 8.7 It is not considered that there are any significant, less any substantially meritorious, outstanding objections in respect of relevant employment policies of the SAP.
- 8.8 Whilst the LPA notes that some proposed residential allocations, such as Parlington, have attracted a significant level of objection, the LPA believes that these objections have been addressed through the SAP (Submission Draft) supporting material.
- 8.9 It is also considered that the relevant policies of the SAP disclose a very high degree of consistency with the relevant policies of the NPPF and as a result of the above considerations, the LPA believe the Plan is sound.
- 8.10 Consequently, it is considered that significant weight can properly be given to relevant emerging SAP policies.
- 8.11 Properly applied, the Planning Practice Guidance advises against this specific development proposal:

“...arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

- the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
- the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”

- 8.12 Fundamentally, pursuant to the advice given in the PPG, in the particular circumstances of the appeal proposal, significant weight could and should be given to the relevant policies of the emerging SAP. It is considered that the proposal is ‘premature’ in light of the SAP and that refusal of application at appeal is justified in

the circumstances because the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the appeal proposal (including housing provision, even if it is deliverable), taking into account the NPPF and all other material considerations.

- 8.13 The effects of the proposed development would prove significant in highly undermining the plan-making process under the SAP by predetermining a considerable number of decisions concerning the location, scale and phasing of new development (i.e. directly, both general employment and residential development throughout the HMCA) which are unarguably central to the emerging SAP as it relates to this area. There would additionally arise prejudicial indirect effects.
- 8.14 In terms of the impact upon the strategic delivery of residential development for the HMCA, the appeal proposal would prove significantly and unacceptably prejudicial: the proposal would account for approaching one fifth of the HMCA housing target. Separately, in terms of the impact upon the strategic delivery of general employment uses for the HMCA, the appeal proposal would prove no less prejudicial: the proposal would account for circa 58% of the HMCA's intended allocation. The objection is therefore far more than one in principle. Both intended residential and general employment land under the SAP have already been robustly assessed by the LPA.
- 8.15 The loss of employment land not least, and on a significant scale, would inevitably need to be provided elsewhere, using relatively unacceptable locations and potentially within the green belt.
- 8.16 More generally, the cumulative adverse effects of granting permission in respect of the appeal site would prove very significant, in that it would undermine the choices to be made within the HMCA and could be reasonably seen to fundamentally predetermine the outcome of the SAP, with regard to the release of other strategic sites in the Area. Plan-making (and consistent decision-taking) pursuant to the SAP in terms of the scale, location and phasing of new development within the Outer North East, that are central to the SAP would be significantly undermined.
- 8.17 This very important plan-making context is confirmed not least in Section 6 of the SAP Housing Background Paper.
- 8.18 The application proposal is also of a scale as to considerably exceed what may reasonably be viewed as "windfall" development, at this stage of the plan-making process.
- 8.19 Overall, it is considered that the application proposal would not least give rise to the strongly adverse and undermining effects upon the LPA's plan-making process, of: (a) prejudicing the Council's assessed, preferred residential and general employment sites provided for in the SAP; (b) prejudicing the make-up of sites for the Outer North East Area more specifically; and (c) potentially causing a significant over-allocation of housing against the objectively assessed requirement and the Core Strategy spatial strategy, because even if the LPA were to accept a need to exceed its housing allocations targets, the HMCA would not represent the most sustainable location for such excessive growth. There are sequentially preferable locations within the main urban area and City Centre.
- 8.20 Even taking into account the benefit of residential development in circumstances where the LPA is unable to demonstrate a five-year housing land supply, and other

(lesser) benefits of the appeal proposal, it remains clear that these would be significantly and demonstrably outweighed by adverse impacts.

- 8.21 Indeed, it is considered that the prematurity of the application proposal alone means that planning permission should be refused in light of the significance of its attendant adverse impacts. This is notably before other significant harms, as disclosed by the various putative reasons for refusal, are taken into account.
- 8.22 Members are therefore invited to resolve that a fifth putative reason for Refusal should be added in order to defend that appeal on prematurity grounds.

9.0 Conclusion:

- 9.1 The Council considers that the appeal proposal is contrary to various policies of the Development Plan – Core Strategy policies SP1, T2, H2, H5, H8, P9, T2, G4 and ID2 and saved UDP Review policy GP5. There are no material considerations to indicate that permission should be granted, for the purposes of section 38(6) of the 2004 Act.
- 9.2 The application proposal is also significantly contrary to emerging planning policy under the SAP. The appeal proposal is objectionably premature in this respect, consistently with the advice given under the PPG.
- 9.3 The application proposal is also contrary to the NPPF. Evidently, it is not sustainable development. Taking proper account of the NPPF, including paragraph 49, in the circumstances of the appeal, this is not a case in which the presumption in favour of sustainable development under paragraph 14 positively operates in favour of granting permission.
- 9.4 This is however a case in which the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the application proposal, even taking due account of the LPA's lack of a five-year housing land supply and the benefits of the scheme, as the LPA has done.
- 9.5 In terms of the putative reasons for refusal adopted by the City Plans Panel on 27th April 2017, the local highway infrastructure, specifically Thorp Arch Bridge and the junction of Bridge Road / High Street in Boston Spa would become subject to severe, residual cumulative impacts in terms of traffic congestion. Separately, it has not been demonstrated that the appeal proposal would safely absorb additional traffic, such that objectionable safety concerns arise.
- 9.6 The appeal proposal also discloses an unacceptable level of accessibility. Officers have serious concerns that future residents will become overly reliant on the private car.
- 9.7 In the absence of an appropriate S106 agreement the appeal proposal fails to provide necessary contributions and planning obligations for the provision and delivery of affordable housing, housing for independent living, greenspace, travel planning, public transport enhancements, local facilities and off site highway works, without which would result in an unsustainable form of development that fails to meet the identified needs of the city and prospective residents.
- 9.8 In light of the current absence of a viability appraisal, but in the knowledge that the likely level of affordable housing will fall short of the policy requirement, officers

recommend the need for the LPA to amplify its objection to the appeal proposal on Affordable Housing grounds as a further separate putative reason for refusal – see putative reason for Refusal 4.

- 9.9 On the basis of the above, officers recommend that Members should be minded to refuse the application for the additional reasons specified. These reasons shall additionally form part of the basis for defending the appeal at the forthcoming public inquiry.

APPENDIX 1 – 27TH APRIL 2017 CITY PLANS PANEL REPORT



Originator: Andrew Crates

Tel: 0113 222 4409

Report of the Chief Planning Officer

CITY PLANS PANEL

Date: 27th April 2017

Subject: 16/05226/OT - Outline planning application for circa 874 dwellings; a 66 bed care home; a 1 form entry primary school; a new local centre including a Class A1 convenience store (up to 420m²), a 5 unit parade of small retail units (up to 400m²), Class D1 uses (up to 750m²); onsite open space, including areas for both public access and biodiversity enhancements, together with associated highway and drainage and infrastructure on land at Thorp Arch Estate, Wetherby, LS23

Applicant – Rockspring Hanover Property Unit Trust

Electoral Wards Affected:

Wetherby

☐ Yes

Ward Members consulted

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION: To contest the appeal that has been made against the non-determination of the planning application for the following reasons:

- 1. The Local Planning Authority considers that the applicant has so far failed to demonstrate that the local highway infrastructure, including the wider network and specifically Thorp Arch bridge and the junction of Bridge Road / High Street in Boston Spa, which will be affected by additional traffic as a result of this development, is capable of safely accommodating the proposed development and absorbing the additional pressures placed on it by the increase in traffic which will be brought about by the proposed development. The proposal is therefore considered to be contrary to Policy T2 of the Core Strategy, Policy GP5 of the adopted UDP Review and the sustainable transport guidance contained in the NPPF which combined requires development not to create or materially add to problems of safety, environment or efficiency on the highway network.**
- 2. The Local Planning Authority considers that there is insufficient information submitted with the application to demonstrate that an acceptable level of**

accessibility can be achieved for the scale of development proposed. In the absence of such information and measures, as may be secured, there is a danger that future residents will be overly reliant on the private car. The proposals are therefore considered to be contrary to policies SP1, T2 and H2 of the Leeds Core Strategy and policies T2 and GP5 of the adopted UDP Review and guidance in the NPPF.

- 3. In the absence of a signed Section 106 agreement the proposed development fails to provide necessary contributions and/or obligations for the provision and delivery of affordable housing, housing for independent living, greenspace, travel planning, public transport enhancements, local facilities and off site highway works, without which would result in an unsustainable form of development that fails to meet the identified needs of the city and prospective residents, contrary to the requirements of Policy GP5 of the adopted UDP Review and related Supplementary Planning Documents and contrary to Policies H5, H8, P9, T2, G4 and ID2 of the Leeds Core Strategy and guidance in the NPPF.**

1.0 Introduction:

- 1.1 The application is presented to City Plans Panel following the submission of an appeal against non-determination to the Planning Inspectorate by the applicant. In these circumstances, the Local Planning Authority is no longer able to determine the application itself. Until this point in time, officers have been working with the applicant to resolve as many of the technical issues as possible. As part of the appeal, the Authority will need to submit evidence as to its assessment of the application as it currently exists. Therefore, given the views of officers on the application as submitted (that is it is not acceptable) it is necessary for the Authority to determine how it would have been minded to determine the application, and evidence what its reasons for refusal would have been, had it had the opportunity to determine the application. Accordingly, this report recommends to Members what those reasons for refusal would have been in order that evidence for the appeal can be drafted accordingly and seeks a decision from Panel.
- 1.2 The planning application was submitted in August 2016 and since that time officers have sought to consider consultation responses and local representations in order to negotiate with the applicant and narrow the areas of disagreement.
- 1.3 Some Members may recall a previous planning application, reference 13/03061/OT, that sought outline planning permission for a residential development for up to 2,000 dwellings with associated parking, landscaping, primary school, village centre, retail development, sports pavilion, play area, amenity space and associated off site highway works. The latter element included a new section of road that cut through open fields to west of the site. Ultimately that application was withdrawn by the applicant. Whilst the applicant did not set out the precise reasons why they did not want to pursue the scheme, it is known that there were issues around the viability of the development and concerns about whether it was deliverable as it relied on a new section of road that cut across land in the ownership of third parties.
- 1.4 The current application sought to address some of the shortcomings of the previous withdrawn scheme and is described as comprising circa 874 dwellings; a 66 bed care home; a 1 form entry primary school; a new local centre including a Class A1 convenience store (up to 420m²), a 5 unit parade of small retail units (up to 400m²), Class D1 uses (up to 750m²); onsite open space, including areas for both public

access and biodiversity enhancements, together with associated highway and drainage and infrastructure.

- 1.5 Members should also be aware that the applicant has recently submitted a new application in an attempt to resolve outstanding issues and negate the need to pursue the appeal. This application is a copy of application 16/05226/OT, though at the time of writing, it is still being processed and validated and so has not been formally advertised as yet.

2.0 Site and Surroundings:

- 2.1 The Thorp Arch Estate (TAE), Wetherby covers approximately 159 hectares (391 acres) with 103 hectares (254 acres) of developed land providing a range of employment uses, a retail park, and ancillary leisure and other supporting services. The Estate with its 140 plus businesses has approximately 2000 employees with a significant number of people employed on the adjoining British Library, HMP Wealstun and Rudgate sites (it is believed that approximately 3000 jobs exist).
- 2.2 The development is proposed to take place on approximately 60.67 hectares of land on the western part of the Estate bounded by Street 5 to the east and Avenue D to the south. This land is currently occupied by a retail park, a large area of rubble that has become overgrown with the passage of time, an area of open land with a small number of industrial buildings in active business use and significant areas of woodland, scrub and open grass land.
- 2.3 The land surrounding the Estate is rural agricultural land. Immediately to the north of the Estate the large buildings of the British Lending Library dominate the landscape. The northwest boundary is formed by the solid fencing surrounding HMP Wealstun; although partially screened by trees, the perimeter fence would benefit from further screen planting.
- 2.4 To the west of the Estate is a section of a Sustrans route that links the Estate to Wetherby. This Sustrans route utilises a former railway line and is in part set within a former railway cutting. Two stone listed field bridges (Grade II) cross the Sustrans route. The southern end of the route falls within Thorp Arch Conservation Area and the central section forms part of a Leeds Nature Area. The fields to the south west of the Sustrans route fall within a Special Landscape Area. At the southern end of the Sustrans route is a residential property known as Station House (Grade II listed) and to the northwest at its junction with Wetherby Road is a pair of semi-detached houses, often referred to as Walton Gates.
- 2.5 To the north of the Estate is the village of Walton and to the southwest are the settlements of Thorp Arch and Boston Spa. Access from Thorp Arch to Boston Spa is gained via Thorp Arch Bridge. This is a Grade II listed structure and is of single carriageway width. Wetherby is the nearest large town and is some 3 miles to the west. There are other residential neighbourhoods and individual dwellings in the immediate vicinity of the site.
- 2.6 The local road network has a rural character.

