
Appeal Decision

Inquiry held between 23 – 31 May 2023

Site visit made on 1 June 2023

by Dr Rachael A Bust BSc (Hons) MA MSc LL.M PhD MIOl MCMI MIEEnvSci MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th July 2023

Appeal Ref: APP/C2741/W/23/3314331 11 The Village, Wigginton, York YO32 2PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Churchill Retirement Living Limited against City of York Council.
 - The application Ref 22/01315/FULM, is dated 14 June 2022.
 - The development proposed was originally described as "Redevelopment of site for 45 Retirement Living apartments for older persons with guest suite, communal facilities, managers office, access, car parking and landscaping."
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing buildings and redevelopment of the site to form 45 Retirement Living apartments for older persons including communal facilities and associated car parking and landscaping at 11 The Village, Wigginton, York YO32 2PL in accordance with the terms of the application, Ref 22/01315/FULM, dated 14 June 2022, subject to the conditions contained in the attached Schedule.

Application for costs

2. At the Inquiry an application for costs was made by Churchill Retirement Living Limited against the City of York Council. This application is the subject of a separate Decision.

Preliminary and Procedural Matters

3. Two Rule 6 parties opposing the development participated in the Inquiry proceedings, namely Wigginton Parish Council (WPC) and Wigginton Community Group (WCG) which is a group of local residents.
4. At the Case Management Conference (CMC) on 3 April 2023 the main issues were identified, together with how the evidence would be dealt with at the Inquiry and the timings for evidence. As the appeal is against the non-determination of the planning application, the Council's Statement of Case set out its primary reasons for non-determination at the time which related to design, landscape and highway objections and the lack of agreed developer contributions due to the unresolved viability issues. This was supplemented at the CMC by concerns identified regarding the living conditions of future occupiers of the development.

5. In the intervening period following the CMC and the opening of the Inquiry, the Appellant and the Council continued discussions on the appeal, involving the Rule 6 parties as far as possible, to narrow the matters in dispute. Statements of Common Ground (SoCG) were used to document the agreed positions. As such the Council did not pursue their initial concerns relating to landscape and loss of trees within their subsequent evidence. Furthermore, their concerns relating to access arrangements, pedestrian movements and refuse collection and servicing did not remain part of the main issue on highways. The previously unresolved issues relating to the development viability and therefore the financial contributions for infrastructure were resolved in principle and agreed in the Viability SoCG (CD12.03). Consequently, the proposed developer contributions do not form a main issue in this appeal, as was initially envisaged at the time of the CMC.
6. The submitted planning obligation is made by an Agreement between the Appellant, landowners and City of York Council under s106 of the Town and Country Planning Act 1990. It secures financial contributions in relation to an off-site contribution in lieu of on-site affordable housing provision, health services, informal open space, outdoor sports and subsidised travel measures. The s106 Agreement is signed and dated 13 June 2023 and is a material consideration in this case. A Community Infrastructure Levy (CIL) Compliance Statement was also submitted in support of these planning obligations. I have had regard to both of these documents and will return to them later in this decision.
7. The description of development on the application form and set out in the banner heading of this Decision differs to that used by the Council. As such the description was clarified and agreed as part of the main SoCG. The agreed description is more precise, and I therefore have used it throughout the Inquiry and in my formal Decision in paragraph 1.
8. The application was supported by a number of plans, reports and technical information. The main SoCG (CD12.01) set out the agreed list of plans in paragraph 2.8 and accompanying statements and information in paragraph 2.9. At the Inquiry it was confirmed that the Site Plan¹ had been revised in scale to show more context, specifically the properties to the rear of the site. The parties had an opportunity to view and comment such that it was agreed that it would form part of the appeal proposal. I have therefore determined the appeal on this basis.
9. At the Inquiry two revised plans² were submitted as part of the Inquiry proceedings. The Appellant confirmed that these two plans should be regarded as new plans to the appeal. These plans do not materially evolve the appeal scheme, they reflect the omission of an existing access gate on the southern boundary, and set out a small number of minor details, for example the location of cycle storage, which car parking spaces would be marked for disabled users, alongside some landscaping details all of which would in any event be addressed by planning conditions for future approval if the appeal were to be allowed. I also note that the Site Plan³ was explicitly referred to within Table 1 of the agreed Highways SoCG (CD12.02). In addition, reference was also made to the

¹ PL002A Site Plan with Roof Plan (04.07.22)

² PL002A Site Plan showing Ground Floor (17.04.23); JBA 22 185 – SK02 Landscape Strategy, Rev D (26.04.23)

³ PL002A Site Plan showing Ground Floor (17.04.23)

landscaping plan showing access to the footpath via the southern corner of the site in Table 1 of the agreed Highways SoCG.

10. Having reviewed the original proposal and the revised plans, I do not consider that the main elements of the scheme are materially altered from the scheme originally submitted and upon which consultation took place. As such, I consider that no-one would be prejudiced by my consideration of these two plans as part of the appeal, taking account of the principles established in the *Wheatcroft* case⁴. Copies of these two plans were available during the Inquiry, as such the main parties and any other interested persons had the opportunity to review them. The plans were referred to and discussed during evidence sessions. I have therefore included these plans in my determination of this appeal.
11. There is no adopted statutory development plan for the City of York, save for the retained Regional Spatial Strategy policies on Green Belt which are not relevant in this case. References have been made to the City of York Draft Local Plan incorporating the fourth set of changes – the Development Control Local Plan 2005 (DCLP) and the emerging Local Plan (eLP). The eLP is progressing towards adoption with the main modifications having recently been consulted upon. Although the DCLP and the eLP do not form part of the statutory development plan for the purposes of s38(6) Planning and Compulsory Purchase Act 2004, they are both capable of being material considerations in determining planning applications in so far as they are consistent with the National Planning Policy Framework. The Haxby and Wigginton Neighbourhood Plan is also in preparation. Although a copy titled 'HWNP Plan Draft v2.4.docx' was submitted as part of the Core Documents, no evidence was available to confirm that this would constitute the published draft plan under the provisions of Regulation 14⁵ for consultation. As such it has not yet reached the formal stage where it can begin to carry some weight in the decision-making process.

Main Issues

12. From all that I have read, heard and seen the main issues in this appeal are:
 - (i) The effect of the design of the proposed development on the character and appearance of the area;
 - (ii) Whether the proposal would provide sufficient on-site car and cycle parking and whether there would be any consequential effects on highway and pedestrian safety; and
 - (iii) The effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to outlook, enclosure, privacy and overshadowing; and whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to outlook and amenity space.

Reasons

Design and the character and appearance

13. The appeal site is located on the southern side of the road known as The Village. The historic development of many villages, like Wigginton, originally created a linear built form, this linear nature I also saw in Shipton by Beningbrough as part

⁴ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

⁵ The Neighbourhood Planning (General) Regulations 2012 (as amended)

of my site visit and to which I was specifically referred. WPC contend that the historical plot layout comprising large rear gardens could still be inferred from the plans; however, it was accepted that many have since been severed by backland development.

14. Along The Village there are a number of detached, semi-detached and terraced dwellings of different styles and ages interspersed with some more modern properties or properties which have been altered during their lifetime. Clamp bricks is perhaps the most common choice of material within the core of Wigginton. Painted render was present on individual dwellings as well as on Belfry Court which introduces some visual change. Although a substantial proportion of the dwellings are two storeys in height, during my site visit I did see some evidence of the use of roof space. Within the surrounding area of the appeal site there are a number of larger residential developments, which includes care homes, retirement homes, together with some key community buildings and services in the form of the Haxby and Wigginton Health Centre and the Wigginton Recreation Hall.
15. The appeal site is located close to the Parish boundary between Wigginton and Haxby. From the submitted evidence and what I have observed when walking around both settlements there is no clear, defined and marked change in character and appearance when one crosses the parish boundary and walks from Wigginton into Haxby and vice-versa. The two settlements complement each other and have both experienced change to their built form over time. The contiguous nature of the two settlements therefore forms the overall context for the appeal site. I do not consider that Wigginton in isolation provides the starting point against which the appeal scheme should be assessed with regard to character and appearance.
16. The appeal site is a large plot adjacent to the recreation hall and its car park, health centre car park and the grassed open plot of land intended to be used as a community garden in the future. As such from the current built form the appeal site forms a transition from the mixed residential character and appearance to the west and the more functional buildings and adjoining land of non-residential community services and facilities, notwithstanding the intervening bungalow (No 1 The Village) to the east. As such the appeal site forms the eastern end of what has been described by WPC as the historic core of Wigginton. Given its position at the end of a reasonably well-defined block of built development, also referred to as the historic core, an appropriate high-quality design is required.
17. From the range of submitted historical maps it demonstrates that the building line of the southern side of The Village has changed over time. Consequently, the siting of properties is more informal than following an absolute, rigid and formal line. The proposed building would retain the angle of the existing building but step forward thereby creating a step in the perceived building line. A similar step can be seen between nos. 33B and 33 and also nos.21 and 19 which adds interest to the street scene. The visually verified montages⁶ (fig 02, view 1) also illustrates this stepped rhythm. Furthermore, the siting of the proposed appeal building would help address the suggested aberration of the building line at the Recreation Hall. As such I do not find that the siting of the proposed building

⁶ CD08.04B Appendix B, (Mr Wood, Proof of Evidence)

would be harmful to the informal building line in a village which has already absorbed changes.

