

## COMMITTEE REPORT

**Date:** 3 March 2022                      **Ward:** Wheldrake  
**Team:** East Area                              **Parish:** Elvington Parish Council

21/01709/REMM

**Reference:**

**Application at:** Lindum Group Limited York Road Elvington York YO41 4EP  
**For:** Reserved matters application for outline consent the erection of 20no. employment units (Use Classes B1(b), B1(c), B2 and B8) with means of access and landscaping included following the grant of outline permission 18/02744/OUTM

**By:** Mr James Nellist

**Application Type:** Major Reserved Matters Application

**Target Date:** 31 January 2022

**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application site is at the rear of the existing Lindum Group industrial estate, located to the north of York Road, Elvington approximately 10 kilometres to the south east of York. The site lies at the edge of the Elvington Industrial Estate area, which is to the north west of the main village of Elvington. The surface of the area where the industrial area has outline consent to be extended to is largely formed of rubble with some scrubland within it. Buildings were sited in this location, however Council aerial photography indicates that it is likely to be around twenty years since this was the case and as it is not considered to constitute previously developed land.

1.2 There is an existing small woodland to the north of the site. West of the site is existing commercial uses forming part of the wider industrial area. There is predominantly open land to the east of the site, in agricultural and recreational/community uses, heading towards the main village of Elvington. The existing vehicular access is via York Road (B1228).

#### Background

1.3 Outline planning permission with reference [18/02744/OUTM] was approved (subject to referral to Secretary of State at Planning) by the Planning Committee on 24 January 2020 for the erection of 20 employment units (Use Classes B1(b), B1(c), B2 and B8) with means of access and landscaping included. The Secretary of State on 2 March 2020 confirmed that he decided not to call in this application.

1.4 The above approved uses are as follows:

B1(b) – Research and development of products and processes.

B1(c) – Light industry appropriate in a residential area.

B2 – General Industrial

B8 – Storage and Distribution

1.5 It should be noted that after the outline consent was granted, the Town and Country Planning (Use Classes) Order 1987 (as amended) was revised on the 1<sup>st</sup> September 2020. This removed use class B1 and created a new Class E (Commercial, Business and Service). Class E encompasses a very broad range of uses. As well as research and development and light industry it includes shops, cafes and indoor sport.

## Proposals

1.6 This application is for the outstanding reserved matters. These are the appearance, layout and scale of the proposed development. Following the submission of the reserved matters revisions to the scheme have been received to. The main changes are as follows:

- Push block C to the north to better reflect the illustrative landscaping layout of the outline scheme.
- Create more space within the site to allow lorries to turn around and exit.
- Create an improved access to the B1228 and space for HGV's to pass within the site.

1.7 The application site lies within the general extent of the York Green Belt. The precise boundaries of the Green Belt are to be fixed by the Local Plan. The 2019 modifications to the proposals map of the 2018 Publication Draft Local Plan show the site is not proposed to be in the Green Belt. When recommending approval of the outline consent the planning officer stated in his report that the proposal was inappropriate development in the Green Belt but that very special circumstances existed to justify the development. This related to the shortage of such commercial space in the city and the benefits to the local economy.

## **2.0 POLICY CONTEXT**

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## Yorkshire and Humber Regional Spatial Strategy (RSS)

2.1 The Yorkshire and Humber RSS was revoked in 2013 with the exception of the policies relevant to the York Green Belt. Policy YH9C states that the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. The boundaries must take account of the levels of growth set out in this RSS and must also endure beyond the Plan period. Policy Y1(c) states that plans, strategies, investment decisions and programmes for the York sub area should in the City of York LDF, define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York city centre and the inner boundary in line with policy YH9C.

2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

2.3 The revised National Planning Policy Framework ('NPPF') was published in July 2021 and its planning policies are a material consideration in the determination of this planning application. The NPPF sets out the government's planning policies for England and how these are expected to be applied. Key sections of the NPPF are:

2. Achieving sustainable development.
4. Decision making.
6. Building a strong, competitive economy.
11. Making effective use of land.
12. Achieving well designed places.
13. Protecting green belt land.
15. Conserving and enhancing the natural environment.
17. Facilitating the sustainable use of materials.