3.0 Proposals

- 3.1 This outline application proposes circa 874 dwellings; a 66 bed care home; a 1 form entry primary school; a new local centre including a Class A1 convenience store (up to 420m²), a 5 unit parade of small retail units (up to 400m²), Class D1 uses (up to 750m²); onsite open space, including areas for both public access and biodiversity enhancements, together with associated highway and drainage and infrastructure. The application is made in outline with all matters reserved. The application is submitted with supporting documentation, including an illustrative masterplan and other associated drawings.
- 3.2 The proposals evolved at pre-application stage which confirmed the extent of areas that may be developed without encroaching in the areas of ecological interest. Following advice from officers, much of the grassland and wooded areas (including the area designated as a Site of Ecological or Geological Importance (SEGI)) to the north of Avenue B have been excluded from development, in addition to the land west of Street 1. Development is therefore contained within the remainder of the application site, including re-development of the existing retail park, development of the rectangle of land bounded by Street 1, Street 3, Avenue B and Avenue D, and the partially developed areas between Avenue B and HMP Wealstun.
- 3.3 The applicant has provided some indicative details on phasing, given that the scale of development would require phasing into smaller parcels of land, taking into account the physical and technical constraints. The applicant has identified 3 phases:
- 3.4 Phase 1 – (northern half of the site) This includes the delivery of the main vehicular access point onto the site from Street 5, which then links through the site and onto the new bus only link to Church Causeway. The sites for the primary school and local centre are also included. The delivery of the new primary school is required by the occupation of the 400th residential unit. Phase 1 also includes a large area of open space, much of which will become the new country park.
- 3.5 Phase 2 – (eastern part of site currently occupied by retail park) This phase of development is currently occupied by the existing retail park. This phase delivers further parcels of residential development as well as providing secondary access onto the site by utilising the existing access from Avenue D.
- 3.6 Phase 3 – (southern part of the site) This phase delivers mainly residential development as well as open space provision and habitat areas.
- 3.7 The applicant anticipates that the whole site will deliver an average of 100 dwellings per year across all tenure types with two or three house builders on site at the same time. Allowing for an initial start-up period, it is anticipated that the development process will take approximately 9 years, though this will be subject to market forces over the lifetime of the development.

4.0 Relevant Planning History

- 4.1 PREAPP/16/00383 - Residential development, primary school, local centre, public open space.
- 4.2 13/03061/OT - Outline Planning Application for residential development with associated parking, landscaping, primary school, village centre, retail development,

sports pavilion, play area, amenity space and associated off site highway works -
Withdrawn

- 4.2.1 It is worth noting that application 13/03061/OT was last reported to City Plans Panel on 12th December 2013, with an officer recommendation to defer and delegate approval. The minutes note that the resolution was to defer final determination of the application and seek Members' agreement to the scheme and associated range of measures subject to:

- Further work and analysis on junction design and traffic flows.
- Report back on viability and the composition of the Section 106 package.
- Resolution of bus services.
- The Highways Agency lifting their Holding Direction.
- Expiry of public response period.

It was agreed that these matters would be subject to a further report to Panel. Nevertheless, the application was subsequently withdrawn in January 2016.

5.0 Engagement

- 5.1 Officers have had a number of discussions with the applicant's representatives concerning the nature of the proposed development and the scope of any information to be submitted as part of any application. A meeting has also been held to discuss the originally submitted draft masterplan and this focussed on officers concerns about the impact of the proposals on areas of ecological importance. Subsequent to that meeting a revised masterplan has been received that primarily addresses officer concerns about the loss of areas of ecological importance.
- 5.2 The applicant has also held two consultation events with representatives of the Thorp Arch, Walton and Boston Spa Parish Council's and representatives from neighbourhood plan groups and the Thorp Arch Action Group. At the first of these meetings the original draft masterplan was presented and at the second feedback was given from the public consultation event. Representatives for the landowners have also met to outline and discuss the proposals with Ward Members and a public consultation event has also been held. It has been confirmed that the event was attended by 207 people with transportation being the biggest concern raised by those attending, together with concerns expressed over contamination, sustainability and the impact upon the local environment.

6.0 Public / Local response

- 6.1 The application has been advertised by site notices posted 7th October 2016 and through publication in the press, dated 30th September 2016.
- 6.2 A total of 109 representations have been received in relation to the application.
- 6.2.1 Boston Spa Parish Council objected to the previous application in relation to residential development at Thorp Arch Trading Estate (13/03061/OT) on the basis that it did not believe it would be possible to implement measures that would satisfactorily mitigate the impact of the development on Boston Spa, and in particular the impact on Bridge Road. The Parish Council considers that the current application does nothing to alleviate these concerns. The proposed traffic lights on

Thorp Arch bridge linked to lights on Boston Spa High Street will result in greatly increased congestion with the environmental knock-on effect that is caused by queuing traffic. The impact of any proposal to restrict parking for Bridge Road residents is also unacceptable. Boston Spa Parish Council therefore objects to the outline application.

6.2.2 Thorp Arch Parish Council object to the application and have made representations on the following grounds:

- Land Contamination – The application fails to provide sufficient environmental information regarding the nature/extent of contamination on the Site, as well as a sufficient evaluation of the likely degree of remediation required. The application also does not provide a sufficient appraisal of the possible effects of remediation on site ecology, the proposed surface water drainage strategy and other aspects of the indicative site design shown on the illustrative Master Plan.
- Highways/Traffic – The application inadequately assesses the likely impacts of the proposed development on the local highway network through traffic generation and the associated environmental effects.
- Transport Sustainability – The application lacks a robust planning rationale for locating the proposed quantum of housing growth in a place poorly served by public transport, with limited community facilities/amenities and poor connectivity by walking/cycling modes to community infrastructure. The proposed development also lacks adequate proposals to address possible impacts on local public transport services and achieve sustainable travel outcomes.
- Ecology – The proposed development will result in the loss of ecological land protected by planning policy. The application also provides an inadequate assessment of the likely effects of the proposal on this designated land and the ecology of those parts of the site not formally designated.
- Development Viability – The application fails to provide an appraisal of the viability of the proposed development given the scale/nature of the mitigation proposed/relied upon by the applicant and the other 'benefits' promised, as well as further mitigation which might be required bearing in mind the current deficiencies/uncertainties of the application proposals.

6.2.3 Walton Parish Council have made representations that whilst they do not per se object to the idea of development in the area, they are disappointed by the lack of consideration for the existing houses and the surrounding villages of Walton and Thorp Arch and the undoubted impact this development would have on the locality. In particular, they raise the following issues:

- No consideration has been given to the massive impact on road traffic in the area, in particular on the main Wetherby Road. This area is already severely strained and the traffic is queuing at peak times at the Walton and Wetherby roundabouts causing tailbacks and increasing the likelihood of an accident.
- The Parish Council have noticed a significant rise in heavy goods vehicles and lorries in particular in the last 12 months. This is presumably as a result of increased trading at the Thorp Arch Trading Estate. In addition the collapse of the bridge at Tadcaster has affected the area greatly. This alone has exacerbated traffic conditions without the addition of a further 800 plus houses in the area. No proper consideration has been given to this, a matter which has been previously raised.
- The Parish Council consider a new link road is required – a request for inclusion in the plan for a relief road was instigated and driven by Walton Parish Council to alleviate and address the concerns previously raised.

- The fact that plans for the relief road have completely disappeared and no other infrastructure plans have been outlined to be put in place causes grave concern.
- The vulnerability of the bridges at Tadcaster, Boston Spa and Linton has in recent times been greatly highlighted – the increased traffic has all diverted through Walton, which serves to illustrate the severe pressure on roads in the area already.
- The presentation of a scheme and provision of amenity initially could be seen as a positive advantage to area – but that this can only be deliverable after a significant amount of housing has been built, causes great problems and additional pressure on the current limited services. For example the local primary school and doctors will suffer a negative impact as they are already at full capacity.
- Contamination is also an area of concern, with many locals knowing the full history of the Thorp Arch Trading Estate. Its use as a munitions site, factory site and the presence of asbestos in the ground illustrates the clear danger in disturbing known contaminants on the site. This is of particular concern for the residents of Walton.
- The above issues affect the potential for the site to provide credible and safe housing.
- The implications of disturbing contaminated land and the effect on the local community and agriculture has not been given due consideration.
- Walton Parish Council would welcome a full report and Phase 1 and 2 studies to quell concerns of its Parishioners.

6.2.4 One letter of objection and detailed appendices have been received from Thorp Arch Trading Estate Action Group (TAG), who summarise their concerns on the following grounds:

- Unsuitable location
- Poor highways fed by two 'pinch points'
- Car dominated dormitory community
- Inadequate buses
- No train service
- Walking/cycling accessibility - badly failing against accessibility standards
- Unsupported by Core Strategy, SAP draft, local PC's, neighbourhood plan
- 70% of the site is not brownfield
- Significant numbers of people living/working onsite are not achievable
- Determining this application before the SAP is finalised would be premature
- Contamination and remediation are detrimental to the financial viability and preservation of the ecology

More detailed comments are then made as follows:

1. As a former Royal Ordnance Filling Factory (ROFF), the site was chosen to be remote from habitation, and away from large roads, in order to be less easy to identify from the air.
2. The site is at the furthest point of Leeds district boundary, with a round trip distance to Leeds City centre of about 30 miles.
3. The site is separated from all destinations in the Leeds area by the A1(M) running north/south, and by the River Wharfe, running approximately east/west. The only practical routes to Leeds area destinations (without a very large detour) are either via the single track bridge linking Thorp Arch to Boston Spa, or via the roundabout on the Walton-Wetherby road (situated on the local access road which runs alongside, and to the west of, the A1(M)). Both of these access

routes are already showing significant traffic queuing at peak hours (despite what is reported in the Environmental Statement volume 6).

4. The local road network is not resilient. The recent (June 15, 2016) fatal accident on the A1(M) demonstrated the problem. The local network completely grid-locked (not surprising, it can't be expected to cope with the complete closure of the A1(M)). However it remained grid-locked for over two hours after the A1(M) was running freely. The bridge/Bridge Road/A659 junction acts as one complex traffic obstacle. It is not amenable to modelling, because of the unusual and multiple obstacles to traffic flow. With on-street parking (required by Boston Spa residents) it is effectively a 250m long "single track road with passing places" - the passing places being the very limited gaps between the parked cars. A characteristic of such roads is that once traffic volumes reach a critical level, the "passing places" no longer have the capacity to cope, and the system grid-locks. To make matters worse, the junction with the A659 has very tight turning radii. Visibility for the full length of the single track section is very limited, and sometimes completely obscured. It is therefore very difficult for a driver to assess whether to enter the single track section of road. Additionally, the vulnerability of old bridges was demonstrated by flooding at the turn of the year, which has closed both Tadcaster and Linton bridges over the Wharfe. If the same happened to Thorp Arch Bridge that would leave the area with only one, overloaded and congested, point of access. Clearly the local highways network is unsuitable for the addition of the traffic generated by the proposed development.
5. Public Transport is totally inadequate for a site of this size and location. The 770/771 is the only all-day practical service. It runs at half-hourly intervals to Leeds or to Harrogate via Wetherby. The journey times are over 1 hour to Leeds, and about 40 minutes to Harrogate. It is also very expensive, with a return ticket to Harrogate costing £7. There is no local train station, with the nearest station for Leeds being at Garforth, 12 miles away.
6. The site has virtually no facilities (apart from the proposed primary school) within a 2km walking distance. A convenience store is proposed, but there is no evidence that a site of this size, even when fully occupied, is sufficiently large for such a store to be financially viable. The employment areas are sufficiently distant from such a store that people are unlikely to walk there, particularly as almost all employees have their own transport. So they would shop by car. But if they are using their cars, then there is no reason to shop on the Estate - they can shop at bigger, cheaper and more convenient locations on their commute to and from the site.
7. The application proposes providing premises for health facilities, but again there is no evidence that they would be taken up.

6.2.5 The 109 letters of representation from local residents (all objections) have stated concerns in relation to the following matters:

- The local highway network will be unable to cope with the volumes of traffic from the development.
- Access is via existing pinch points – Thorp Arch bridge and the roundabout to Wetherby on Walton Road.
- The area is very poorly served by public transport.
- It is too far to walk / cycle to local amenities.
- New development would be car dominated.
- The site is too far from schools and shops.
- Question the viability of shops on site.
- No indication that health facilities will be set up on site.
- Question what would happen if Thorp Arch bridge had to close for some reason.

- Question whether a Neighbourhood Watch scheme would be implemented.
- Housing would not be compatible with the surrounding employment land uses.
- Dust, dirt and noise during construction would cause a nuisance to existing residents.
- The site will need a lot of remediation to make it safe for housing, destroying existing flora and fauna.
- The Statement of Community Involvement misrepresents the views of local people.
- Absence of up to date ecological surveys.
- Absence of intrusive ground investigation report.