18. The appeal site is a large plot in an otherwise built-up area. The footprint of the existing buildings significantly under occupy the site and therefore in order to make best use of land, it is important that any proposal on the appeal site should seek to maximise the efficient use of land. Urban grain studies and plot ratios are a useful mechanism to quantify the assessment of footprint. The plot ratio evidence⁷ provided demonstrates that the proposed building would occupy approximately 37% of the site which is within the range of 27%-46% for similar specialist housing schemes in the local area. In this regard I do not share the views of those who regard the proposal as an overdevelopment or one which has been 'shoehorned' into the site.
19. Part of the process to achieve good design is that the building functions well. This is a retirement living complex and the location of the main entrance within the centre of the site was a deliberate design choice for the operation of the building. In this case the main entrance is within the central section of the western elevation. All residents and other visitors will enter the site from The Village in much the same way as a private driveway to the side of other dwellings.
20. There is concern that the appeal scheme does not include an active frontage to The Village. Although Policy D1 of the DCLP makes reference to the need for proposals to create active frontages to public streets, this is not an adopted development plan policy. Policy D1 of the eLP makes similar provisions. The National Design Guide and Building for a Healthy Life refer to active frontages, but they do so as ways of integrating buildings into their surroundings. The importance of active frontages is overstated by objectors. The purpose of an active frontage is to add design interest together with life and vitality to the public realm, in this case, to The Village.
21. There was discussion at the Inquiry as to whether a principal façade addressed The Village. In my judgement the proposal does this including through use of a well-balanced design with 3 projecting gables and fenestration. The two ground floor apartments on this elevation will have access through their own doors into the communal amenity space. Whilst these are not the formal entrance to these apartments or the scheme as a whole as that is not how the scheme has been designed to function, they would still allow some interest and activity on the northern elevation. As I observed on my visits to Wigginton the activity afforded by the other frontages of properties along The Village is in any event limited. In my view the proposed building would be legible and understood by anyone coming to the site and there would be no harm in having the main entrance within the central courtyard.
22. The communal outdoor space in the central courtyard has been designed to be in a location away from the public realm. This is not dissimilar to a typical residential dwelling found on The Village, which have a significant proportion of their outdoor amenity space away from the public highway. I do not share the concern that the design solution with the courtyard means that the appeal proposal 'turns in on itself' thereby having a harmful relationship with the street scene. Reference was made to the Bishopthorpe Road appeal decision⁸, however

⁷ CD08.05 Appendix 1, footprint coverage analysis plan (Mr Scott, Proof of Evidence)

⁸ CD09.02j APP/C2741/W/21/3289470, dated 11 January 2023 and ID09 extract from Design and Access Statement

insufficient information was presented to enable any form of meaningful comparison with the appeal scheme. As requested by the parties I did visit the Bishopthorpe Road site. From the limited information submitted and what I saw on my site visit, I do not consider the site, the context or the nature of the overall proposal, including the layout to be comparable.

23. I find the verified visual montages⁹ illustrate very well the proposed building in context from key viewpoints. They confirm my own views that whilst the visual impact of the appeal scheme principally arises from the presence of a large new building as one travels from Haxby into Wigginton along the sweeping nature of the highway, the visual interest is created by the articulation and the use of materials. The eastern elevation has been divided into sections and together with the proposed materials and styles drawn from the local area all serve to reduce the bulk and mass of the building.
24. The appeal scheme is a three-storey building in amongst one and two storey buildings. Some of the two storey buildings have created accommodation in the existing roof space, for example Rosevale Residential Care Home and some individual dwellings along The Village. Within the wider context it is a fact that other three storey buildings are present within both Wigginton and Haxby and as such the appeal proposal would not be introducing the first 3-storey form.
25. Belfry Court has used the plane of the roof slope for the third storey. The appeal proposal employs a similar design technique. For example, with 4 of the 7 windows on the northern elevation facing The Village being dormers in the plane of the roof slope. In this regard the appeal proposal is more clear, legible, and honest that a third floor is present. In this location, at the end of the existing block of residential development in Wigginton, I do not find the height of the building to be unduly harmful or that there should be some 'set down' within the site. I have no concerns regarding the roof design. The evidence demonstrates that the pitch is within the range of similar buildings in the locality and the crown form would not be visible from the street level.
26. I find the proposed design to be an appropriate response to the site and the surrounding context and there would be no material harm arising from the design of the appeal scheme. It provides a clear statement to the end of an existing block of residential development in Wigginton.
27. In conclusion on this first main issue, whilst the design of the proposed development would introduce a change to the character and appearance of the area, in my judgement this would not be harmful. I find the effect of the design of the proposed development on the character and appearance of the area to be acceptable. Accordingly, there would be no conflict with Section 12 of the Framework which looks to achieve well designed places. It can be supported by the characteristics of good design as set out in the National Design Guide. I find no conflict with Policy D1 of the eLP as modified which seeks proposals to adhere to urban grain; density and massing; streets and spaces; building heights and views and character and design standards. Similar requirements are also found in Policy DP3 of the eLP.

⁹ CD08.04B Appendix B (Mr Wood, Proof of Evidence)

Car and cycle parking, and highway safety

28. The Framework in paragraph 111 identifies that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on the highway safety, or the residual cumulative impacts on the road network would be severe. In relation to highway matters there are no concerns expressed that the appeal proposal would not provide safe and suitable access to the appeal site from the highway. Provision of the access and securing removal of dropped kerbs that would no longer be necessary can be secured through planning conditions.
29. The primary concern of the City Council, the Highway Authority and the Rule 6 parties relates to whether sufficient on-site provision would be made for car parking. The Council and Highway Authority also have concerns regarding cycle parking provision.
30. The policy position relating to car parking and cycle parking is not set out in any adopted development plan. Consequently, the main parties disagree on what constitutes the main material planning consideration upon which an appropriate level of parking for both cars and cycles should be based.
31. The appeal scheme proposes a total of 16 car parking spaces and 6 cycle parking spaces. The City Council in its evidence took the starting position that the appeal scheme should provide 23 car parking spaces and 51 cycle parking spaces¹⁰.
32. It is agreed that the appeal proposal meets the definition of 'retirement living or sheltered housing' as set out in the housing for older and disabled people section of Planning Practice Guidance¹¹ (PPG). The appeal scheme is being promoted on the basis of an age restriction with the main occupier needing to be 65 or over, although another person living as part of the same household could be aged 60 or over. On this basis I am satisfied that the appeal proposal falls within the scope of retirement living or sheltered housing as defined by the PPG.
33. On the issue of car parking, it is agreed by the Appellant and the City Council that Appendix E to the DCLP set out the only published car and cycle parking standards for York. Appendix E draws a distinction between general needs housing and special categories of housing, including sheltered housing. Appendix E goes on to identify that the car parking standards are a maximum¹². In this regard Appendix E is inconsistent with paragraph 108 of the Framework which states that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport.
34. It is not disputed that in relation to Appendix E the guidance for sheltered housing would be the most relevant, albeit that there is no definition of 'sheltered housing' for the purpose of applying Appendix E. In relation to the category of 'sheltered housing,' the guidance in Appendix E is for the provision of 1 parking space per 4 units and 2 spaces if there is a resident warden and 1

¹⁰ CD09.03, paragraph 3.25 (Ms Vergereau, Proof of Evidence)

¹¹ PPG - Paragraph: 010 Reference ID-63-010-20190626

¹² CD09.02C, City of York Draft Local Plan Incorporating the 4th set of changes, April 2005, Appendix E, iii) criteria for car parking standard flexibility (no page numbers)

space per two non-residential staff. The City Council accept that applying this guidance would mean that the appeal proposal exceeds the amount of car parking indicated in Appendix E. Notwithstanding the clear reference in Appendix E to the figures cited being maxima, the City Council and the Rule 6 parties nonetheless maintained their position of higher levels of car parking provision being required.