2.4 The Publication Draft City of York Local Plan 2018 ('2018 eLP') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF its policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012.

2.5 Key relevant 2018 eLP Policies are as follows -

2.6 The evidence base underpinning the 2018 eLP is capable of being a material consideration in the determination of planning applications.

## 2.7 Relevant Policies

DP1 York Sub Area  
DP2 Sustainable Development  
DP3 Sustainable Communities  
SS1 Delivering Sustainable Growth for York  
SS3 York City Centre  
EC5 Rural Economy  
D1 Placemaking  
GI1 Green Infrastructure  
GI2 Biodiversity and Access to Nature  
GI4 Trees and Hedgerows  
GB1 Development in the Green Belt  
ENV2 Managing Environmental Quality  
ENV3 Land Contamination  
ENV5 Sustainable Drainage  
T1 Sustainable Access  
T7 Minimising and Accommodating Generated Trips  
CC1 Renewable and Low Carbon Energy Generation and Storage  
CC2 Sustainable Design and Construction of New Development

## 3.0 CONSULTATIONS

### INTERNAL

#### Design, Conservation and Sustainable Development - Archaeology

3.1 The information provided on the attached landscape layout is sufficient to secure the scheme. In terms of implementation and maintenance, condition 6 of the outline permission covers this.

3.2 The proposals for the northern leg are in keeping with the landscape plan that was approved under outline.

3.3 The outline details show a reduction in planting at the entrance to the southern end of the site, and fewer proposed trees along the western boundary. This

diminishes the quality of the development, however some of this may be due to easement requirements.

#### Environmental Protection Unit

3.4 The details submitted in respect to Condition 7 (gas monitoring) and Condition 13 (noise) are acceptable. Conditions regarding the remediation of contaminated land and unexpected contamination will need to be addressed.

#### Highways Network Management

3.5 No objection subject to implementation and retention of proposed parking and manoeuvring arrangements. Details regarding upgrading the access to B1228 are addressed by an outline condition.

#### Flood Risk Management

3.6 Satisfied that outstanding matters relating to surface water discharge and proximity to the culvert can be addressed by planning condition.

#### EXTERNAL

#### Elvington Parish Council

3.7 No comment other than to ask if it was possible for a 'Stop' sign to be put in place as vehicles exit the site onto York Road

#### Designing out crime office (North Yorkshire Police)

3.8 No objections. The details indicated in respect to crime prevention measures are adequate to meet condition 18 of the outline consent that related to crime prevention.

#### Ouse and Derwent Internal Drainage Board

3.9 No objections subject to conditions regarding discharge rates and access to the watercourse that runs adjacent to the site.

#### Yorkshire Water

3.10 No objections.

## 4.0 REPRESENTATIONS

4.1 The application has been advertised by neighbour notification, press notice and site notice. No responses were received.

## 5.0 APPRAISAL

- Principle of development
- Development in the Green Belt
- Commercial Uses
- Impact on the character of the area
- Trees
- Drainage
- Highways
- Amenity
- Sustainability

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

5.2 The Council does not have an adopted local plan that covers the whole local authority. The statutory development plan for the area of the application site comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt, saved under The Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013.

## PRINCIPLE OF DEVELOPMENT

5.3 The principle of development was agreed with the outline consent. This application deals only with the reserved matters. As stated earlier, since the outline consent was issued the Use Classes Order has been revised with Class B1 industrial uses now contained within the new more expansive Class E which also incorporates shops, cafes and indoor sport. It is the case that the layout and location is unlikely to make it an attractive site for non-industrial uses. The applicant has indicated that it is not their intention to seek the accommodation of uses that do not encompass an industrial, or storage and distribution use. Even if it were considered desirable to do so, it is not possible to retrospectively impose conditions on the outline consent restricting the uses that the site can contain. This is because although not implemented, the consent is existing and 'benefits' from changes in the use classes order. It is noted that the allowances for changes of use on the site also typically apply to other 'industrial' sites (and permissions) that would have formally been within class B1 use.