7.0 Consultation responses

Statutory

Highways: - It is considered that the Transport Assessment does not accurately reflect existing conditions on the local highway network and fails to properly assess the impact of the development on the local highway network. In particular the impact and operation of Thorp Arch Bridge and High Street/Bridge Road junction which is known to be sensitive to variations in traffic flow and vulnerable to congestion. In addition accessibility to the proposed development is not considered acceptable.

The site currently falls well short of the Council's Accessibility Standards, from a transport perspective the site is not considered to be sustainable, it is considered that future residents would be overly reliant on the use of the private car. The rural location of the site exacerbates the limited public transport provision as journey times will also be unattractive. Reasonable opportunities to enhance the accessibility credentials of the site have not been provided so far. As submitted the application is not supported.

Highways Agency: - Although the Transport Assessment does not assess the impact of the traffic generated by the development at the Strategic Road Network (SRN) junctions it can be concluded through previous work on the site that the development will not have a severe impact on the SRN, therefore no remedial action is required. Although the Travel Plan appears to have accurately assessed the current transport provision for the site, there are areas of the plan that require improvement and advice is provided on this.

National Grid: - No objections raised to the proposal, which is in close proximity to a High Voltage Transmission Overhead Line.

Environment Agency: - No objections subject to the imposition of conditions to deal with remediation and groundwater, verification of remediation, unexpected contamination, surface water drainage and details of ground penetration.

Natural England: - No comments on the application, but suggests obtaining advice from the Council's Nature Conservation officer.

Historic England: - Given its history, it is considered that the Thorp Arch Estate falls under paragraph 139 of the NPPF: *non designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments*. Historic England are supportive of redevelopment which seeks to retain the historic layout and cohesion of the site (the significant elements).

Historic England considers it essential that prior to determination a detailed design code is agreed for the site in order to minimise harm to and better reveal the heritage significance.

Explosives Inspectorate: - The plans indicate that the development falls within the consultation distances of a nearby explosives facility licensed by the HSE. The area of development affected includes the Local Centre and residential development closest to Street 5. If the development is allowed to proceed, the external population density permitted in this reference zone for this explosives facility will be exceeded. Should planning permission be granted, the Explosives Inspectorate would review the explosives facilities licence.

Non-statutory

West Yorkshire Combined Authority: - The accessibility criteria detailed in the Core Strategy stipulates that new housing developments should be located within 400 meters of bus services offering a 15-minute frequency to a key destination, namely Leeds, Bradford or Wakefield. Whilst WYCA supports this policy in principle; consideration needs to be given to the semi-rural location and the proximity of the site to other centres that could be considered such as Wetherby and Harrogate.

It is inevitable that on large sites, parts of the site will fall outside this 400m standard which is the case at this site. When assessing development sites, we generally take a pragmatic approach to walk distances to take the size of development sites into account. Consideration is given to the level and quality of service (frequency and destinations served) at the closest bus stops and the likelihood of the bus operator diverting the service into the site. It should be noted that the site TA identifies public transport services that are not considered to be accessible from the site. The TA should be amended to acknowledge that some of the services listed are some distance from the site and are less likely to be used. It is our view that a service diversion would be required to make the site accessible.

The application proposals follow on from a number of other applications for this site where a significant time has been spent developing a public transport strategy which focuses on improving the existing bus services and achieving bus penetration through the site. Whilst the application layout and Travel Plan includes a bus gate which suggests that bus penetration is supported by the applicant, there does not appear to be any reference to funding or bus service diversions through the site. This is disappointing given WYCA have had pre application discussions with the transport consultants for this and previous applications at this site.

The primary service past the site is the 770 service which provides an hourly service between Leeds, Wetherby and Harrogate. WYCA do not share the view that the current level of service to be adequate. As a minimum, the development should be required to pay for the diversion of the 770 through the site to utilize the bus gate. From initial discussion with Transdev, they are willing to divert the 770 service as for a cost of between £150,000 and £200,000 per annum (subject to start date). It is suggested that this should be provided for a minimum of 5 years.

The development should also be conditioned to provide funding for a bus shelters with real time passenger information displays. These should be placed within the site at appropriate positions to match the diverted service. It is suggested that 4 shelters would be required, a total cost of £80k.

To ensure that sustainable transport can be a realistic alternative to the car, the developer needs to fund a package of sustainable travel measures. It is recommended that the developer contributes towards sustainable travel incentives to encourage the use of public transport and other sustainable travel modes through a sustainable travel fund. The fund could be used to purchase discounted MetroCards for all or part of the site. Based on our current RMC scheme, there is an option for the developer to purchase (in bulk) heavily discounted Residential MetroCards (circa 40% discount) as part of a wider sustainable travel package. Other uses could include personalised travel planning, car club use, cycle purchase schemes, car sharing promotion, walking / cycling promotion or further infrastructure enhancements that come to light as the development commences. The payment schedule, mechanism and administration of the fund and RMC scheme would be agreed with LCC and WYCA and detailed in a planning condition or S106 agreement. The contribution appropriate for this development would be £420,612.50. This equates to 874 bus only Residential MetroCards.

TravelWise Team: - The submitted document is considerably less comprehensive than the WYG Travel Plan submitted for the previous application (Latest version on file Revision F, dated 9/10/15). Whilst this is a new application, the Travel Plan measures need to be improved to include the measures previously proposed as well as those in the submitted document. In addition, there are elements which have not been included, which are required as per the LCC Travel Plan SPD.

In accordance with the Travel Plans SPD the Travel Plan should be included in the Section 106 Agreement along with the following:

- a) Leeds City Council Travel Plan Review fee of £8,870 (£6,370 residential, plus £2,500 for the school)
- b) A contribution to upgrading walking and cycle routes
- c) Bus service improvements
- d) Provision of a residential travel plan fund of £420,612.50
- e) mitigation measures if mode split targets not met

A Full Residential Travel Plan is appropriate for this development at outline application/approval stage; the Travel Plan should be revised accordingly. An additional School Travel Plan will then be required for the school.

Contaminated Land: - Following the submission of further information, no objections are raised subject to conditions requiring the submission of a site wide preliminary site investigation, site investigation methodology, remediation statements for each phase, dealing with unexpected contamination and the submission of verification reports.

Environmental Protection Team: - The report identifies traffic as the main noise source whilst the only identifiable source from the trading estate comes from Steel Fabricators, R H Mawson Engineers Ltd. The method assessment includes a BS 4142 'Methods for rating and assessing industrial sound' assessment. The specific sound source from the steel fabricators has been calculated at the closest noise sensitive properties and compared to background levels. The resulting rating level complies with Leeds city Council noise criteria however there are some issues with the data. It is not clear the monitoring period they obtained data when the roller shutter doors were open and closed. In addition, the monitoring was undertaken end of April 2012 therefore any changes or addition of equipment that may have increased noise emanating from the factory, need to be verified and included in the assessment and calculation.

Noise from development such as building services and deliveries are currently unknown and will be considered during the design stages where consideration to mitigation measures to ensure the impact will not be unacceptable to both existing and future residents.

Conditions are recommended to deal with construction activity delivery hours, Statement of Construction Practice, noise and dust control.

Environmental Studies: - No objections on transportation noise grounds.

Air Quality Management Team: - No objection on the grounds of local air quality. Electric Vehicle Charging Points (EVCPs) should be accommodated in future development, secured by condition.

Flood Risk Management: - No objection subject to the imposition of conditions dealing with surface water drainage.

Yorkshire Wildlife Trust: - Concerns about the proposals as submitted on local wildlife sites which will come under increasing pressure from public use as a result of development and detailed advice is provided in relation to the proposed Country Park and impact on protected species. The subsequent additional information is noted and the Reptile Survey and Bat reports are welcomed.

Yorkshire Wildlife Trust does not agree with this approach. In order to assess the proposed country park's effectiveness of safeguarding the interest features of the Local Wildlife Site the size and boundary of the country park is needed. This is essential in order to know if the country park is in the right place so that it can protect the most valuable habitats from being lost and to know if the size of the country park is big enough to compensate for the loss of habitats across the rest of the site. Without knowing the boundary and size of the country park it will be difficult to make such an assessment. In addition, the location and size of the country park will be required in order to secure its establishment by a condition. Knowing the area that the country park will cover will give assurance that the land will be managed as a country park. In addition, assurance on who will be managing the habitats onsite for the long term would also be beneficial in order to ensure that the park will be managed long term for biodiversity. Yorkshire Wildlife Trust has a long history of managing nature reserves and grassland sites within Yorkshire, which includes country parks, for both recreation and biodiversity. We would be happy to provide additional advice on this to the applicant.

Public Rights of Way: - It is noted that the developer's intention is to provide a connecting route for the cycle route between bridge over the river Wharfe and the existing section leading north-west to Walton Road. This is to be welcomed as it has been a long term aspiration of both Leeds City Council and Sustrans who have been instrumental in developing the route between Wetherby and Thorp Arch.

It should be noted that the cycle route over the Grade II listed Wharfe bridge is being funded by the redevelopment of housing on the old Papyrus Works site to the south of the river and this is due to be completed very soon. An interim route to connect the cycleway at both sides of the river will therefore be required in the near future.

The proposal to route the national cycle network route through a green linear park along the south-western boundary of the site is to be welcomed. However, as well as providing for walkers and cyclists this route should be open to horse-riders, who

are currently able to use the rest of the existing route. This can be achieved by creating a reinforced grass verge next to the harder surfaced cycle route.

It is noted that there are three cycle way and footpath links shown on the master plan running north east from the disused railway route. These appear to be running through corridors of green space parallel with the existing estate roads and are to be welcomed subject to further discussion regarding their width, surfacing and signposting etc.

It is noted from the landscape master plan that a central path link alongside the proposed ponds area is to be provided and will form a link to the proposed country park – this is to be welcomed. Also the network of paths within the country park area and extending through the grassland area in the northern part of the site are also to be welcomed. Once again the issues of width and surfacing would need further discussion with the developer before being agreed.

With such a large number of new paths and green space areas being created as part of this development, thought needs to be given at an early stage as to the future maintenance requirements here and who is going to be responsible for carrying this work out. The Public Rights of Way Section do not have the resources to maintain such a large network of new paths and it would be better if they were to be maintained as an integral part of the green space management regime (either by the developer or by the Council via a commuted sum arrangement). We would therefore not be seeking to create these routes as public rights of way at this stage.

Regarding the National Cycle Network route, this could either be maintained as above or alternatively a funded arrangement could be made with Sustrans, who manage other parts of this cycleway.

West Yorkshire Archaeology Advisory Service: - There is no apparent significant archaeological impact associated with the outline application. This assessment is based on the retention of previously undeveloped grass land to the north of the application site as open space and it not being developed. The majority of the remaining proposed development area overlies parts of the former Royal Ordnance Factory (ROF) which were either developed or employed for burning unwanted explosives and subsequently cleared and remediated. Based on the WYAAS understanding of how the ROF was constructed and subsequently decommissioned it is thought unlikely that there will be good preservation of earlier buried remains in these areas. Therefore the WYAAS do not consider it necessary to carry out any archaeological works based on the application presented.

Yorkshire Water: - No objections, subject to conditions to ensure separate foul and surface water drainage systems, a drainage management plan, surface water from parking areas over 50 spaces to be passed through an interceptor and stand-off distances to the mains and sewers crossing the site.

8.0 Relevant Planning Policies

8.1 The Development Plan

- 8.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, the Development Plan for Leeds currently comprises the following documents:

1. The Leeds Core Strategy (Adopted November 2014)
2. Saved UDP Policies (2006), included as Appendix 1 of the Core Strategy
3. The Natural Resources & Waste Local Plan (NRWLP, Adopted January 2013)

These development plan policies are supplemented by supplementary planning guidance and documents. The UDP allocates the southern part of the site (to the west of the southern half of the retail park) for employment purposes and the north eastern quarter and a narrow strip of land running along the eastern boundary with Street 5 is identified on the Policies Map as being a Site of Ecological and Geological Importance (SEGI). A small area of SEGI is allocated close to the western boundary. In more recent times the ecological value of the site has been re-assessed and a larger area of the north eastern part of the site (comprising open grassland and wooded areas), and smaller pockets of land more central to the site, have been identified as being Local Wildlife Sites.

8.1.2 The following Core Strategy (CS) policies are relevant:

Spatial policy 1 Location of development
 Spatial policy 6 Housing requirement and allocation of housing land
 Spatial policy 7 Distribution of housing land and allocations
 Spatial policy 8 Economic Development Priorities
 Spatial policy 9 Provision for employment land
 Policy H1 Managed release of sites
 Policy H2 New housing development on non-allocated sites
 Policy H3 Density of residential development
 Policy H4 Housing mix
 Policy H5 Affordable housing
 Policy EC1 General employment land
 Policy EC3 Safeguarding existing employment land
 Policy P8 Sequential and impact assessments for town centre uses
 Policy P9 Community facilities and other services
 Policy P10 Design
 Policy P12 Landscape
 Policy T1 Transport Management
 Policy T2 Accessibility requirements and new development
 Policy G1 Enhancing and extending green infrastructure
 Policy G4 New Greenspace provision
 Policy G8 Protection of species and habitats
 Policy G9 Biodiversity improvements
 Policy EN2 Sustainable design and construction
 Policy EN5 Managing flood risk
 Policy ID2 Planning obligations and developer contributions

8.1.3 The CS sets out a need for 70,000 new homes up to 2028 and identifies the main urban area as the prime focus for these homes alongside sustainable urban extensions and delivery in major and smaller settlements. It also advises that the provision will include existing undelivered allocations (paragraph. 4.6.13). It is noted that the application site falls within the Outer North East Housing Market Characteristic Areas identified in the CS. In terms of distribution 5,000 houses are anticipated to be delivered in the Outer North East Area.