35. Given that the DCLP was not progressed to adoption together with the inconsistency of Appendix E with paragraph 108 of the Framework, I afford the car and cycle parking standards in Appendix E limited weight in my determination of this appeal.
36. It is the Council's position that it is relevant to go on and consider data from the 2011 Census in relation to car ownership. In this regard, it has considered amongst other data, car availability by accommodation type based on households living in a 'flat, maisonette, apartment, caravan or other mobile or temporary structure'. However, the Council's evidence fails to adequately explain the rationale as to how using Census data directly leads to the requested provision of 23 car parking spaces.
37. The 2011 Census data is now dated and in relation to car ownership levels the Council has not utilised the data from the latest Census in 2021. Although, the Council do refer to the 2021 Census data in relation to the mode of transport people use to travel to work. The Council has acknowledged¹³ that the 2021 Census data does reflect impacts from the Covid-19 pandemic such as greater levels of homeworking which demonstrates material differences between the 2011 and 2021 Census data.
38. In relation to the matter of car parking I find that the City Council has failed to substantiate its case based on objective and appropriate evidence that specifically justifies its position. The Council has also sought to adopt contradictory positions, for example arguing in the Proof of Evidence¹⁴ that research carried out in 2016 is too old to be suitable for transport analysis when at the same time seeking to base its own position on the Census data from 2011 which is even older.
39. I favour the methodology used by the Appellant in comparing the appeal scheme with Belfry Court in Wigginton and a number of other sites operated by Churchill Retirement Living elsewhere in the country as a means of assessing the likely effects of this age restricted form of accommodation. I find the Belfry Court scheme to be directly comparable given the fact that it is the same type of living accommodation as presented in the appeal scheme and it is within close proximity to the appeal site. The survey¹⁵ evidence demonstrated that the maximum parking demand at Belfry Court was 0.3 spaces per unit. The appeal proposal would provide 0.36 spaces per unit, which on the basis of a direct comparison with the primary survey data at Belfry Court, would indicate that the car parking provision would be sufficient to meet the needs of the appeal scheme.
40. The other Churchill Retirement Living schemes that were surveyed¹⁶ demonstrated the average parking demand to be 0.27 spaces per unit. Whilst

¹³ CD09.03, paragraph 3.14 (Ms Vergereau, Proof of Evidence)

¹⁴ CD09.03, paragraph 3.35 (Ms Vergereau, Proof of Evidence)

¹⁵ CD08.07, paragraph 5.19 (Ms Hammonds, Proof of Evidence)

¹⁶CD08.07, Appendix H, page 13

each of these individual sites will have some minor differences in relation to accessibility to public transport and to local services and facilities, I consider them to be a broadly comparable representative sample of retirement living schemes. This survey data is broadly comparable to the results at Belfry Court, further supporting the contention that the proposed car parking provision in the appeal scheme would be sufficient.

41. A number of concerns have been raised regarding existing on-street parking and how insufficient on-site car parking for the appeal proposal would lead to further on-street parking. The photographs submitted by WCG were confirmed to be representative of the on-street parking that occurs outside Belfry Court and Rosevale Residential Care Home. However, there is no substantive evidence to directly link the on-street parking shown in the submitted photographs to either of these properties. On-street parking will occur for a range of reasons and for different durations, including for example deliveries, tradespersons or contractors and visitors to any of the existing properties along The Village. I noted on my site visit that some properties on The Village did not appear to have their own on-site parking. In itself on-street parking does not necessarily lead to a highway safety issue.
42. The Appellant undertook a parking survey using the established Lambeth parking survey methodology to examine the level of existing on-street parking. The result demonstrated that some on-street parking does occur, however, the level of parking stress only reached a maximum of 24%. As such, even if there were to be some overspill car parking required there is on-street parking capacity available. Furthermore, from what I observed on my accompanied and other unaccompanied visits to Wigginton, some on-street car parking had a traffic calming effect with vehicles slowing down. No recorded evidence of any personal injury accidents has been presented. Even with some on-street car parking there were still a range of opportunities to find a suitable place to cross the road.
43. I do acknowledge that vehicles parked half on and off the pavement does occur in Wigginton. The photographs submitted by WCG illustrate this and I also witnessed this during my visits to Wigginton. Parking in this manner does impede the movement of users of the pavement, particularly older and disabled persons and parents with children. However, this is a general problem of a driver's self-awareness and inconsideration for other highway users and cannot be directly attributed as an anticipated specific impact of the proposed development.
44. I saw limited evidence of the use of specific highway markings to restrict on-street parking as a proportion of the road through Wigginton (Mill Lane and The Village) and none within the immediate vicinity of the appeal site. There are other mechanisms available under relevant legislation to manage specific problems if considered necessary.
45. References to other local housing commitments and proposals in the eLP for Wigginton and Haxby have been made. However, there is no cogent evidence before me to identify that the appeal scheme if permitted either individually or in conjunction with the other proposals would result in residual cumulative impacts on the road network that would be severe in line with paragraph 111 of the Framework.

46. Accordingly, in relation to car parking, I do not find that the car parking aspect of the proposed scheme would have a detrimental impact on highway safety that would indicate that permission should be refused in accordance with paragraph 111 of the Framework.
47. Turning to the issue of cycle parking both the Appellant and the City Council agreed that the relevant guidance is set out in the Department for Transport's Local Transport Note 1/20 (LTN 1/20). The City Council in its evidence refers to two different residential categories in Table 11-1 of LTN 1/20. The first being that one cycle parking space should be provided for each bedroom in residential developments. The second being for the residential category of 'sheltered/elderly housing/nursing homes' which looks at 0.05 cycle parking spaces per residential unit for short stay and 0.05 spaces per bedroom for long stay.
48. The City Council has not set out how applying either of these standards in LTN 1/20 justifies the 51 cycle spaces being requested. Neither does it provide any cogent or substantive evidence to justify its position having regard to any other standards, guidance or relevant material planning considerations. In this regard, I find that the City Council has not substantiated its starting position that cycle parking should be based on 1 space per unit together with an additional 5-6 spaces to cater for staff and visitors to the site. In cross examination the Council's witness agreed that the appeal proposal would meet the relevant provisions set out in LTN 1/20.
49. The Appellant's evidence¹⁷ on the demand for cycle parking across its other 127 sites in England is undeniable and I can therefore entirely see why Inspector Stephens described this same evidence as compelling¹⁸. The evidence clearly demonstrates that the average demand for cycle parking space is 0.71 per development/0.01755 per individual residential unit.
50. Using the standards in LTN 1/20 it would indicate a need for 6 spaces within the appeal proposal. The revised site plan illustrates the location of the 3 covered cycle stands which would make provision for the parking of 6 cycles. As such, when applying the standards, as well as taking account of the Appellant's evidence of cycle parking I find that would be sufficient provision for any future occupiers or lodge managers of the appeal scheme to have a cycle whilst still promoting the opportunity for sustainable travel in line with paragraphs 110 and 112 of the Framework.
51. In conclusion on this second main issue, I find that the proposed development would not lead to a highway safety concern which would be of such magnitude that permission should be refused. I also conclude that the proposed development would include a reasonable and acceptable level of car and cycle parking having regard to the nature of the development in relation to guidance in Appendix E of the DCLP and LTN 1/20. As such in relation to this second main issue there is no harm to suggest that permission should be refused on this matter. The appeal proposal would provide sufficient on-site car and cycle parking and there would not be an unacceptable consequential effect on the highway and safety. Consequently, there would be no conflict with paragraphs 110 to 112 of the Framework.

¹⁷ CD08.07, Appendix E (Ms Hammonds Proof of Evidence)

¹⁸ CD07.03, Appeal Decision APP/H1705/W/20/3248204, paragraph 44

Living conditions of neighbouring occupiers

52. A range of concerns have been raised regarding the effect of the proposal on the living conditions of existing neighbouring occupiers. In addition, WPC and WCG, along with several local residents, spoke at the Inquiry with their concerns.
53. Copperfields is a dormer bungalow adjoining the southern end of the western boundary of the appeal site. The eastern elevation contains a bedroom window at first floor level and at ground floor there is a kitchen door and window together with an attached glazed conservatory opening onto a well-maintained rear garden.
54. From my site visit I observed that the first-floor bedroom window in Copperfields currently provides views into the open grassed area of the existing residential garden of the appeal site. Consequently, I do not dispute that the presence of the proposed appeal building, and its electricity substation building would change the outlook from this first-floor bedroom window. This would lead to some sense of enclosure being experienced by occupiers within Copperfields and to a lesser extent within the garden and even less when using the raised decking area which is located to the west and the other side of the conservatory.
55. On my site visit I found that the presence of the substantial and dense evergreen conifer hedge at the rear boundary of the appeal site already provides a noticeable sense of enclosure from within the rear gardens of those bungalows on Fletcher Court and St Mary's Close. It is not disputed that the height of the proposed building would be visible above the existing conifer hedge. However, the siting of the appeal building would be set back such that the intervening distance would reduce the effect of enclosure on the occupiers of Fletcher Court and St Mary's Close.
56. The presence of the proposed building would introduce a change in the experience for the users of the rear gardens, particularly those in closest proximity, namely Copperfields, Fletcher Court and St Mary's Close. However, I do not agree that there is harm to such a degree that the rear garden areas would cease to become the private retreat as was put to me by one occupier.
57. The presence of the appeal building would be a new feature in the built environment of Wigginton. As such a sense of enclosure would be felt the most by the occupiers of those properties which are physically closest, but also to a lesser extent those which are located slightly further away. There is no right to a view and views of the sky would still exist even with the appeal proposal. Wigginton is a village that appears to have undergone periodic change over time and the potential for future change always exists. I do not find that unacceptable impacts arising from a sense of enclosure would arise to the occupiers of neighbouring properties.
58. When assessing the potential impact on privacy it is important to be clear that an opportunity to look out over an area does not lead to privacy concerns in the same way that direct views between habitable windows would do. It is therefore common practice for some guidelines to establish acceptable distances between habitable windows. It was agreed at the Inquiry that the only local guidance regarding general separation distances that exists is contained within a draft

SPD on House Extensions and Alterations.¹⁹ Although the Draft SPD is not strictly applicable to new residential development such as the appeal scheme.

59. From the submitted plans, the western elevation contains some habitable windows in the northern portion which would afford future occupiers general views to the west across rear gardens. I do not find this to unusual or unacceptable. No primary habitable windows in the western elevation would provide an opportunity for direct overlooking into habitable windows of existing dwellings to the west.
60. Apartments 24 (first floor) and 41 (second floor) each have a secondary habitable window which could provide a potential opportunity for future occupiers to look towards the bedroom window of Copperfields, particularly as the intervening distance between habitable windows is less than the guideline of 21m as set out in the Draft SPD. The intervening distance according to the Appellant's evidence is 14.6 metres. The Appellant suggested a condition to obscure glaze these two secondary windows could be attached²⁰. It was apparent from my site visit, that given the distance between Copperfields and the proposed building, the siting of the proposed windows would lead to some overlooking and loss of privacy to the occupiers of Copperfields. Obscure glazing would be an appropriate measure. However, I am also satisfied that, as a small secondary window, the obscure glazing would not then have a detrimental effect on the living conditions of future occupiers of these two apartments.
61. The potential use of obscure glazing for the 4 windows along the second-floor corridor on the western elevation above the courtyard was discussed at the Inquiry. However, the corridor by its very nature is a functional access route to allow occupiers to get to and from their apartments. Although occupiers could pause whilst moving along the corridor, the nature of the space is that it would not be an area where occupiers would dwell for very long. A condition requiring obscure glazing for these windows would be unnecessary.
62. From the submitted plans, it is apparent that there would be no balconies on the western elevation of the southern portion of the building that would directly face the eastern elevation of Copperfields. The siting of the building would mean that the nearest proposed balconies on the southern elevation would not result in an unacceptable impact on the privacy of existing occupiers of Copperfields.
63. The distances between the habitable windows and balconies to the apartments at first and second floor level on the southern elevation which would face the rear gardens and properties on Fletcher Court and St Mary's Close would exceed the distance guidelines contained in the Draft SPD. There would be four modest sized balconies on the southern elevation at first and second floor level. They look towards the intervening public right of way and beyond that the rear of the properties on Fletcher Court and St Mary's Close. The Draft SPD indicates that balconies can be acceptable where they look towards public or communal space, although in this case the public right of way does have a relatively narrow width.
64. I accept that for the occupiers of Fletcher Court and St Mary's Close there could be a perceptual sense of overlooking. However, taking into account the size of the balconies, the intervening distance and the presence of existing mature vegetation and the ability through the landscaping scheme to secure retention

¹⁹ CD09.02H City of York Council: House Extensions and Alterations Draft Supplementary Planning Document (2012)

²⁰ CD08.03 paragraph 6.34 (Mr Shellum, Proof of Evidence)

and enhancement of this vegetation, I do not find that overlooking would be to a level which would be unacceptable thereby justifying refusal of permission.

65. Concerns were also raised regarding the effect of the size of the appeal building on levels of sunlight to neighbouring occupiers. The submitted shadow study has been prepared using good practice standards. The sun is at a much higher angle in the sky during the summer months than during the winter. Based on the evidence before me in this regard it has not been demonstrated that the proposal would lead to an unacceptable impact.
66. Reference was also made at the Inquiry to the impact of the headlights from vehicles exiting the site. The position of the vehicle access opposite existing dwellings is not dissimilar to residential properties whose driveways also front onto a highway or a road opposite a property. It is necessary to remember that the appeal proposal is not a commercial or residential institution use whereby vehicle movements may be exiting at a specific time thereby resulting in a sustained short period of potential disturbance from headlights. As such I do not find that there would be any harm in this regard. In relation to concerns regarding building lighting, a lighting scheme for the site could be satisfactorily controlled by a planning condition in the first instance as part of the finer details.
67. The proposed development would represent a change, which would be particularly experienced by the occupiers of those properties living adjacent or within very close proximity to the appeal site. However, the effect of the appeal proposal on the living conditions of existing occupiers with regard to outlook, enclosure, privacy and overshadowing is not unacceptable in my judgement.

Living conditions of future occupiers

68. Concerns were raised regarding whether the appeal proposal would provide acceptable living conditions for future occupiers, specifically in respect of amenity space and outlook. In the absence of any adopted local guidance on either a specific quantum and/or quality criterion; it is a matter of judgement for the decision maker with reference to general principles contained in the Framework (paragraph 130), National Design Guide, Draft SPD²¹ and Policy ENV02 of the eLP viewed through the prism of the Framework all of which seek the principle of a high standard of amenity.
69. From the submitted plans and the evidence that I have read and heard, the resident's lounge would be the principal internal communal amenity space together with its associated outdoor amenity area which is well located to create an intimate and sunny area, particularly around midday. There are no indicated restrictions on access for future occupiers to any part of the landscaped areas within the whole site.
70. The external amenity space for future occupiers of the appeal scheme would be a combination of private space and communal space. For those future occupiers seeking some dedicated private space, a proportion of the apartments have modest balconies. The ground floor apartments would have a door which would allow access to the landscaped areas immediately outside of their apartment. The plans do not indicate this would have any specific means of enclosure to restrict the space immediately outside the ground floor apartments. As such all of the overall communal space would be available to all occupiers. It is

²¹ CD09.02H City of York Council: House Extensions and Alterations Draft Supplementary Planning Document (December 2012)

important to keep in mind, as the Appellant explained, that one of the many reasons why someone would make a lifestyle choice and move into a retirement apartment is that maintenance and upkeep of a property and garden is no longer desirable or practical. As such in my judgement there is sufficient quantum of shared amenity space for future occupiers which would provide “usable private amenity space...and space that is suitable and welcoming to sit out in” in line with paragraphs 9.1 and 9.2 of the Draft SPD.

71. Turning to concerns relating to outlook for future occupiers of the apartments, and in particular the eastern elevation. The Appellant’s cross section²² uses apartment 3, which the Appellant has identified as being the closest one to the eastern boundary and demonstrates that there would be sufficient separation from the boundary to enable skyward views.
72. The landscaping plans submitted set out an overall strategy with constraints and opportunities. Further details could be secured by planning condition, and when implemented, would ensure a high-quality external amenity space to look out onto. In relation to future occupiers, I do not find that the living conditions in this appeal proposal would be unacceptable.
73. The City Council has referred to an appeal²³ in which the Inspector assessed external amenity space and outlook. Whilst I can note the written analysis of the Inspector’s decision in that case, the details of this scheme have not been presented to me, so it inevitably limits the ability for me to determine how comparative or otherwise it is to the appeal scheme. In any event each application and appeal should be determined on its own merits which is what I have done.
74. In conclusion to this third main issue, I find that no unacceptable harm would arise to the living conditions of neighbouring occupiers, with particular regard to privacy and overshadowing; and the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to amenity space and outlook. Accordingly, there would be no conflict with paragraph 130 f) of the Framework which seeks to create places with a high standard of amenity for existing and future users. Nor within Policies D1 as modified of the eLP and ENV2 as modified of the eLP.

Other Matters

75. No 11 The Village is a modern interpretation of an agricultural style with ‘eclectic fenestration’²⁴ and replaced what was a large house with double pile roof with well-balanced and traditionally designed fenestration²⁵. Whilst the City Council has raised no concerns regarding the demolition and loss of the appeal building, a number of the interested persons who have made representations regard the appeal building as one of local interest.
76. The City Council raised no concerns in relation to heritage. However, heritage formed a substantive part of WPC’s case, who commissioned a Historic Appraisal²⁶ to provide a brief historic character appraisal of the appeal site and

²² CD08.08A Appendix A (Mr Shellum, Rebuttal Proof of Evidence)

²³ CD09.02i Appeal Decision Reference APP/Z1510/W/17/3188192, dated 23 July 2018

²⁴ ID.01

²⁵ CD10.03 Old Tannery Site, Wigginton, Historic Appraisal, Woodhall Planning and Conservation, March 2023, figure 14, page 17

²⁶ CD10.03 Old Tannery Site, Wigginton, Historic Appraisal, Woodhall Planning and Conservation, March 2023

to provide them with some guidance for planning decision-making on the site and more generally.