8.1.4 Paragraph 4.6.16 states that: *“Notwithstanding the distribution set out in Table 2, the Council will consider opportunities outside the Settlement Hierarchy, where the*

delivery of sites is consistent with the overall principles of the Core Strategy, including the regeneration of previously developed land, and are in locations which are or can be made sustainable. Land at Thorp Arch has been identified as one such example.”

8.1.5 The emerging Site Allocation Plan (SAP) identifies the same parts of the application site for employment purposes as in the UDP Review – i.e. E3B:21 and E3B:22.

8.1.6 Unitary Development Plan (UDP) policies of relevance are listed, as follows:

GP5: General planning considerations.
N23/N25: Landscape design and boundary treatment.
N24: Development proposals abutting the Green Belt.
N29: Archaeology.
N37: Special Landscape Area (to the north east of the site).
BD5: Design considerations for new build.
T7A: Cycle parking.
T24: Parking guidelines.
E3B:21: Employment allocation at TATE.
E3B:22: Employment allocation at TATE.
H3: Delivery of housing on allocated sites.
LD1: Landscape schemes.

8.1.7 The Natural Resources and Waste Local Plan (NRWLP) was adopted by Leeds City Council on 16th January 2013 and is part of the Development Plan. The plan sets out where land is needed to enable the City to manage resources, e.g. minerals, energy, waste and water over the next 15 years, and identifies specific actions which will help use natural resources in a more efficient way. Policies relating to drainage, land contamination and coal risk and recovery are relevant.

8.1.8 Thorp Arch Estate is identified in the NRWLP as an industrial estate which is a preferred location for new waste management facilities. Policy Minerals 12 ‘Safeguarding Minerals Processing Sites’ applies: “The mineral processing sites shown on the Policies Map are safeguarded to protect them against alternative uses unless it can be demonstrated that the site is no longer required to produce a supply of processed minerals.” The explanatory text at 3.32 states that mineral-related activities such as facilities for concrete batching, asphalt plants and aggregate recycling facilities encourage recycling, and if they are lost to other uses then it may be very difficult to replace them in other locations.

8.1.9 Supplementary Planning Guidance / Documents:

SPG4 Greenspace relating to new housing development (adopted).
SPG10 Sustainable Development Design Guide (adopted).
SPG11 Section 106 Contributions for School Provision (adopted).
SPG13 Neighbourhoods for Living (adopted).
SPG22 Sustainable Urban Drainage (adopted).
SPD Street Design Guide (adopted).
SPD Public Transport Improvements and Developer Contributions (adopted).
SPD Designing for Community Safety (adopted).
SPD Travel Plans (adopted).
SPD Leeds Parking SPD (adopted).
SPD Sustainable Design and Construction (adopted).

- 8.1.10 The Draft Thorp Arch Neighbourhood Plan was published for consultation (which closed on 3rd October 2016). The Neighbourhood Plan proposes to allocate the site for employment purposes. As the plan is in its early stages in moving towards adoption only limited weight can be applied to this document at this time.

8.2 National Planning Policy Framework (NPPF)

- 8.2.1 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight they may be given.

- 8.2.2 The NPPF sets out the Government's planning policies for England and how these are expected to be applied, only to the extent that it is relevant, proportionate and necessary to do so. The overarching policy of the Framework is the presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. The presumption in favour of sustainable development is the 'golden thread' that should run through both plan-making and decision-taking. Paragraph 14 states that, for decision-taking, this, this means approving development proposals that accord with the development plan without delay. Where the development plan is absent or silent or where policies are out of date, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits. The NPPF identifies 12 core planning principles (paragraph 17) which include that planning should:

- Proactively drive and support sustainable economic development to deliver homes
- Seek high quality design and a good standard of amenity for existing and future occupants.
- Conserve and enhance the natural environment
- Encourage the effective use of land by reusing land that has been previously developed (brownfield land)
- Promote mixed use developments and encourage multiple benefits from the use of land in urban areas
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are, or can be, made sustainable

- 8.2.3 The Government attaches great importance to the design of the built environment. Section 7 (paragraphs 56-66) states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important that design is inclusive and of high quality. Key principles include:

- Establishing a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- Optimising the potential of the site to accommodate development;
- Respond to local character and history;

- Reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- Development to be visually attractive as a result of good architecture and appropriate landscaping.

8.2.4 Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

8.2.5 At paragraphs 111, 113 and 118 the NPPF gives guidance relevant to this proposal in respect of ecological and related matters:

111. Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land.

113. Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.

118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;...”

8.2.6 The NPPF also sets out guidance that regard should be had to contamination and that development sites should be made suitable for their end use and mineral interests should be protected/safeguarded.

9.0 Main issues

1. Principle of development
2. Contaminated Land
3. Ecology
4. Layout and form of development
5. Composition of the development
6. Highways and Transportation
7. Landscape
8. Conservation Area and Listed Buildings
9. Drainage and flood risk
10. Housing land supply
11. Other matters
12. Section 106 obligations and CIL

10.0 Appraisal

10.1 Principle of development

Site context:

- 10.1.1 This site is largely 'white land' and the application boundary contains two employment allocations (under saved UDP policies E3B:21 and E3B:22). The wider Thorp Arch Trading Estate (TATE) is surrounded by Rural Land. It is within the Outer North East area of the emerging Site Allocations Plan (SAP) which has a Core Strategy target of 5,000 dwellings to meet (8% of the overall Core Strategy total). The SAP is at an advanced stage, due to be submitted to the Secretary of State in Spring 2017. The SAP seeks to retain the UDP employment allocations. TATE is not identified for housing in the SAP. However, it is worth noting that the SAP is promoting a housing allocation on land to the north of Wealstun Prison (site reference HG2-227) with an indicative capacity of 142 units.

Location of Development and CS Policy:

- 10.1.2 Core Strategy Policy SP1 established the principles against which to deliver the spatial development strategy based on the Leeds settlement hierarchy and to concentrate the majority of new development within and adjacent to urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance of brownfield and greenfield land. The primary aim is to deliver the largest amount of development in the Main Urban Area and Major Settlements. Smaller Settlements will contribute to development needs, with the scale of growth having regard to the settlement's size, function and sustainability.
- 10.1.3 Paragraph 4.6.16 of the Core Strategy states that: "Notwithstanding the distribution set out in Table 2, the Council will consider opportunities outside the Settlement Hierarchy, where the delivery of sites is consistent with the overall principles of the Core Strategy, including the regeneration of previously developed land, and are in locations which are or can be made sustainable. Land at Thorp Arch has been identified as one such example."
- 10.1.4 Policy H2, further expands on the sustainability and place-making of sites by stating that housing development on land not allocated for housing is acceptable in principle, providing that the number of dwellings does not exceed the capacity of transport, educational and health infrastructure and that the site accords with the accessibility standards (set out in Appendix 3 of the CS).
- 10.1.5 Officers remain concerned about the accessibility and sustainability of the site and without the relevant and appropriate infrastructure provided as part of the application, these are material considerations against policies SP1 and H2.

Thorp Arch Trading Estate (TATE)

- 10.1.6 It is worth noting that the principle of housing at TATE has previously been considered by Executive Board. The text below is taken from para 2.16 of Executive Board Report 21st September 2016:

"The idea of a new settlement at Thorp Arch Trading Estate (TATE) has been an aspiration of the landowners for over a decade, and previously promoted as part of the UDP Review, but there has yet to be a viable scheme which addresses local constraints. Various planning applications for residential schemes on this brownfield site have yet to come to a resolution, with deliverability and viability proving to be key challenges, alongside detailed highway, ecological, heritage and other material

requirements. TATE is recognised in the SAP as an established mixed use site with predominantly employment and retail uses serving the Outer North East. The TATE also contains parcels of undeveloped and underutilised land, part of which have Nature Conservation designations. To that end, the Publication Draft SAP detailed the extent of the existing Thorp Arch Trading Estate on the Policies Map and retained previous undeveloped UDP employment allocations as identified SAP allocations.”

Executive Board resolved that the publication of the revised draft Site Allocations Plan for the Outer North East HMCA, together with the sustainability appraisal reports and other relevant supporting documents be approved for the purposes of public participation and also to formally invite representations to be made.

5 year housing land supply

- 10.1.7 The Council currently lacks a 5 year deliverable supply of housing land, and as such under paragraphs 14 and 49 of the National Planning Policy Framework, the Council's policies as set out within the UDP and Core Strategy are now considered out of date where they relate to the supply of housing. Nevertheless, case law dictates that whilst policies may be considered out of date, this does not mean that the policies are rendered irrelevant. The weight that can be given to existing policies is dependent on their consistency with national policy and other relevant guidance and legislation.
- 10.1.8 In turn, the weight that can be given to draft policy within the Site Allocations Plan is dependent upon the stage of preparation the Plan is at. At present the Plan has limited weight as it has not yet been submitted to the Secretary of State for Examination in Public.
- 10.1.9 Whilst a windfall development could help to remedy the Council's 5 year housing land supply position in advance of the adoption of SAP, officers remain concerned that the current planning application does not fully set out how a housing scheme here will be progressed swiftly. However, it is recognised that the applicant has said that they are likely to have three house builders on site.

Current Housing supply

- 10.1.10 In terms of housing delivery in the Wetherby and Boston Spa area, a number of sites are on, or coming, to the market assisting in providing for local housing need. This equates to 711 units (14%) of the Core Strategy Target, within the plan period so far. The Site Allocation Plan identifies alternative sites to meet the remainder of the target.
- 10.1.11 In total, there are currently 18 sites with capacity for 740 units with planning permission in Outer North East as at 31 December 2016 – 67 units have been completed which leaves an outstanding capacity of 673 units. In Wetherby, there are 8 sites with current planning permission and 1 UDP allocation with no permission with an outstanding capacity of 478 units. Of these sites, 3 are under construction (with a capacity of 127). This leaves 5 with planning permission for 367 units left to start.

In addition:

- There is the remaining UDP allocation for 30 units at Bowcliffe Road, Bramham.
- There are 15 completed sites that have been brought forward in the Core Strategy period (2012-2028). In total, 284 units across 15 sites – 8 of those

in Wetherby with a total of 217 units including the 153 at Churchfields, Boston Spa with the final completions on that site in December 2015.

- There is the recently granted Grove Road (104), Boston Spa PAS site which was upheld at appeal.

Affordable Housing

- 10.1.12 In conformity with national planning guidance, affordable housing is required to meet local needs. The Core Strategy Policy H5 seeks a contribution of 35% in the Outer North East. It is therefore important for a scheme such as the application proposal is policy compliant and provides for 35%, though it is known that the scheme will be subject to a viability appraisal, discussed later.

Employment loss:

- 10.1.13 This application proposes to redevelop the site for residential use which would result in loss of existing employment sites (Avenue B and D Thorp Arch, UDPR E3B:22 and the northern part of E3B:21). These two sites are now proposed in the Site Allocation Plan to carry forward the employment allocation, i.e. EG1-63 (4.32ha) and the northern part of EG1-65 (approximately 5.5ha), being part of the deliverable employment land necessary to meet the employment needs during the plan period. Core Strategy Policy EC3 is therefore applicable.

- 10.1.14 This application site is within the Outer North East sub area which has been identified as one of the areas of shortfall in employment land provision in the Leeds Employment Land Review (2010 update). The shortfall area is a result of comparison between estimated existing general employment land and that would be expected according to the sub area population size. The Outer North East area does not have as many local job opportunities in the general employment sector against its population, on average, that would be expected to be working in this sector.

- 10.1.15 Within the area of employment land shortfall, the key question to consider is whether there is a planning need for these two employment sites to remain in employment use, and if the loss could be offset sufficiently. The detailed policy is set out in EC3 Part B.

Assessing the loss of existing employment land in shortfall areas

- 10.1.16 Policy EC3 Part B requires that, within the shortfall area, loss of employment land *“will only be permitted where the loss of the general employment site or premises can be offset sufficiently by the availability of existing general employment land and premises in the surrounding area (including outside the areas of shortfall) which are suitable to meeting the employment needs of the area”*.

- 10.1.17 Paragraph 5.2.59 of the Core Strategy states that *“in areas where there is identified shortfall in the provision of general employment land there will be presumption against loss of general employment sites to other uses.”*

- 10.1.18 It is crucial to establish whether there is sufficient supply of currently available employment land for the surrounding area, and whether the loss can be offset sufficiently.