77. The existing appeal building and its outbuildings which would be demolished as part of the appeal proposal are not Listed Buildings and Wigginton does not have a Conservation Area. WPC confirmed that it was not part of their case that the appeal proposal would affect any designated heritage assets, including the Haxby Conservation Area or Listed Buildings within Haxby. Consequently, the appeal scheme is not near to or within the setting of designated heritage assets.
78. WPC contend that the appeal building should be considered a non-designated heritage asset (NDHA). The Framework does not define what constitutes a NDHA nor does it prescribe how they should be identified. The PPG indicates that NDHA are buildings, monuments, sites, places, areas, or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets.
79. The PPG²⁷ indicates that there are a number of processes through which NDHA may be identified, including the local and neighbourhood plan-making processes and Conservation Area Appraisals and reviews. The City Council, as the local plan-making body, have not identified the existing buildings on the appeal site as a NDHA. PPG goes on to say that irrespective of how they are identified, it is important that decisions to identify them as NDHA are based on sound evidence. There is a need for information on NDHA to be accessible to the public, including information on the criteria used for selection. Information on NDHA should be included in the local historic environment record. Whilst the PPG does indicate that planning authorities may identify NDHA as part of the decision-making processes on planning applications, the example provided is following on from archaeological investigations.
80. New evidence was presented by WPC at the Inquiry (ID01, 12 and 22) such that WPC has invited me to identify No 11 The Village as a NDHA. In particular, the brief response from York Civic Trust (ID22) which was tendered on the last day of the Inquiry indicates that they consider the existing appeal building to be a NDHA. However, insufficient evidence has been submitted to the Inquiry to explain the methodology and criteria used by the York Civic Trust in reaching that view. As such it limits the weight that can be attached to their conclusions.
81. In my experience, identifying NDHA assets is a structured process often involving several stages, involving evidence and consultation on both the selection criteria and then how the buildings meet the criteria, before reaching a conclusion. In this case, there has been no specific, detailed and structured assessment of the significance of the existing buildings on site presented to the Inquiry to support the contention by WPC and York Civic Society. Moreover, the expert evidence contained within both the WPC commissioned report and the Ecus report²⁸ prepared to support the proposal, individually or collectively, do not indicate that the appeal building demonstrates the qualities to be considered as an NHDA. Consequently, on the basis of the evidence presented to me I am unable to reach a conclusion that the existing building on site should be identified as a NDHA.

²⁷ PPG Paragraph 040 Reference ID: 18a-040-20190723

²⁸ CD08.03C Appendix 3 (Mr Shellum, Rebuttal Proof of Evidence)

82. Even if the appeal building was a NDHA it would not preclude development. The policy test is set out in paragraph 203 of the Framework and requires a balanced judgement having regard to the scale of any harm or loss to the significance of the heritage asset. Demolition would result in the total loss of the existing building. There is a range of benefits arising from the appeal scheme including: the provision of 45 units of specialist housing for older persons for which there is a critical need, and the proposal would make more effective use of land within a settlement with good accessibility to services and facilities. In addition, future occupiers would have the opportunity to support these services and facilities which is good for the economy and society as well as their own well-being. In conclusion to this particular matter, I therefore find that that benefits arising from the appeal proposal would outweigh the loss of the existing buildings, even if they were considered to be a NDHA.
83. On the matter of drainage and the potential for flooding, the evidence submitted does not indicate anything that would justify withholding permission. No relevant statutory consultee concerns have been expressed. In any event, the requirement for a drainage scheme to manage both surface and foul water can be satisfactorily addressed by a suitably worded planning condition.
84. The appeal site lies approximately 3.1km to the East of the Strensall Common Special Area of Conservation (SAC) and Site of Special Scientific Interest. As such it now lies within the Zone of Influence for the SAC which has been introduced within Policy GI2a of the eLP. The SAC was designated because of the presence of Annex I²⁹ habitats (North Atlantic wet heaths and European dry heaths). The conservation objectives are to maintain/restore the extent and distribution of the natural habitats, the structure and function and supporting processes on which the habitats rely.
85. The City Council and Natural England have not raised any concerns on this matter. However, The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require the decision maker to consider the likely significant effects and or adverse effects on the integrity of European sites of plans/projects, either alone or in combination with other plans or projects. The City Council, its consultees and the Appellant have not raised any concerns. This responsibility falls to me as the competent authority in the context of this appeal. From the submitted information, the pressures on the SAC arise from recreational use and in particular dog walking with the majority of visitors arriving by car, inappropriate scrub control and air pollution. I am aware that Strensall Common SAC is used extensively by the Ministry of Defence as part of their training estate and as such this may limit public access to certain areas and at certain times.
86. I note that the consolidated main modifications (January 2023) text to Policy GI2a for Strensall Common SAC indicates that "*(b) (ii) proposals for other housing development which are not within plan allocations will not be permitted unless it can be demonstrated that they will have no adverse effects on the integrity of the SAC, either alone or in combination with other plans for projects. Any necessary mitigation measures may be sought through planning contributions and must be secured prior to the occupation of any new dwellings and secured in perpetuity.*"

²⁹ European Council Directive 92/43/EEC, The Conservation of Natural Habitats and of Wild Flora and Fauna.

87. The specific type of housing development being proposed is for age restricted retirement living and is therefore determined in line with what the planning permission would permit. During the Inquiry much was heard about the likely type and nature of the future occupiers of the appeal scheme which was based upon the experience of other sites owned/operated by the Appellant. Given the age restriction of the scheme, evidence presented demonstrating limited parking demand from the appeal scheme which suggests that there would be limited car usage, together with the intervening distance and availability of a range of amenity space within the appeal site itself but also other green space areas within Wigginton and Haxby, any additional visitors to the SAC from the appeal scheme would be negligible. The appeal proposal would have no impact on the scrub control or air pollution threat pressures to the SAC. These specific factors lead me to conclude that either alone, or in combination with other plans or projects, even when applying the precautionary principle, the appeal proposal would not give rise to likely significant effects and or adverse effects on the integrity of the Strensall Common SAC.
88. Prior to the current residential use, the appeal site was historically used as a tannery. Whilst the site has not been formally confirmed as contaminated under Part IIA of the Environmental Protection Act 1990, local concerns have been raised with references made to property searches noting potential for contamination and the use of insurance covenants. Such processes are precautionary and insurance covenants are not unusual for a wide range of matters including any potential for any form of contamination. The application was supported by a Desk Study Appraisal and Ground Investigation Report which explained that from the site investigations undertaken there were some contaminants present within the made ground. Supplementary site investigations and construction guidance were recommended. This matter can be addressed through a suitably worded planning condition.
89. Concerns were raised regarding the effect on biodiversity and wildlife, with particular reference to hedgehogs. The ecological surveys undertaken do not demonstrate that the appeal site accommodates a wide variety of species. In fact the City Council noted that the large coniferous hedge at the southern boundary did not make a positive contribution to biodiversity. The submitted ecological report³⁰ makes recommendations, including specifically for hedgehogs, which would form the basis of an ecological enhancement plan or equivalent and be satisfactorily secured through a planning condition.
90. A range of concerns were raised regarding the capacity issues within the local health care services. Notwithstanding the Appellant's evidence which suggested financial benefits to the National Health Service which flows from this form of accommodation, a specific financial contribution for the expansion of the Wigginton and Haxby Health Centre has been included within the submitted s106 Agreement, I shall return to this matter later in this decision.
91. The Levelling Up and Regeneration Bill was referred to, however, it is important to remember that this is draft legislation. Participation in the planning process has always been sought and encouraged. WPC and WCG and other interested parties have actively participated in this Inquiry, and I have had full regard to the matters raised alongside all the other representations made including those made by neighbours and other local residents.

³⁰ CD02.06 Preliminary Ecological Appraisal and Bat Roost Assessment (Report no.14650.R02a), Tyler Grange 1 September 2022

92. The appeal site abuts an area of grass which is intended to become a Whole Life Community Garden in the future and used for social prescribing by the medical practice. I have had full regard to the concerns expressed by the trustees including matters such as overshadowing, overlooking and noise, which could affect the well-being of users of this space in the future. However, the evidence presented to me does not demonstrate that this use formally exists at present. Furthermore, no definitive evidence regarding timescale, funding or delivery mechanism has been offered to provide certainty regarding this use. I am not satisfied that cogent evidence has been demonstrated to show that the appeal proposal would result in harm to the Whole Life Community Garden if it were to be progressed. Even if the proposed use were to be delivered there would be some passive surveillance from occupiers of the appeal development which could be beneficial and would add further interest to their views. Future garden design proposals could incorporate measures to provide specific private areas within the garden if that was deemed necessary.
93. A number of concerns from interested parties were raised about the need for this type of accommodation, particularly in Wigginton and the implications this proposal may have on the demographics. The City Council has an existing identified unmet need for specialist housing for older persons, furthermore it was agreed to be a 'critical' need. The City Council confirmed during the Inquiry that this need was York-wide, no evidence exists at a sub-York level to examine the distribution or otherwise of such types of proposals. Evidence tendered relating to vacancy and retirement living properties for sale is an indication of the market operating rather than market failure.
94. The concerns raised regarding the Appellant's community consultation, liaison with WPC and the incorporation of comments made by local residents prior to the submission of the planning application are not matters within the scope of this appeal.