1) EC3 Part B Assessment methodology

The Council has adopted a methodology to assess loss of existing employment sites within the shortfall area, as indicated in the supporting text of EC3. The starting point is to define the appropriate “surrounding area” with reference to the Core Strategy accessibility criteria. Within the

defined “surrounding area”, the availability of suitable sites and past take up can be used to assess how much supply should be maintained to achieve the economic objectives of the Core Strategy. These will be checked and validated to reflect the Council's best knowledge on the local area and sites. A conclusion can then be reached on whether the loss of the current employment site would be acceptable.

2) Define “surrounding area”

This site is largely ‘white land’ surrounded by Rural Land. For employment use at smaller settlements and other rural areas, Core Strategy Accessibility Standards define the catchment area to be a 30 minutes journey time.

3) Past take up trend

Fifteen years is the normal plan period, and on this basis, the past general employment land take up rate within the defined surrounding area is 0.30 ha/annum. (data source: LCC planning record as on 18th October 2016). However, the above general employment take up rate should be used with caution. The annual take up rate for the Outer North East Housing Market Characteristic Area (HMCA), within which this surrounding area is located, is 0.34 ha per annum. This represents a very small fraction of the City average employment land take up (6.82ha per annum). Rather than being an indicator of low employment need, the low take up rate in this surrounding area may well be an indication of the lack of general employment land supply for operators to move in to this area.

4) Currently available and suitable general employment land

According to the most up to date planning record and Employment Land Assessment database, after discounting recent completions prior to April 2012 and the two employment sites within the application boundary, the following sites are identified within the defined catchment area. These amount to a total of 7.6 hectares of employment land supply within the defined catchment area.

ELR Ref	Address	Site Area (Ha)
3103750	Wighill Lane, Rudgate, Street 7, TATE	3.7
3100820	Avenue E West, TATE	3.9
	Total area	7.6

5) Supply based on past trend

Based on the employment land take up rates over the previous 15 years, the total available employment land in this surrounding area can provide approximately 25 years ($=7.6/0.30$) of supply for the surrounding area without windfall sites.

Sustainability

- 10.1.19 It is noted that the location of the site and the nature of the existing public transport infrastructure is such that the site falls significantly short of the Core Strategy accessibility standards. It is therefore for the applicant to demonstrate that they can make the development sustainable. In the context of the application, officers have had regard to the level of on-site provision of community facilities (school, open

space, shops etc, and improvements to local bus services to provide an appropriate alternative to the use of the private car. This is discussed in further detail later in the report.

- 10.1.20 It is noted that paragraph 4.6.16 of the Core Strategy states that: *“Notwithstanding the distribution set out in Table 2, the Council will consider opportunities outside the Settlement Hierarchy, where the delivery of sites is consistent with the overall principles of the Core Strategy, including the regeneration of previously developed land, and are in locations which are or can be made sustainable. Land at Thorp Arch has been identified as one such example.”*
- 10.1.21 Historically, the complete TATE site has been regarded as previously developed land, as above. It is acknowledged that the application site comprises areas which are clearly developed, areas which have been developed and re-vegetated to some degree over the passage of time and areas which have the appearance of being undeveloped. In the context of the application proposals, large parts of the greenfield areas are not proposed to be developed upon. The previous application, 13/03061/OT, albeit covering a larger part of the TATE site and a greater area of previously developed land, was considered acceptable in principle when the matter was considered by City Plans Panel.
- 10.1.22 It is also noted that a mixed, but mainly greenfield site is being promoted through the SAP on land to the north of Wealstun Prison (site reference HG2-227), which is shown to have an indicative capacity of 142 units. It is also noted that recent appeals for other residential developments with similar accessibility issues have been allowed.
- 10.1.23 In light of the above, the officer view is that the acceptability of the development will depend on whether a sustainable form of development can be achieved and whether the technical aspects of the proposals can be satisfactorily resolved, discussed in the remainder of the report.

Summary

- 10.1.24 The proposed development would result in a loss of existing employment land within an area of shortfall in employment land provision. The assessment concludes that there are currently available and suitable general employment sites that would satisfy supply based on past take up trends for the next 25 years, however this has to be used with caution as the historic low take up rates do not necessarily indicate low employment need. As above, the margin is small and officers remain concerned that the availability of the other sites may not adequately off-set the loss of 9.82Ha of general employment land in an identified area of general employment shortfall which has implications on the district wide provision of general employment. However, given the employment land take up rate previously, it is not considered that a reason for refusal on loss of employment land could be robustly defended.
- 10.1.25 Whilst the Council is not able to demonstrate a 5 year housing land supply, a windfall development on this site could help to remedy the Council's 5 year housing land supply position in advance of the adoption of SAP. However, officers remain concerned that the current planning application does not fully set out how a housing scheme here will be progressed swiftly. In addition, without the relevant and appropriate infrastructure to be provided as part of the application, the material considerations of policies SP1 and H2 in regard to accessibility and sustainability remain a strong concern and these are discussed later in the report.

10.1.26 Overall, the acceptability of the principle of a residential led development on the site is finely balanced, and whilst noting the above concerns, the loss of employment land and the timeline for housing delivery are not considered so substantial that they could constitute reasons for refusal that could be adequately evidenced at appeal. Officers have been working with the applicants to address the concerns around accessibility – referred to later in the report. The Council's lack of a 5 year housing land supply remains a strong consideration and given the weight attached to the other issues, on balance, the principle of a residential led development is acceptable.

10.2 Contaminated land

10.2.1 As a former ROF site and as currently an operational trading estate, there are inherent characteristics that mean that the application site is likely to contain contamination to greater or lesser degrees. There are areas which are currently developed, known areas where development has existed previously, as well as areas of open land which do not appear to have been previously developed, but clearly carry some risk in terms of the history of the site. At the heart of the matter is ensuring that the various parts of the site are suitable for their end use.

10.2.2 The approach to dealing with contamination has been subject to detailed discussion with the Council's Contaminated Land Team, who have also liaised with their counterparts in other authorities where ROF sites have been re-developed. In reviewing the submitted Phase 1 Desk study and liaising further with the applicant, it has been noted that, subject to approval, a preliminary intrusive site investigation would take place and in areas with the most sensitive uses, i.e. residential or play areas, the number of bore holes would be increased to one hole per 25m grid, which is considered to be an acceptable approach. The findings would then inform the detailed site investigation and remediation strategy, which would be subject to appropriate conditions.

10.2.3 It is also noted that the Site Investigation will include a combination of targeted and non-targeted sampling in order to ensure that all areas of potential contamination are suitably investigated. The fieldworks are likely to comprise a combination of trial pitting, window sampling and cable percussion boreholes with ground gas and water monitoring wells in selected boreholes. A comprehensive suite of soil and waters laboratory testing will be carried out with the determinands selected on the basis of the anticipated contaminants. Due to the size and complexity of the site, these site investigation works are likely to be carried out in separate stages.

10.2.4 In the areas to be developed (including gardens, highways and building footprints), the applicant also intends to carry out a confidence scrape. This will take place after the intrusive ground investigation. It has been explained that this involves the removal of all of the made ground associated with the historic development of the site. The depth of the scrape will vary across the site in light of the varying land levels. Prior to the original development being built the site was levelled to create a development platform - this pre dates the military use of the site and as such will not be removed by the confidence scrape. In areas in and around trees to be retained, investigations will be undertaken by hand to avoid damage to root systems.

10.2.5 Nature Conservation officers are comfortable with the above approach – their first preference would be to not confidence scrape the area shown as the Country Park (this contains a large proportion, but not all of the areas designated as Local Wildlife Site and Leeds Habitat Network), but if required, this does present an opportunity to

create new calcareous grassland, though there are risks to the ecology. Following advice from the Nature Conservation Officer that they are comfortable with that risk, it is considered that the approach is appropriate and officers therefore do not consider that it would constitute a reason for refusal.

- 10.2.6 It is noted that the cost associated with remediating the site appropriately is likely to be significant. Objectors have drawn attention to paragraph 008 of the NPPG (which deals with information required for planning applications), amongst other things, the authority should ensure *'it has sufficient information to be confident that it will be able to grant permission in full at a later stage bearing in mind the need for the necessary remediation to be viable and practicable.'* Given the above, Contaminated Land Officers are confident that the approach described above is appropriate. Nevertheless, consideration has also been given to the planning balance in terms of the information before the Council at this time. Some initial viability work has been undertaken by the applicant and the Council and District Valuer have reviewed the costings only and consider them appropriate for the nature of the site. Whilst a full viability appraisal is yet to be submitted and assessed, it is not considered at this stage that the approach to contamination is so demonstrably unviable that permission should be refused on this basis. It is of course true that if permission were granted or the appeal allowed, it may transpire that the cost of remediation is more significant than first envisaged and in those circumstances the applicant could seek to vary any planning obligation policy requirements based on viability.
- 10.2.7 In summary, officers consider that the approach to dealing with contamination and remediation is appropriate and could, if permission were granted be dealt with by way of appropriate conditions.

10.3 Ecology

- 10.3.1 The development affects land designated as SEGI (Site of Ecological or Geological Importance). This non-statutory designation (i.e. of West Yorkshire importance rather than national importance) is a designation that exists in the Unitary Development Plan and should be afforded appropriate weight. There are also areas outside of this designation that have ecological value. More recently the ecological value of the site has been re-assessed by West Yorkshire Ecology in consultation with the council's Nature Conservation Officer and additional areas of SEGI-value land have been identified. Together with the previously identified SEGI area these additional parts of the site are now referred to as a Local Wildlife Site (LWS). LWS is the new name for SEGIs, as SEGIs are reassessed across Leeds they will be renamed LWS (in order to use a standard terminology across the country as requested by Defra in 2006). There is a written, publically-available scientific criteria for the designation of a LWS (which follows Defra guidance). The recently identified LWS boundary in effect increases the identified area of nature conservation value to the north east and north west of the site and introduces a new area close to the western boundary and another within the site towards the southern portion. There is approximately 20ha of LWS designated land within the red line boundary of this 60ha residential proposal, and approximately 15% of the LWS within the red line boundary will be lost. It may be that some of this would be lost as a result of decontamination works in any event.
- 10.3.2 The presence of the LWS has had a significant influence on the proposed layout of the masterplan with much of the larger area of LWS in the north eastern and north western parts of the site being kept free from development. Other parts of the LWS

in the central, western and southern parts of the site will be lost. It has been suggested by the Nature Conservation Officer that the northern third of the site (which has had less previous development and contamination than the rest of the site) would be the ideal basis for the establishment of a Country Park (made up of the existing mosaic of calcareous grassland, scrub and young woodland with attractive widened glades for people to walk and cycle through) to benefit new residents and nearby local communities.

- 10.3.3 The loss of LWS has been judged against relevant planning policies including CS Policy G8. This included an assessment of the extent and significance of potential damage to the local site, whether the need for the development outweighs the importance of the ecological value lost and the extent that any adverse impact could be reduced and minimised through protection, mitigation, enhancement and compensatory measures imposed through planning conditions or obligations. This matter has been the subject to ongoing discussions which have clarified the amended extent of a country park (incorporating land to the west of the school site) and omitting the northernmost play area that had been proposed, as well as omitting the allotment area at the far southern end of the site. An objective has been to work with applicant on agreeing a mechanism whereby the country park will be managed by an appropriate body with specialist ecological land management experience, such as the Land Trust, and this could otherwise be secured through planning obligations secured by the S106 agreement with regard to management of the various greenspaces on site.
- 10.3.4 In summary, officers consider that the approach to dealing with ecology is correct and if permission were granted could be dealt with by way of appropriate conditions and obligations in a S106 agreement.

10.4 Layout and Form of Development

- 10.4.1 The application is submitted in outline with all matters reserved. Nevertheless, the application is accompanied by an indicative masterplan which shows areas identified for development (including housing, local centre and school), public open space and the proposed accesses.
- 10.4.2 The principal access is shown to be off Street 5 just to the south of the main area of retained open space. The local centre is shown to be located close to the junction of the access and Street 5, while the proposed primary school is proposed to be located further towards the western boundary, adjacent to the linear park. In this way the shops will be well placed to serve the residential development and existing businesses. The areas of open space generally reflect existing areas of nature conservation interest and woodland. The general street pattern reflects the historic street pattern set by the munitions factory and the schematic landscaping proposals are considered to reflect that of the landscaped setting that characterises much of the Estate. The comments from Historic England are noted and their input would be especially beneficial at the detailed design stage, should the appeal be allowed. The Council's Conservation Officer has also assessed the proposals and given the heritage value of the site, considers that the proposals indicated on the masterplan the best opportunity for development of the former munitions factory, due to the limited impact on the special interest and retained character of this extremely well-preserved munitions factory.
- 10.4.3 The detailed form and design of the dwellings will be addressed through an agreed set of design parameters. This would cover matters such as the scale of buildings,

use of architectural detailing and form, spatial setting and external materials. In the event of planning permission being granted the terms of the permission would require the detailed design of the various phases of development to meet the requirements of an agreed design code. The Design and Access Statement illustrates key design principles which seek to accord with those in Neighbourhoods for Living, as well as providing sections through various street types. In terms of scale, it is noted that most dwellings will be 2 storey, with occasional 2.5 and 3 storey buildings to add character and variation. It is intended that the local centre facilities will be 3 storeys high to act as a visual focus, also enabling the provision of apartments over shops. Subsequent to the Design and Access Statement, an additional Design Code Principles document was submitted which seeks to character areas and design requirements in more detail and is considered acceptable as a framework.

10.5 Composition of the development

10.5.1 The composition of the development is one of the key factors in providing a sustainable new settlement. The development proposes circa 874 dwellings; a 66 bed care home; a 1 form entry primary school; a new local centre including a Class A1 convenience store (up to 420m²), a 5 unit parade of small retail units (up to 400m²), Class D1 uses (up to 750m²); onsite open space, including areas for both public access and biodiversity enhancements, together with associated highway and drainage and infrastructure

10.5.2 The statement progresses to state that up to 874 dwellings will be provided at the following (indicative) mix:

	Policy H4 Min %	Policy H4 Max %	Policy H4 Target %	Rudgate Village Housing Mix %
1 Bed	0	50	10	10
2 Bed	30	80	50	30
3 Bed	20	70	30	40
4 Bed	0	50	10	20

10.5.3 The indicative mix broadly complies with the requirements of Policy H4. The affordable housing policy requirement for this area is 35%. As noted earlier, due to the abnormal costs of dealing with contamination, it may not be possible to deliver 35% affordable housing, but this will only be known once a full viability assessment has been submitted for consideration. The submitted Housing Needs Assessment notes that there is a projected need for specialist types of accommodation in Wetherby by 2028, including accommodation for the elderly (extra care housing and nursing home accommodation). The delivery of a 66 bed care home together with two bed bungalows and additional one and two bed apartments will help to meet this need.

10.5.4 The local centre is described as providing the following:

- Convenience store (420sqm);
- A parade of retail units (400sqm);
- A site for a Class D1 uses (750sqm);
- 66 bed Care home;
- 1 Form Entry primary school (with ability to extend to a 2FE school).

- 10.5.5 The primary school is afforded a plot of 1.8Ha. The applicant has consulted with Education Officers and they set out that it has been agreed that a 1FE primary school on 1.1Ha will meet the needs of the new village, with the use of the remaining land (0.7 Ha) for recreation and school activities until it may be required in the future to expand the school into a 2FE.
- 10.5.6 To the north of the site a country park is proposed to provide a new resource for existing and new residents. The park would also provide linkages with further areas of green infrastructure on and off site, including the linear park running along the full extent of the western boundary of the site. The open space provision will exceed policy requirements.

10.6 Highways and Transportation

- 10.6.1 The surrounding highway network is predominantly rural in nature. To the north of the site Walton Road/Wetherby Road/Wighill Lane connects the site to the A1(M) and Wetherby to the west and Tadcaster to the east. To the west of the site Walton Road/Church Causeway/Bridge Road which lies on a predominantly north/south alignment connects Walton, Thorp Arch Village and Boston Spa. A key issue is the ability of the local highway network to accommodate the number and nature of trips that would arise from the proposed development. This is a specific concern in relation to the impact that additional traffic would have over Thorp Arch bridge (a Grade II Listed structure), which is of a single carriageway width and does not have the capacity to accommodate significant extra traffic movements. Additionally, concerns are raised at the lack of information to demonstrate that the development can be made acceptable in accessibility terms.
- 10.6.2 It is anticipated that vehicular traffic will approach the site via the junction of Wighill Lane/Street 5, junction of Wighill Lane/Street C East roundabout. A bus only gate is proposed, connecting to Church Causeway. The applicant has proposed potential mitigation to accommodate the impacts of the development, including the signalisation of the junction of Wighill Lane/Street 5 and signalisation of High Street Boston Spa/Bridge Road (including signal control across Thorp Arch bridge) in order to coordinate traffic flows through this part of the network. Recently, discussions with officers have also included environmental enhancements to High Street Boston Spa in order to create a more pedestrian / cycle friendly space and dissuade traffic from the development taking this route, though this remains unresolved.
- 10.6.3 The application has been submitted with a Transport Assessment, which has been considered by highway officers. Subsequently, officers have been in negotiations with the applicant to address areas of concern relating to the accessibility of the development and its traffic impact on the local highway network.

Site Access and Internal Layout:

- 10.6.4 It is accepted that to provide a robust assessment the TA has been based on all traffic associated with the development entering and exiting the development via the Street 5/Wighill Lane junction. The applicant has acknowledged that there will be a preference for some traffic to access the site via the Avenue C East/Wighill Lane Roundabout, which could provide a suitable second point of access. It is recognised that not all of this route is adopted and the applicant has agreed to upgrade the unadopted section of Avenue C East, which is in the applicant's ownership, to adoptable standard and offer for adoption. It is considered that this will provide a suitable second point of access. The unadopted section of Avenue C East should be included in a revised redline boundary plan.

- 10.6.5 It is acknowledged that the internal access route, which it is assumed is indicative only at this stage, accords with the design requirements of a Type 1 Connector Street, with a 6.75m wide carriageway, flanked by a 1m verge and 2m wide footways. This is acceptable in principle and would allow a bus route to be accommodated. However, it should be noted that a verge width of 3m would be required to sustain tree planting.

Trip Rates:

- 10.6.6 The transport assessment uses trip rates based on surveys undertaken at the existing residential developments of Woodland Drive and Walton Chase. It is acknowledged that the trip rates for the development of Spofforth Hill were derived from a single survey at Glebe Field Drive, Wetherby, which it is considered reflect car ownership levels and car travel mode share in the locality.

Impact of Development;

- 10.6.7 The use of alternative higher trip rates was requested by officers as a sensitivity test, so that the effect of using higher trip rates could be better understood. Highway officers are of the view that the assessment methodology should take a consistent approach with regard to trip rates and peak periods, which should be based on the identified local network peak hours, i.e. (07.30 08.30 and 16.30 17.30).
- 10.6.8 The surveys upon which the locally derived trip rates have been calculated suggest that the majority of school related travel takes place outside the network peak i.e. after 08.30. Highway officers are of the view that the primary purpose of trips during the morning network peak hour are journeys to work and that therefore no special consideration of education trips is needed. It is considered that any education trips occurring before 08.30 are likely to be escorting pupils to schools beyond the immediate locality or part of a linked trip the primary purpose of which is to travel to work. Highway officers are of the view that the proposed methodology is flawed and overestimates the proportion of education trips during the morning network peak hour.

Distribution/Assignment:

- 10.6.9 Highway officers are of the view that the surveyed turning movements to/from the developments of Woodland Drive and Walton Chase (used to calculate the trip rate) are a good reflection of how existing residential traffic is assigned on the local highway network and that this assignment offers the most appropriate representation of how traffic from the proposed development will be assigned on the local network.
- 10.6.10 It is unclear how the percentage distributions referred to in the applicant's latest technical note have been calculated. Highway officers are of the view that development traffic approaching the Wetherby Road/Wighill Lane/Walton Road junction should be assigned in accordance with the arrival/departure characteristics of the existing residential developments and local network peak periods, and that no special consideration of education trips is needed.
- 10.6.11 Highway officers remain of the view is that the proposed assignment methodology fails to assess the true impact of traffic generated by the proposed development, particularly its impact on the operation of Thorp Arch Bridge and Bridge Road/High Street junction, areas of the local highway network which are known to be sensitive to variations in traffic flow and vulnerable to congestion.

Thorp Arch Bridge and High Street Junction, and Wighill Lane/Street 5 Junction:

- 10.6.12 At present, highway officers are not convinced that signalisation of the Thorp Arch Bridge and High Street Junction is an appropriate form of mitigation in order to deal with the level of traffic that officers consider is likely. Due to the presence of on-street parking on the southern side of Bridge Road, which regularly obstructs the free flow of traffic between Thorp Arch Bridge and the High Street/Bridge Road junction, there are concerns regarding the validity of the modelling and whether this is a true reflection of how the junctions will operate in practice. There are also concerns regarding the cycle times, which are considered to be high and may actually increase queueing during peak periods. Officers require that consideration should be given to other potential methods of managing/controlling traffic flows over Thorp Arch Bridge and through Boston Spa. At the time of writing, this view has been expressed to the applicant and they have indicated that they are willing to explore this further, potentially by making a financial contribution in order to pay for works, though it is not known what those works would involve in detail or the extent to which they would offer successful mitigation.

Highway Safety:

- 10.6.13 For ease of identification, officers have requested that the review of road traffic accidents should include a plan showing the location, accident reference and date of each accident. It is unclear from the junctions and connecting roads listed exactly what the extent of the assessment areas are. Safety Audits were requested in December 2016, though to date nothing has been submitted. Highway officers have some concerns regarding the design of the proposals and it is standard practice to request an independent third party safety audit. Subject to the findings, this may result in the need for further design changes.
- 10.6.14 Stage 1 Safety Audits area required for the proposed bus gate on to Church Causeway, the signalised Wighill Lane/Street 5 junction and signalised High Street/Bridge Road /Thorp Arch Bridge junction.

Accessibility:

- 10.6.15 The accessibility standards for residential development serving 5 or more dwelling are set out in the Leeds Core Strategy. Although these standards apply across the whole of the Leeds District, as this site is at the outer edge of the Leeds District some of the standards may be more difficult to be met and it may be reasonable to substitute Leeds, Bradford and Wakefield for York or Harrogate.

Buses;

- 10.6.16 The applicant has indicated that they are willing to commit to the costs of diverting the existing 770 / 771 Service through the site via the proposed bus gate on Church Causeway, which will provide a combined service frequency of 2 buses per hour between Leeds, Wetherby and Harrogate. Whilst this is welcomed this will only maintain the existing 30 minute service between Leeds, Wetherby and Harrogate, which, falls significantly below the required 15 minute service frequency to a major transport interchange. Highway officers are of the view that, in addition, peak hour services between Boston Spa and Wetherby should be funded at peak times to ensure there is sufficient bus capacity to serve the local schools and services. The applicant has indicated that they are willing to provide the requisite additional bus stops with real time information. A plan showing the indicative position of the proposed bus stops, together with 400m walking distance catchment area has subsequently been submitted. At the time of writing, highway officers are considering further information submitted by the applicant with regard to enabling enhanced bus provision.

Walking/Cycling;

- 10.6.17 Officers consider that clarification is required regarding the range of pedestrian and cycle facilities proposed. The view of Highways officers is that the existing pedestrian infrastructure is limited and/or unattractive and that this would be likely to increase reliance on the car.
- 10.6.18 The Council, in conjunction with Sustrans, is developing proposals to create cycle/pedestrian links from Walton to NCR 665 (Walton Cycle Link) and a link from Thorp Arch Estate to NCR 665 where it crosses the old railway bridge to the south of the site linking to Newton Kyme. To enhance pedestrian/cycle accessibility the Council would otherwise be seeking the provision of / contribution towards the provision of these links, as well as improvements on the footway routes between the site and Walton, Thorp Arch and Boston Spa. This has been an area of discussion although, at the time of writing, the applicant has suggested that these measures could be funded as from the planning obligation that seeks sustainable travel measures.
- 10.6.19 Overall, the site currently falls significantly short of the Council's Accessibility Standard. From a transport perspective the site is not considered to be sustainable, resulting in a high reliance on the use of the private car. The rural location of the site exacerbates the limited public transport provision as journey times will also be unattractive. Improvements to the bus services and pedestrian and cycle infrastructure are possible to significantly enhance the accessibility credentials of the site, though these are currently matters which are still under discussion and unresolved.
- 10.6.20 Notwithstanding the above, it is recognised that there are other housing sites in the Outer North East area which are being promoted through the SAP, including site reference HG2-227 (land to the north of Wealstun Prison) with an indicative capacity of 142 units. It is also noted that recent appeals for other residential developments with similar accessibility issues have been allowed. As set out above, while there are concerns about the sustainability of the development in this location, it is possible that they could be resolved, but in the absence of sufficient information the application is also recommended for refusal on this basis.

Summary:

- 10.6.21 Highway officers are of the view that the traffic assessment methodology should use a consistent approach with regards to trip rates, peak periods and trip assignment, which should be based on the trip rates, identified local network peak hours and assignment characteristics of existing residential developments. Officers remain of the view that the proposed assignment methodology is flawed and fails to properly assess the true impact of traffic generated by the proposed development on the local highway network, in particular the impact and operation of the Thorp Arch bridge and High Street / Bridge Road junction.
- 10.6.22 The site currently falls significantly short of the Council's Accessibility Standards from a transport perspective and without sufficient investment in infrastructure, future residents would be overly reliant on the use of the private car. The rural location of the site exacerbates the limited public transport provision as journey times will also be unattractive. Reasonable opportunities to enhance the accessibility credentials of the site have not been provided so far, but are an area of ongoing discussion.