Planning Obligation

95. A section 106 planning obligation has been submitted. The planning obligation is in the form of an Agreement between the Appellant, landowners and the City of York Council. A CIL Compliance Statement was produced by the City of York Council in relation to the planning obligation. I have had regard to the s106 Agreement and the CIL Compliance Statement taking into account the Community Infrastructure Levy Regulations 2010 (as amended) (CILR) together with the advice contained in the Framework and PPG.
96. The Framework in paragraph 55 indicates that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
97. Regulation 122 of the CILR (as amended) and paragraph 57 of the Framework identify that planning obligations must only be sought where they meet all of the following three tests: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.
98. The s106 Agreement contains obligations in respect of affordable housing, health services, informal open space, outdoor sports and subsidised travel measures.

There is agreement between the Appellant and the City Council in relation to all matters except for the subsidised travel measures.

99. The s106 Agreement secures a financial contribution of £250,000 to be paid by the landowners to the City Council towards the provision of off-site affordable housing in lieu of on-site provision. Securing a financial contribution toward off-site affordable housing is necessary to meet the requirements of paragraphs 60-67 of the Framework and Policy H10 of the eLP. The financial contribution has been calculated based on the development proposed, the eLP, York's Local Housing Market Assessment and the Viability SoCG. The s106 Agreement requires the affordable housing contribution to be used towards the provision of off-site affordable housing. It is directly related to the development and is fairly and reasonably related in scale and kind.
100. A financial contribution of £46,345 is secured through the s106 Agreement for health services. The CIL Compliance Statement identifies that this money would be used for the provision of additional operational floorspace at the Haxby Medical Practice. In particular, for the refurbishment and repurposing of a vacant pharmacy area within the Practice to accommodate additional consulting rooms. The financial contribution has been calculated on the basis of capital costs and estimated population growth and is detailed in the consultation response from the NHS Humber and Yorkshire Integrated Care Board (ICB)³¹. At the Inquiry the ICB representative confirmed that in their view the financial contribution is still needed.
101. The health services contribution is necessary in the context of paragraphs 92 and 93 of the Framework and Policies HW5 and DM1 of the eLP. Haxby Medical Practice is located in close proximity to the appeal site and is therefore likely to be utilised by future occupiers of the development. Accordingly, it is directly related to the development and is fairly and reasonably related in scale and kind.
102. The s106 Agreement would also secure a contribution of £9,362 to be paid to the City Council towards improvements to Wigginton Pond. It was explained that this money would be put towards bankside repairs, biodiversity enhancement, improved seating and information/interpretation boards. Within the Haxby and Wigginton Ward an assessment³² shows a shortfall in all typologies of amenity open space. Whilst the contribution would not increase the amount of amenity open space it would nevertheless make an existing area of open space more useable and provide an opportunity, particularly for older residents, to support their general health and well-being. Wigginton Pond is within easy walking distance of the development and is most likely to be utilised by future occupiers of the development. Accordingly, it is fairly and reasonably related in scale and kind and is directly related to the development. It is also necessary having regard to paragraphs 92 and 98 of the Framework and Policy G16 of the eLP.
103. There is an obligation for £13,206 secured in the s106 Agreement as the outdoor sports contribution. In particular, this would be used for improvements at Wigginton Sports and Playing Field Association. The financial contribution is based upon the methodology³³ for commuted sum payments for open space,

³¹ CD12.04b

³² CD05.05

³³ CD05.06

therefore I am satisfied that it is fairly and reasonable related in scale and kind to the development.

104. The Wigginton Sports and Playing Field Association is accessible to the appeal site. Based upon evidence at the Inquiry regarding existing facilities and how the money would be spent to improve those facilities I am satisfied that the financial contribution is necessary and is directly related to the development. In coming to that view, I have considered paragraphs 92, 93 and 98 of the Framework and Policy G16 of the eLP.

105. In relation to the Sustainable Travel Contribution in the s106 Agreement, the City Council is seeking a sum of £9,000 which would be utilised at the value of £200 per dwelling to provide the first occupants either with day bus passes for use on local bus services in York or bicycle/bicycle equipment. The Appellant maintained that this particular obligation would not meet the tests set out in Regulation 122 of the CILR. It nevertheless still formed part of the final legal agreement provided by the Appellant, but it is subject to a clause which would result in it ceasing to have effect in the circumstances that the appeal decision concluded that the obligation was incompatible with the tests in Regulation 122 of the CILR.

106. Evidence³⁴ was presented regarding the issue of cycle ownership at other Churchill Retirement Living Schemes which identified very limited use of cycles. I find this evidence to be determinative. Having regard to the overall age requirements for occupancy of the development and the lifestyle characteristics of the occupiers based specifically around the concept of retirement, future occupiers are unlikely to be actively working. The Appellant's evidence demonstrated that the average age on entry at a Churchill Retirement Living Scheme is 81 years old³⁵ which is useful context.

107. Future occupiers of the development will be entitled by virtue of their age to an older person's concessionary bus pass. Whilst there are time restrictions on their use, such restrictions would only be likely to be a form of constraint for work commuting if that was required before 09.30am. Based upon the evidence presented, the Sustainable Transport Contribution fails to meet the tests of being necessary, directly related and fairly and reasonably related in scale and kind to the development.

108. Consequently, I find that the Sustainable Transport Contribution does not comply with Regulation 122(2) of the CILR. Accordingly, I attach no weight to this particular obligation in the section 106 Agreement in determining this planning appeal.

109. All of the other obligations in the s106 Agreement relating to affordable housing; health services; informal open space; and outdoor sports are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, these obligations of the s106 Planning Agreement meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision.

³⁴ CD08.07, Appendix E

³⁵ CD08.07, Paragraph 5.13

Planning Balance

110. There is no adopted statutory development plan for the City of York, save for the retained Regional Spatial Strategy policies on Green Belt which are not relevant in this case. References have been made to the City of York Draft Local Plan incorporating the fourth set of changes – the Development Control Local Plan 2005 (DCLP) and the emerging Local Plan (eLP) which is progressing towards adoption with the main modifications having recently been consulted upon. Although the DCLP and the eLP do not form part of the statutory development plan for the purposes of s38(6) Planning and Compulsory Purchase Act 2004, they are both capable of being material considerations in determining planning applications in so far as they are consistent with the National Planning Policy Framework. The Haxby and Wigginton Neighbourhood Plan is also in preparation. Although a copy titled 'HWNP Plan Draft v2.4.docx' was submitted as part of the Core Documents, no evidence was available to confirm that this would constitute the published draft plan under the provisions of Regulation 14 for consultation. As such it has not yet reached the formal stage where it can begin to carry some weight in the decision-making process.
111. In the absence of adopted development plan policies, it is an agreed position that decision-making in this case engages the presumption in favour of sustainable development as established in paragraph 11(d)(ii) of the Framework. There are no footnote 7 policies of the Framework in this case which would disengage the presumption.
112. There are a number of benefits of the appeal scheme which were put forward by the Appellant. Considering the discussion at the Inquiry and the relative weight to the suggested benefits, I deal with each of these below explaining the weight I attribute.
113. The appeal is a housing proposal which would provide 45 units, delivered in the short term within an authority area where it is agreed that there is no 5-year housing land supply. This attracts significant weight. Furthermore, it would also provide an early and specific contribution to the existing unmet and critical need for older persons accommodation. This also attracts significant weight. There is a degree of logic and expectation that the scheme would enable the release of potentially under-occupied housing into the wider market. In this case the evidence from the Strategic Housing Market Area Assessment is that some 81.8% of homes within the sub-urban area of York are under-occupied. Whilst it is acknowledged that there is no guarantee that upon release the homes would be more fully occupied, in my view, any opportunity to enable more efficient use and effective occupation level of the overall housing stock should be supported and therefore attracts significant weight.
114. The site is located within the built-up area of Wigginton. It is a sustainable location with a very good public transport network into York. The blue line timetables presented to me in particular demonstrate multiple services throughout the day and late into the evening every day of the week including Sundays, which attracts significant weight. The buildings on the appeal site should be assessed as previously developed (brownfield), the remainder as a residential garden would be regarded as greenfield land. The Framework is clear that substantial weight should be given to the value of using suitable brownfield land (paragraph 120 c). This is accompanied by the need to promote and support the development of under-utilised land and buildings (paragraph 120 d).

The redevelopment of the brownfield part of the site together with the environmental benefits of a more suitable landscaping that would also enhance the biodiversity of the site and immediate area should attract significant weight. I disagree with the City Council and find that this is an underutilised site when taking into account the location and the evolution of the pattern of built development within Wigginton, to which I ascribe moderate weight.