10.7 Landscape

- 10.7.1 As part of the 2013 planning application the applicant undertook a detailed tree survey. The submitted masterplan shows groups of trees and individual trees that are to be retained. This includes a significant number of trees that form part of the open land, wooded areas and tree buffers to the western and northern boundaries. The existing boundary planting, in combination with the buildings at Wealstun Prison, serve to screen views into the site from public vantage points outside of the Trading Estates boundaries. Accordingly, the wider visual impact of any development will be limited.
- 10.7.2 Whilst the earlier tree survey has not been submitted with the current application, a landscape masterplan and outline tree retention plan have been submitted, informed by the discussions around the extent of the Country Park and the need to retain the most ecologically sensitive parts of the site. Given the need to deal with remediation matters, as described above, and the proposal to confidence scrape in the development areas of the site, the submitted Environmental Statement assumes that all trees and vegetation within those areas would be lost. If permission were granted, following remediation of the site, subsequent reserved matters applications could consider the fine detail of relationships of buildings to retained trees.
- 10.7.3 Landscape issues are also important in creating an attractive environment for the new residents and in having regard to the established character of the area. Part of which, in the context of the estate, are buildings set in mature landscaped grounds. In this sense it is clearly desirable to retain as many of the trees that are in good health and are good specimens. Again, the detailed level of tree retention would only be known following remediation and the confidence scrape, but the intention is that the edges of the development cells and indeed the wider development site would be framed with a strong landscaping scheme, comprising a mixture of retained and/or new planting, as appropriate.

10.8 Conservation Area and Listed Buildings

- 10.8.1 Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a Conservation Area, the Local Planning Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects listed buildings or their settings, the Local Planning Authority must have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest it possesses. Further, in accordance with paragraph 132 NPPF, great weight should be given to a designated heritage asset's conservation when assessing the impact of a proposed development.
- 10.8.2 In this instance, whilst the application site is largely outside the neighbouring Thorp Arch Conservation Area, a small part of the red line boundary incorporating the adopted highway along Church Causeway does fall within it. It is noted that Station House, the former station and engine shed, to the west of Church Causeway, are all Grade II Listed. There is also a Grade II listed gun emplacement on the eastern side of the Trading Estate.

- 10.8.3 In considering the proposals, they are entirely contained within the historic curtilage of the TATE and the strong landscape buffers to the western boundary ensure that there is not an adverse urbanising effect when viewed from outside the site, i.e. when viewed from Church Causeway to the west or south. The works associated with alterations to the highway and provision of the bus gate are considered to be relatively minor and would not have a harmful effect, thereby preserving the character and appearance of the Conservation Area and preserve the setting of the Listed Buildings.

10.9 Drainage and flood risk

- 10.9.1 The site falls within Flood Risk Zone 1 and is therefore at low risk of flooding. The applicant has submitted a comprehensive Flood Risk Assessment that the Council's Flood Risk Management Team, the Environment Agency and Yorkshire Water are all satisfied with, subject to the imposition of appropriate conditions relating to surface water drainage and groundwater protection.

10.10 Housing supply

- 10.10.1 The Council is not able to demonstrate a 5 year housing land supply and so a windfall development on this site could help to remedy the Council's 5 year housing land supply position in advance of the adoption of SAP. The test that then applies is whether any adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. The conclusion of this test will be a material consideration to be weighed in the balance when considering whether material considerations exist to outweigh the presumption in favour of the development plan in accordance with Section 38(6).
- 10.10.2 In considering the above, officers have serious concerns about the traffic impact of the development and specifically its impact on Thorp Arch bridge. Additionally, at present there is a lack of information on how the development would be made acceptable in accessibility terms, which is of significant importance given the rural location, lack of public transport infrastructure and concerns about over reliance on the private car and traffic. Without a signed S106 agreement, it is unknown to what extent necessary planning obligations may be delivered. In the circumstances, it is considered that there are sound reasons as to why the adverse impacts would outweigh the benefits of otherwise granting planning permission.

10.11 Other Matters

- 10.11.1 The Hope Concrete Batching Plant located at Unit W40 within the application site is a protected facility under Policy 12 (Safeguarding Mineral Processing) of Natural Resources and Waste DPD. The loss of this facility in the absence of securing a replacement is considered to be contrary to policy. The applicant is currently in negotiations with the operator to secure the relocation of the plant to a site located in the south east corner of the existing TATE, off Avenue E, between units 333 and 372. The site is considered a convenient location set within the backdrop of Trading Estate and located a sufficient distance from residential properties.
- 10.11.2 In the circumstances that the Council were able to grant planning permission, it would be recommended that a planning obligation be required or that a condition be imposed that would secure the delivery of an appropriate alternative facility.

- 10.11.3 When the Local Planning Authority is able to determine major planning applications, it is common practice to include a planning obligation to deal with training and employment initiatives arising from the development. Whilst this would arguably form part of the S106 agreement if the Council were approving the application, officers are mindful of criticism from Inspectors on previous appeal decisions where it is considered that such an obligation, no matter how laudable, does not meet the CIL Regulations tests. Accordingly, it may not be possible to secure this in the circumstance that the appeal is allowed.

10.12 Section 106 obligations and CIL

- 10.12.1 In the circumstances that the Council were able to determine the application, any approval would also be subject to several planning obligations to be secured via a S106 agreement. The S106 Agreement would include the provision and delivery of affordable housing, housing for independent living, greenspace, travel planning, public transport enhancements, local facilities, off-site highway works and training and employment clauses.
- 10.12.2 The applicant has already intimated that there are viability concerns in relation to the scheme, though a viability assessment has not been submitted as yet. Such an assessment would be subject to independent scrutiny on behalf of the council. In circumstances where there is a justifiable viability issue, it will be necessary to look at the overall package of planning obligations and take a view on what the priorities are in each case.
- 10.12.3 Notwithstanding the above, the applicant has signalled that they may not be able to achieve a scheme which is fully policy compliant in terms of affordable housing. For this part of the city, the affordable housing requirement is 35% in accordance with Core Strategy policy H5. Accordingly, the development should seek to meet this requirement in the first instance. Of course, Members may signal that they have different priorities, but this can only be debated once the Council is furnished with further information on this. Matters such as secondary school contributions will be addressed through the Community Infrastructure Levy.

11.0 Conclusion

- 11.1 It may be that over time officers could have, through continued negotiations with the applicant, overcome the technical highway issues, as well as the provision of those matters currently identified as planning obligations, so as to be able to recommend approval. However, in the circumstances of an appeal being submitted, the Local Planning Authority must assess the application as submitted. The serious concerns about the accessibility of the site and the lack of sufficient information at this time are noted and again, in time these matters could otherwise have been resolved.
- 11.2 Whilst a viability appraisal has yet to be submitted to the Council, it is known that the abnormal cost of remediation would otherwise likely impact on the planning obligations achievable. Again, in the circumstances that the Local Planning Authority could make a decision, Members would need to take an informed view on the benefits of delivering a residential led development on this site. As matters stand, officers do not know what the level of affordable housing might be and there is currently no S106 agreement. Officers reserve the right to bring a future report to Members on viability matters at the appropriate time in order to agree a position

from which the Local Planning Authority can defend the appeal. It is also noted that the applicant has submitted a second identical planning application with a view to seeking resolution on the outstanding matters.

- 11.3 Notwithstanding the above issues, officers consider that, on balance, the principle of development is acceptable, acknowledging the potential concerns around loss of employment land. Whilst these concerns are noted, it is not considered that they are so substantial that they could be substantiated as reasons for refusal which could subsequently be robustly defended at appeal. Additionally, weight should be given to the delivery of much needed housing, unless the grant of permission would significantly and demonstrably outweigh the benefits – as is the case here, due to the concerns outlined above.
- 11.4 Whilst the application is in outline with all matters reserved, the illustrative masterplan is considered to offer a positive approach to developing the site – acknowledging the heritage aspect of the layout of the estate, retaining the most ecologically sensitive areas and promoting the country park, together with a network of greenspaces through the development. The provision of the local centre, care home and primary school are also welcomed. The Council's lack of a 5 year housing land supply is such that, in principle, the delivery of a significant amount of housing on this site would also be welcomed, as would the economic contribution that such a development would make.
- 11.5 As a former ROF site requiring remediation in order to make it suitable for the uses proposed, officers have carefully considered the technical approach to the proposed method of site investigation and dealing with contamination, which is considered to be acceptable. It is noted that the applicant has also chosen to undertake a confidence scrape for the development and/or sensitive parts of the site. It is understood that the abnormal cost of remediation is likely to have an impact on the level of affordable housing that can be achieved (on which a view must be formed once a viability assessment is submitted), but the remediation itself is not considered so costly as to render the scheme entirely unviable.
- 11.6 Despite the positive components and effects of the application proposals, it is considered that these are outweighed by the significant detrimental impact that the development would have on the local highway network, as well as the lack of certainty of affordable housing and planning obligations that might otherwise be contained within a S106 agreement. It is noted that these matters, particularly the highway impact, are significant issues in representations received locally. On this basis, officers recommend that Members should be minded to refuse the application for the reasons specified. These reasons will then form the basis for defending the appeal at public inquiry.
- 11.7 Members should note that as part of the appeal process, there is an onus placed on both parties to continue to discuss the proposals with a view to narrowing the issues between them. It is likely that the applicant, in preparing for the appeal, will submit a draft S106 Agreement and this may serve to overcome the concerns raised in Reason for Refusal 2.

Background Papers:

Application file: 16/05226/OT

Notice served on Leeds City Council (in respect of highway works)

APPENDIX 2 – CITY PLANS PANEL – 27TH APRIL 2017 – MINUTES (EXTRACT)

CITY PLANS PANEL

THURSDAY, 27TH APRIL, 2017

PRESENT: Councillor J McKenna in the Chair Councillors P Gruen, R Procter, D Blackburn, G Latty, T Leadley, N Walshaw, C Campbell, A Khan, A Garthwaite, J Heselwood, S McKenna and J Pryor

A Member site visit was held in the morning in connection with the following proposals: Application No.16/05226/OT – Thorp Arch Estate and Application Nos: 16/07322/RM & 16/07323/RM – Whitehall Riverside, Whitehall Road, Leeds, LS1 4AW and was attended by the following Councillors: J McKenna, C Campbell, D Blackburn, J Pryor, S McKenna, N Walshaw, A Khan, P Gruen and T Leadley.

163 Application No. 16/05226/OT - OUTLINE PLANNING APPLICATION FOR CIRCA 874 DWELLINGS; A 66 BED CARE HOME; A 1 FORM ENTRY PRIMARY SCHOOL; A NEW LOCAL CENTRE INCLUDING A CLASS A1 CONVENIENCE STORE (UP TO 420M2), A 5 UNIT PARADE OF SMALL RETAIL UNITS (UP TO 400M2), CLASS D1 USES (UP TO 750 TO LAND AT THORP ARCH ESTATE, WETHERBY

The Chief Planning Officer submitted a report which set out details of an outline planning application for circa 874 dwellings; a 66 bed Care Home, a one form entry Primary School, a new Local Centre including a Class A1 Convenience Store (up to 420M2), a 5 Unit Parade of small Retails Units (up to 400M2), Class D1 uses (up to 750M2) to land at Thorp Arch Estate, Wetherby.

The Chief Planning Officer reported that the application was now the subject of an appeal against none determination, a parallel application had also been submitted.

Addressing the report the Chief Planning officer said that in order to contest the appeal the following reasons recommending refusal of the application were being put forward for Members consideration:

1. The Local Planning Authority considers that the applicant has so far failed to demonstrate that the local highway infrastructure, including the wider network and specifically Thorp Arch bridge and the junction of Bridge Road / High Street in Boston Spa, which will be affected by additional traffic as a result of this development, is capable of safely accommodating the proposed development and absorbing the additional pressures placed on it by the increase in traffic which will be brought about by the proposed development. The proposal is therefore considered to be contrary to Policy T2 of the Core Strategy, Policy GP5 of the adopted UDP Review and the sustainable transport guidance contained in the NPPF which combined requires development not to create or materially add to problems of safety, environment or efficiency on the highway network.
2. The Local Planning Authority considers that there is insufficient information submitted with the application to demonstrate that an acceptable level of accessibility can be achieved for the scale of development proposed. In the absence of such information and measures, as may be secured, there is a danger that future residents will be overly reliant on the private car. The proposals are therefore considered to be contrary to policies SP1, T2 and H2 of the Leeds Core Strategy and policies T2 and GP5 of the adopted UDP Review and guidance in the NPPF.
3. In the absence of a signed Section 106 agreement the proposed development fails to provide necessary contributions and/or obligations for the provision and delivery of affordable housing, housing for independent living, greenspace, travel planning, public transport enhancements, local facilities and off site highway works, without which would result in an unsustainable form of development that fails to meet the identified needs of the

city and prospective residents, contrary to the requirements of Policy GP5 of the adopted UDP Review and related Supplementary Planning Documents and contrary to Policies H5, H8, P9, T2, G4 and ID2 of the Leeds Core Strategy and guidance in the NPPF.