115. The economic benefits of the scheme are suggested as being in relation to construction jobs and the expenditure within local shops and other services and facilities within the local area. Although reference was made during the Inquiry to the suggestion that no-one from Belfry Court had ever purchased a newspaper from the convenience store in Wigginton, this is anecdotal evidence which was not underpinned by any form of survey or similar substantiation. The City Council also sought to cast doubt on the benefit from construction jobs since there was no local labour agreement. In my view, economic benefits would arise from both the construction phase and from the future occupiers which attract significant weight since planning policies and decisions should help to create conditions in which businesses can invest, expand and adapt in line with paragraph 80 of the Framework.
116. The submitted evidence³⁶ relating to the health and social benefits from specialist retirement living housing scheme is accepted and the findings have not been disputed by any counter evidence or research. As such it attracts significant weight.
117. In terms of the disbenefits or harms of the scheme, there will be some limited impacts on the living conditions of the neighbours, which does weigh against the scheme. The demolition of the existing dwelling with outbuildings would be a loss to the housing stock but would be outweighed by the net gain of accommodation from the more effective use of the site. As such this is a neutral factor in the planning balance. For the reasons set out earlier I do not agree that the existing dwelling constitutes a NDHA.
118. I have found no harm which individually or cumulatively would significantly and demonstrably outweigh the benefits. As such the proposed development benefits from the Framework's presumption in favour of sustainable development and planning permission should be granted.
119. Even if I had reached a contrary conclusion in relation to the suggestion of the appeal building being considered as a NDHA, any harm which might be identified as arising from the appeal proposal would not significantly and demonstrably outweigh the range of benefits that would flow from this proposal.

Planning Conditions

120. As part of the appeal procedure a list of suggested conditions was prepared by the City Council in conjunction with the Appellant. Whilst largely agreed in principle, some disagreements remained in relation to the trigger points and also drainage, dilapidation survey of the highway, and electric vehicle charging points. These were explored during the Inquiry session on planning conditions.
121. I have considered the suggested conditions in light of the discussion at the Inquiry and the advice in both the Framework and the PPG. I have imposed the suggested conditions with some minor changes to ensure they accord with the

³⁶ CD08.03D Appendix 4 [19-20] (Mr Shellum, Proof of Evidence)

tests set out in national policy, some have been merged in the interests of precision or to avoid duplication. All conditions imposed are reasonable and necessary to make the development acceptable in planning terms. The Appellant provided written agreement to the pre-commencement conditions as discussed. The conditions have been re-ordered to provide clarity regarding the order with which they are to be satisfied to reflect good practice.

122. **Condition 1** sets out the standard time limit within which the development must begin. **Condition 2** is necessary to ensure the development is carried out in accordance with the approved plans.
123. Some aspects of the proposal need to be approved pre-commencement as they directly influence how the development will proceed. **Condition 3** for the Construction Environment Management Plan (CEMP) is necessary in order to minimise the impacts of the demolition and construction operations on local residents, local businesses and those travelling through the area, and to protect the general environment. The separate suggested condition for the method of works has been merged into condition 3 for reasons of precision as to how the demolition and construction activities will operate.
124. I have merged the suggested contamination conditions into a single condition (**condition 4**). It is necessary to ensure that any site contamination, or the potential for such, is detected and remediated accordingly and that any risks from contamination are properly dealt with to protect the health of future occupiers and to prevent pollution of the environment. **Condition 5** is necessary to establish the approach for managing any archaeological interest which may be found on the site prior to construction. Demolition of the existing buildings could be undertaken as no substantive evidence has indicated that the existing buildings themselves contain any significant archaeological interest. **Condition 6** relates to the drainage scheme which is necessary in order to manage water to and from the site and prevent flooding.
125. There are several pre-above ground works which would be the next phase of the development. **Conditions 7 and 8** are necessary to protect the general character and appearance of the area. **Conditions 9 and 10** are necessary to ensure satisfactory access and cycle parking is secured. In condition 10 I have removed reference to cycles as it would be duplication.
126. Biodiversity enhancement is covered by **condition 11** and is necessary to secure net gain. It remains as a condition of its own rather than merge into CEMP since the CEMP is more about the construction environment rather than the natural environment. **Conditions 12 and 13** are necessary to ensure that the means of enclosure and landscaping details are satisfactory.
127. I have amended the suggested condition relating to electric vehicle charging points to remove the requirement to provide them as it would duplicate current Building Regulations. However, to address the City Council's concerns regarding their design and appearance, **condition 14** will require the submission and approval of the details of the appearance of any electric vehicle charging points on the site. This is necessary to protect the character and appearance.
128. I am satisfied that a condition relating to the removal of former vehicular crossings is necessary to improve the pedestrian environment (**condition 15**). **Condition 16** relating to bus stop improvements is required in the interests of

sustainable transport. I am satisfied that the location can be adequately resolved through the discharge of condition process.

129. Given the potential for overlooking from a secondary window to one of the bedrooms in apartments 24 and 41; **Condition 17** is necessary to require some obscured glazing to protect the privacy of the occupiers of Copperfields as the nearest dwelling to the appeal building.
130. Conditions for compliance are set out at the end and are necessary to define the permission. **Condition 18** on preventing clearance works and demolition during the bird breeding season does to an extent duplicate other legislation. No party has disputed the reasonableness of this condition. However, I have removed the suggested requirement to submit for approval the pre-works ecologist survey as this was unduly onerous and not necessary. **Condition 19** relates to lighting to be approved and **condition 20** prescribes the construction working hours. Both are necessary in the interests of protecting the living conditions of existing occupiers.
131. **Condition 21** sets out the age restriction for the occupiers of the scheme which is reasonable for a scheme which is promoted as specialist housing for older persons. There was a suggestion that a lower age threshold should apply. However, that would materially alter the scheme from that upon which consultation has taken place and the actual evidence at the Inquiry has been based. As such I find that the age limit of 65/60 as set out in condition 21 is necessary, reasonable and appropriate in this case.
132. The nature of construction activity and associated vehicle movements does not justify, in my view, the suggested condition for a survey of the highway pre and post works. Such a condition is not necessary in relation to this scale of development and therefore fails the tests in the Framework.

Conclusion

133. The appeal is allowed and planning permission is granted subject to the conditions set out in the attached Schedule.
134. I recognise that this outcome will be disappointing to those opposing the development. However, the views of local people, very important though they are, must be balanced against other considerations. In coming to my conclusions on the various issues that have been raised, I have taken full and careful account of all the representations that have been made, which in the absence of an adopted development plan I have balanced against the provisions of the National Planning Policy Framework and other material considerations. On balance, the evidence in this case leads me to the view that the appeal should succeed.

Rachael A Bust

INSPECTOR

SCHEDULE OF PLANNING CONDITIONS (21 in total)

Standard Conditions

Commencement

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.

Approved Plans

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan 50010WG/PL001 (June 2022)
Site Plan showing Roof Plan 50010WG/PL002 Rev A (04.07.2022)
Site Plan showing Ground Floor Plan 50010WG/PL002 Rev A (17.04.23)
Ground Floor Plan 50010WG/PL003 (June 2022)
First Floor Plan 50010WG/PL004 (June 2022)
Second Floor Plan 50010WG/PL005 (June 2022)
Roof Plan 50010WG/PL006 (June 2022)
Elevations 1 – North & East 50010WG/PL007 (June 2022)
Elevations 2 – South & West 50010WG/PL008 (June 2022)
Internal Elevations – North & South 50010WG/PL009 (June 2022)
View from The Village 50010WG/PL0010 (June 2022)
Landscape Constraints & Opportunities JBA 22 185 SK01 Rev A (14.06.2022)
Landscape Strategy Masterplan JBA 22 185 SK02 Rev D (26.04.23)
Tree Protection Plan 22005-2 (undated)

Pre-Commencement Conditions

Construction Environmental Management Plan

3. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include the following matters:

1. A detailed method of works statement identifying the programming and management of demolition, site clearance, preparation and construction works and to include:
 - (a) measures to prevent the egress of mud and other detritus onto the adjacent public highway;
 - (b) the routing of construction traffic that will be promoted;
 - (c) a scheme for signing the promoted construction traffic routing;
 - (d) where contractors will park; and
 - (e) where materials will be stored on site.
2. Measures to minimise the creation of noise during works;
3. Measures to minimise the creation of vibration during works;
4. Measures to minimise the creation of dust during the work and a site specific risk assessment of dust impacts in line with guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and a package of mitigations measures commensurate with the risk identified in the assessment.

All works on site shall be undertaken in accordance with the approved CEMP.

Contamination

4. Part 1 (site investigation and risk assessment)

Prior to the commencement of development, notwithstanding any assessment previously provided, an investigation and risk assessment must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report must be submitted to, and approved in writing by, the Local Planning Authority. The findings report shall include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems and
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced).

Part 2 (remediation scheme)

Subject to the findings in Part 1 of this condition, a detailed remediation to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and submitted to, and approved in writing by, the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part 3 (remediation scheme implementation)

In the event of the requirement for the approved remediation scheme under Part 2 of this condition, the remediation scheme must be carried out in accordance with its terms and a verification report by suitably competent persons that demonstrates the effectiveness of the remediation carried out must be produced and submitted to, and approved in writing by, the Local Planning Authority prior to first occupation.

Part 4 (unexpected contamination)

Any unexpected contamination found at any time when carrying out the approved development must be reported in writing immediately to the Local Planning Authority. Development on the affected part of the site should be suspended until an investigation, risk assessment and remediation scheme is prepared, submitted to, and approved in writing by, the Local Planning Authority. Following completion of

measures identified in the approved remediation scheme a verification report must be prepared, submitted to, and approved in writing by, the Local Planning Authority before development on the affected part of the site is then able to be resumed.