Further issues highlighted included the following:

The receipt of a further submission from TAG (Thorp Arch Trading Estate Action Group) was reported. The Group were supportive of the recommendation for refusal, but raised additional concerns about the land containing mixed contaminants, including industrial waste and vulnerable materials (Site of a former Royal Ordnance Filling Factory) leading to a level of uncertainty and risk.

In response to Members comments and questions, the following was discussed:

- Significant number of objections
- Principle of the development
- Layout and form of development
- Impact on the local highway network
- Impact on Thorp Arch Bridge
- Former Royal Ordnance factory site, remedial works required
- The appropriateness of the approach to dealing with contaminated land
- Ecology
- School provision in the area
- Guidance around Care Home provision in isolated areas
- Well founded reasons for refusal
- Support the officer recommendation of refusal

Responding to the issue of school provision in the area the Chief Planning Officer said that High Schools were located at Boston Spa and Wetherby, on the issue of Care Home provision, it was reported there was no policy on where a Care Home should be located.

RESOLVED – Had Members been in a position to determine the application it would have been refused for the following reasons:

1 The Local Planning Authority considers that the applicant has so far failed to demonstrate that the local highway infrastructure, including the wider network and specifically Thorp Arch bridge and the junction of Bridge Road / High Street in Boston Spa, which will be affected by additional traffic as a result of this development, is capable of safely accommodating the proposed development and absorbing the additional pressures placed on it by the increase in traffic which will be brought about by the proposed development. The proposal is therefore considered to be contrary to Policy T2 of the Core Strategy, Policy GP5 of the adopted UDP Review and the sustainable transport guidance contained in the NPPF which combined requires development not to create or materially add to problems of safety, environment or efficiency on the highway network.

2 The Local Planning Authority considers that there is insufficient information submitted with the application to demonstrate that an acceptable level of accessibility can be achieved for the scale of development proposed. In the absence of such information and measures, as may be secured, there is a danger that future residents will be overly reliant on the private car. The proposals are therefore considered to be contrary to policies SP1, T2 and H2 of the Leeds Core Strategy and policies T2 and GP5 of the adopted UDP Review and guidance in the NPPF.

3 In the absence of a signed Section 106 agreement the proposed development fails to provide necessary contributions and/or obligations for the provision and delivery of affordable housing, housing for independent living, greenspace, travel planning, public transport enhancements, local facilities and off site highway works, without which would result in an unsustainable form of development that fails to meet the identified needs of the city and prospective residents, contrary to the requirements of Policy GP5 of the adopted UDP Review and related Supplementary Planning Documents and contrary to Policies H5, H8, P9, T2, G4 and ID2 of the Leeds Core Strategy and guidance in the NPPF.

APPENIX 3 – S106 – DRAFT HEADS OF TERMS (AS AT 3RD JUNE 2017)

The following summarises the draft Heads of Terms of a S106 agreement, as prepared by the appellant:

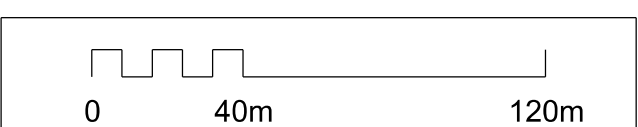
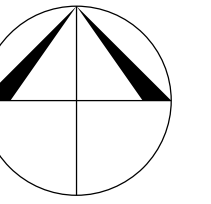
No.	HoT	Proposed draft s106 wording
1.	Provision of affordable housing	<p>On-site Affordable Housing to be provided.</p> <p>% / tenure mix subject to ongoing viability work.</p> <p>An agreement to transfer the AH to a Registered Provider shall be entered into prior to [x]% occupation of private units.</p>
2.	Bus Shelters	<p>Payment of Bus Shelters Contribution (£80,000) payable prior to either</p> <p style="padding-left: 40px;">a) First Occupation of Dwellings, or</p> <p style="padding-left: 40px;">b) upon Practical Completion of Link Road</p> <p>whichever is the later.</p> <p>For the provision of 4 x bus shelters to be paid to the Council and passed on to WYCA.</p>
3.	Transport Mitigation	<p>Transport Mitigation Contribution (£420,612.50) for the provision of metrocard and/or other sustainable transport measures.</p> <p>Payable in the following instalments:</p> <p style="padding-left: 40px;">a) 25% payable on First Occupation;</p> <p style="padding-left: 40px;">b) 25% payable upon Occupation of 200th Dwelling;</p> <p style="padding-left: 40px;">c) 25% payable upon Occupation of 440th Dwelling; and</p> <p style="padding-left: 40px;">d) 25% payable upon Occupation of 660th Dwelling</p> <p>subject to these no longer being required once targets within Travel Plan not met.</p>
4.	Bus Infrastructure	<p>Submission of a scheme for the diversion of route 770/771 prior to First Occupation of Dwellings.</p> <p>Scheme to include (inter alia) confirmation (to be obtained</p>

		<p>by the Council) that the bus diversion can be implemented in accordance with the existing timetable and for the bus diversion to be in place either:</p> <ul style="list-style-type: none"> a) Within six months of First Occupation of Dwellings; or b) Prior to Practical Completion of Link Road <p>whichever is the later.</p> <p>Payment to be made to Council and to be forward on to relevant operator, for the purpose of the bus diversion.</p>
5.	Bus Diversion Contribution	<p>Bus Diversion Contribution (£1.5m) to be paid in ten equal instalments.</p> <p>The first payment of the contribution to be made on either:</p> <ul style="list-style-type: none"> a) approval of bus diversion scheme; b) six months of First Occupation of Dwellings; or c) Practical Completion of Link Road <p>whichever is the later.</p> <p>Final 9 payments to be upon the annual anniversary of the first payment.</p> <p>Payment of contribution subject to them ceasing where it can be demonstrated that the costs of operating the bus diversion are exceed by the gross receipts from passenger fares, with any unspent sums to be returned.</p>
6.	School Bus Contribution	<p>School Bus Contribution (400,000) to be paid in ten equal instalments</p> <p>Further information required on this contribution being necessary.</p> <p>First payment to be made either:</p> <ul style="list-style-type: none"> a) Within six months of First Occupation of Dwellings; or b) Prior to Practical Completion of Link Road

		<p>whichever is the later.</p> <p>Final 9 payments to be upon the annual anniversary of the first payment.</p>
7.	Potential Off-Site Highway Works in Boston Spa	<p>Possible contribution of £300,000(max).</p> <p>Further information required on this contribution being necessary and if so the identification of a specific scheme to which this contribution will be applied.</p>
8.	Travel Plan	<p>Travel Plan to be submitted, in accordance with Travel Plan submitted with planning application.</p> <p>To be submitted prior to First Occupation.</p>
9.	Travel Plan Monitoring Contribution	Contribution (£8,804) payable prior to commencement.
10.	Off Site Traffic Calming	Contribution £60,000 to be paid prior to first occupation to provide for traffic calming measures in both Walton and Thorp Arch.
11.	Country Park Management Scheme	<p>Submission of Scheme prior to Commencement.</p> <p>Scheme to provide for:</p> <ul style="list-style-type: none"> • Finalised location and specification of the Country Park, including details of: <ul style="list-style-type: none"> • scrub clearance and re-establishment of calcareous grassland • seed resource collection and reuse • public access routes • ponds / watercourses including suds and drainage infrastructure • Public routes / facilities to be provided • Programme of delivery for Country Park • Proposed Management Company (to be a company nominated by the Owner), confirming commitment to consult with local wildlife trust as part of the management arrangements

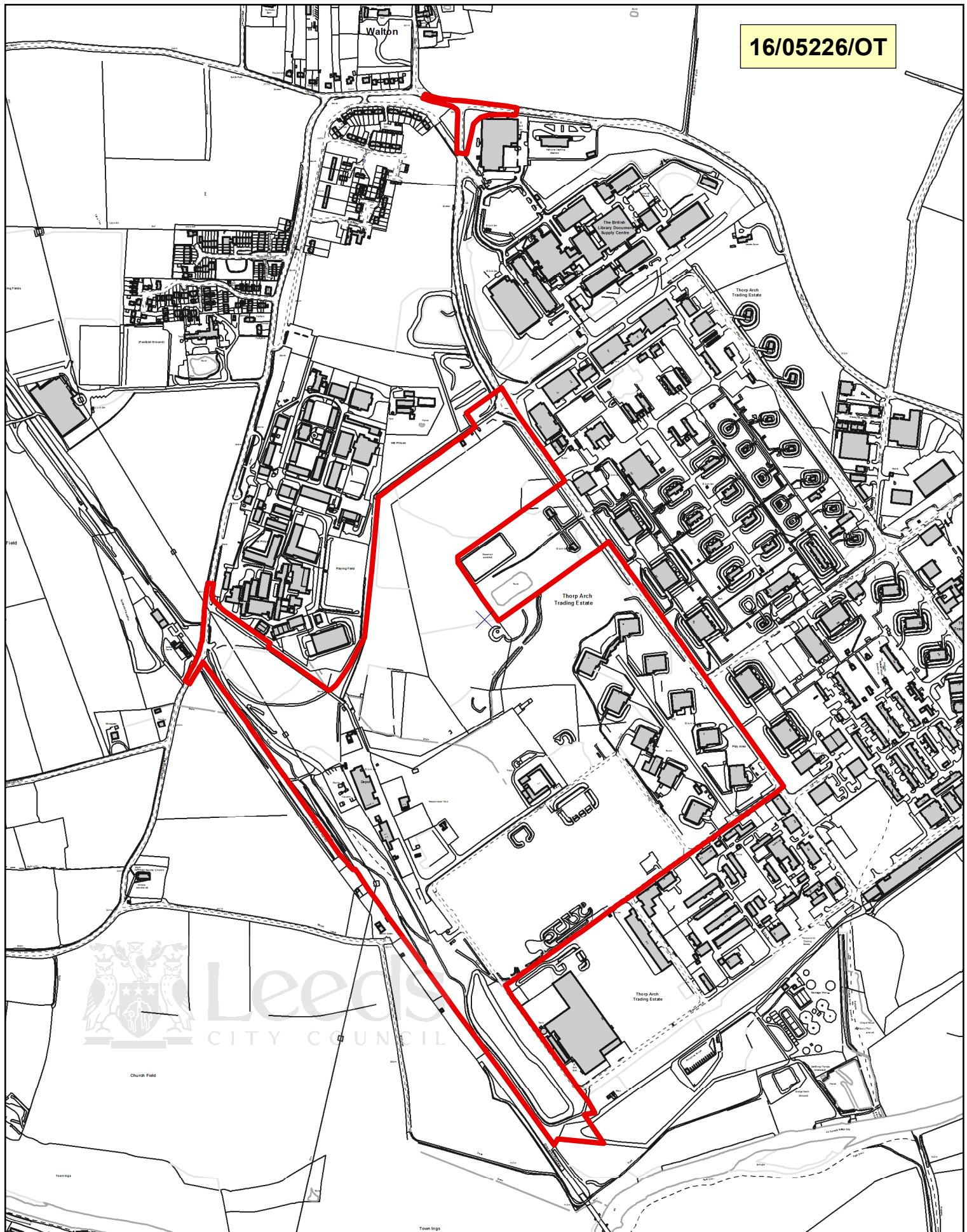
		<ul style="list-style-type: none"> • Programme for management and maintenance of the Country Park, including level of any service charge to fund the work of the Management Company.
12.	Provision of Country Park	<p>To layout and provide the Country Park in accordance with the Scheme prior to occupation of [x] number of Dwellings.</p> <p>Owner to maintain until transfer to Management Company.</p>
13.	Transfer of Country Park	<p>Transfer of the Country Park to the Management Company following completion.</p> <p>Transfer to include covenants ensuring:</p> <ul style="list-style-type: none"> • Agreed extent of public access; • Land used for no other purpose; and • No buildings or structures to be constructed on the land.
14.	Primary School Land	<p>Primary School Site to be identified and agreed prior to Commencement.</p> <p>Site to be provided in serviced condition and agreement for lease to be entered into providing for lease to Council of 125 years at nil consideration prior to First Occupation of Dwellings.</p>
15.	Primary School Contribution	<p>Primary School Contribution (£2,496,750.90) to be paid in the following instalments:</p> <p>a) 15% prior to Occupation of 200th Dwelling.</p> <p>b) 85% prior to Occupation of 300th Dwelling</p> <p>Primary School to be provided prior to Occupation of 400th Dwelling.</p>
16.	Concrete Batching Plant	Provision for relocation of existing plant to alternative site.

ILLUSTRATIVE MASTERPLAN



RUDGATE VILLAGE, THORP ARCH

16/05226/OT



CITY PLANS PANEL

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SCALE : 1/9000