Pre-Commencement except for above ground demolition conditions

Archaeology

5. A programme of post-determination archaeological mitigation, specifically an archaeological watching brief is required on this site. The archaeological scheme comprises 3 stages of work. Each stage shall be completed and approved in writing by the Local Planning Authority before the development hereby permitted can commence.

(a) No development, except for above ground demolition, shall take place until a Written Scheme of Investigation (WSI) for a watching brief has been submitted to, and approved in writing by, the Local Planning Authority. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by Local Planning Authority and the Chartered Institute for Archaeologists.

(b) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the WSI and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

(c) A copy of a report shall be deposited with the City of York Historic Environment Record to allow public dissemination of results within 3 months of completion of the report.

Drainage

6. Prior to the commencement of development, except for above ground demolition, a drainage scheme to manage both surface and foul water from the development shall be prepared, submitted to, and approved in writing by, the Local Planning Authority. The approved drainage scheme shall be implemented prior to the first occupation of the development.

Pre-Above Ground Works Conditions

Materials

7. Prior to the construction of the development hereby permitted beyond foundation level and notwithstanding any proposed materials specified on the approved drawings or in the submitted application form, samples of the external materials to be used for the building hereby permitted shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out using the approved materials.

8. Prior to the commencement of the development hereby permitted beyond foundation level, a sample panel of the brickwork to be used on the building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing

by, the Local Planning Authority. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Bicycles

9. Prior to the commencement of the development hereby permitted beyond foundation level, details of the bicycle parking areas to accommodate 6 bicycles, including their secure means of enclosure, shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be implemented prior to first occupation. The bicycle parking area and means of secure enclosure shall be retained thereafter and not used for any other purpose than for the parking of bicycles.

Access

10. Prior to the commencement of development hereby permitted beyond foundation level, details of the site access design shall be submitted to, and approved in writing by, the Local Planning Authority. The building shall not be occupied until the areas shown on the approved plans for access, parking and manoeuvring vehicles have been constructed and laid out in accordance with the approved plans and retained solely for such purposes thereafter.

Biodiversity

11. Prior to construction of the development hereby permitted above foundation level, a biodiversity enhancement plan/drawing shall be submitted to, and be approved in writing by, the Local Planning Authority. The content of the plan shall include, but not be limited to, the recommendations set out in the Preliminary Ecological Appraisal (Tyler Grange, 1 September 2022, Report No. 14650_R02a). The approved details shall be implemented prior to first occupation.

Pre-occupation Conditions

Boundary treatment

12. Prior to first occupation of the development hereby permitted details of all means of enclosure to the site boundaries, (including security measures as appropriate), shall be submitted to, and approved in writing by, the Local Planning Authority, and the means of enclosure shall be implemented in accordance with the approved details and be retained thereafter.

Hard and soft landscaping

13. Prior to first occupation of the development hereby permitted a detailed hard and soft landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of first occupation of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Electric vehicle charging points

14. Prior to first occupation of the development hereby permitted details of the appearance of any electric vehicle charging points to be installed shall be submitted to, and be approved in writing by, the Local Planning Authority and

thereafter it shall be implemented in accordance with the approved details and be retained.

Vehicular crossings

15. Prior to first occupation of the development hereby permitted, all vehicular crossings not shown as being retained on the approved plans shall be removed and the kerb and footway reinstated to match adjacent levels.
16. The development hereby permitted shall not come into use until the following highway works, which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works, and the provision of one additional bus stop on The Village to entail one bus pole and Kassel kerbing, have been carried out in accordance with the details which shall have been previously submitted to and approved in writing by, the Local Planning Authority, or arrangements entered into which ensure the same.

Obscure glazing

17. Apartments 24 and 41 shall not be occupied until the bedroom windows on their western elevation have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to, and approved in writing by, the Local Planning Authority before the window are installed and once installed the obscured glazing shall be retained thereafter.

Compliance Conditions

18. No vegetation clearance, tree works or building demolition works shall take place between 1 March and 31 August inclusive in any year, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before the start of works.
19. Prior to the installation of any new lighting, a Lighting Design Plan shall be prepared, submitted to, and approved in writing by, the Local Planning Authority. Lighting shall be installed and implemented in accordance with the approved Lighting Design Plan.
20. All demolition and construction works and ancillary operations, including deliveries to, and despatch from, the site shall be confined to the following hours:

Monday to Friday 0800 to 1800 hours
Saturday 0900 to 1300 hours
Not at all on Sundays, Bank Holidays or Public Holidays.
21. Each apartment hereby permitted shall be occupied only by:
 - (1) a person aged 65 years or older;
 - (2) persons aged 60 or older who are living as part of a single household with the above person in (1); or
 - (3) persons aged 60 years or older who were living as part of a single household with the person identified in (1) who has since died.

End of schedule

APPEARANCES

FOR THE APPELLANT:

Neil Cameron, of King's Counsel, instructed by Matthew Shellum MRTPI of Planning Issues

He called:

Nick Wood BA(Hons), DipArch, RIBA, ARB Design Manager, Planning Issues

Dominic Scott BA(Hons), Dip Landscape Architecture, MLI

Urban Design Director, Stantec

Kim Hammonds BA(Hons), MSc, CTPP

Principal Transport Planner,
Paul Basham Associates Limited

Matthew Shellum BA(Hons), DipTP, MRTPI

Planning Director and Head of Appeals,
Planning Issues

FOR THE LOCAL PLANNING AUTHORITY:

Philip Robson, of Counsel instructed by the solicitor to the City of York Council

He called:

Erik Matthews BSc (Hons), PGDipTP

Development Management Officer,
York City Council

Helene Vergereau LLM, PGDip

Traffic and Highway Development Manager,
York City Council

Present for the planning obligations session:

Stephanie Porter

Humber and North Yorkshire Integrated Care
Board

Paul Ramskill

Community Sports Development Manager,
York City Council

FOR WIGGINTON PARISH COUNCIL, RULE 6 PARTY:

Karin de Vries MA

Clerk to Wigginton Parish Council

FOR WIGGINTON COMMUNITY GROUP, RULE 6 PARTY:

Paul Clays

Guy Morgan

Kim Watson

INTERESTED PARTIES:

Councillor John Gates	Local resident and Chairman of Wigginton Parish Council
Granville Heptonstall BA, MA	Wigginton Community Group
Steve Holt	Wigginton Community Group
Linda Pepper	Wigginton Community Group and also on behalf of Michael Richardson

DOCUMENTS SUBMITTED AT THE INQUIRY

- ID.01 Front cover and entry 739 from The Buildings of England Yorkshire: The North Riding by Jane Grenville and Nikolaus Pevsner, April 2023.
- ID.02 Coloured extract from OS sheet CLVII.NW showing Wigginton, surveyed 1891, published 1895.
- ID.03 Appeal Decision APP/L3245/W/22/3303317, 17 New Street, Wem SY4 5AE, dated 31 March 2023.
- ID.04 Opening Statement on behalf of the Appellant.
- ID.05 Opening Statement on behalf of the Local Planning Authority.
- ID.06 Opening Statement on behalf of Wigginton Parish Council.
- ID.07 Opening Statement on behalf of the Wigginton Community Group.
- ID.08 Granville Heptonstall's statement based upon CD11.25.
- ID.09 Revised Site Plan from the Design, Access and Sustainability Statement Addendum, Bishopthorpe Road, Planning application reference 20/02517/FULM.
- ID.10 Site Plan of Proposed Retirement Living Development, Crookham Road, Fleet. Appeal decision APP/N1730/W/20/3261194, 14 May 2021.
- ID.11 Cllr John Gates' statement.
- ID.12 Website extract, York Civic Trust, York's Heritage at Risk, suggestions so far, dated 24.05.2023.
- ID.13 Illustration of the extent of Haxby Conservation Area description and map.
- ID.14 Letter from Cheshire East Council, dated 15 May 2023 regarding appeal reference APP/R0660/W/23/3317173, 17 & 19 Holly Road South, Wilmslow.
- ID.15 Revised s106 planning agreement, dated 25 May 2023.
- ID.16 Revised CIL Compliance Statement, dated 25 May 2023.
- ID.17 Further Revised CIL Compliance Statement, dated 30 May 2023.
- ID.18 Closing Submission on behalf of the Wigginton Community Group.

ID.19 Closing Submission on behalf of Wigginton Parish Council.

ID.20 Closing Submission on behalf of the Local Planning Authority.

ID.21 Closing Submission on behalf of the Appellant.

ID.22 Letter from York Civic Trust to Wigginton Parish Council, dated 31 May 2023.

ID.23 Appellant's written agreement to the suggested and discussed pre-commencement conditions, received 31 May 2023.

Submitted after the end of the Inquiry:

ID.24 Signed and Executed s106 planning obligation, dated 13 June 2023.