## IMPACT ON THE OPENENSS OF THE GREEN BELT

5.4 Paragraph 137 of the NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness has been found by the Courts to have both a visual and spatial sense.

5.5 In approving the outline consent it was stated that the presence of buildings will result in a moderate loss of visual and spatial openness, although it was considered that they would not appear completely incongruous being located adjacent to the existing built up area of the industrial estate. Condition 12 of the outline consent restricts the height of built development to 6.5m. The buildings proposed on site are a mono-pitch design and are 6.5m to the highest point and around 5m at the lowest point. The lowest point of the buildings faces the outer edges of the site. It is not considered that the revised scheme raises any conflict with the previous assessment on the impact on openness.

#### IMPACT ON THE CHARACTER OF THE AREA

5.6 Paragraph 130 of the NPPF considers design and seeks to ensure that developments will, amongst other things, function well and add to the overall quality of the area and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

5.7 Moderate weight can be attached to Policy D1 of the 2018 eLP which states that proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused.

5.8 Policy D2 of the 2018 eLP states that proposals will be encouraged and supported, where amongst other things, they conserve and enhance landscape quality and character, and the public's experience of it and make a positive contribution to York's special qualities. Proposals should also recognise the significance of landscape features such as mature trees, hedges, and historic boundaries and York's other important character elements and include sustainable, practical, and high quality soft and hard landscape details and planting proposals that are clearly evidence based and make a positive contribution to the character of spaces and other landscapes.

5.9 The proposed buildings are functional in design as would be expected of an industrial use. The lack of openings on outer edges will help to avoid conflict with additional planting proposed around the site boundaries. The front elevations include elements of timber cladding which help raise the quality of the scheme.

5.10 The most visually sensitive area when viewed from outside the site is the north-eastern 'dog leg'. Although planting will not completely screen this element it will help soften the impact. Hedging will in time also help to screen the relatively harsh palisade fencing that exists around the site boundaries.

## TREES

5.11 There is little significant vegetation within the area of site to be developed. The only tree of any scale is an Oak tree that is located on the western boundary. The area below the canopy is indicated to be free from hard surfacing. It is noted that there is little tree planting proposed to the south or western boundary of the site, however, this area of land abuts other industrial buildings/uses and it is not considered that it as an area where significant planting is necessary to protect the visual character of the wider area.

## DRAINAGE

5.12 Paragraph 159 of the NPPF advises that development should ensure that flood risk is not increased elsewhere and that development is directed away from areas at risk of flooding. The site lies in flood zone 1 (low risk). There is a culvert running along part of the western boundary of the site which is maintained by the Internal Drainage Board. The Council's Flood Risk Manager is satisfied that surface water run-off can be managed in a way that does not increase flood risk. Although drainage details have been submitted it is considered it is matter that is covered by condition in the outline consent and it would be appropriate to address this by an approval of details.

## HIGHWAYS

5.13 Paragraph 110 of the NPPF states that when assessing applications for development, it should be ensured that:

- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.14 The entrance from the B1228 is to be widened to provide better provision for large vehicles. In addition the initial section of private road into the site is to be widened to 6m to allow two large HGV's to pass. The submitted drawings indicate that a HGV can turn with the proposed new area of industrial units. Car parking is proposed outside of each unit and along the western side of the access road. Cycle



parking can be provided within the individual units which would provide greater security and weather protection.

## NEIGHBOUR AMENITY

5.15 Paragraph 130(f) of the NPPF states that developments should create places with a high standard of amenity for all existing and future users. It goes on to state that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Policy D1 of the 2018 eLP covers amenity.

5.16 The submitted noise assessment indicates that even if occupied by general industrial uses (B2) operating over 24 hours the proposal would not raise noise concerns.

5.17 A lighting report has been submitted with the application, however, this relates to the initial layout rather than the revised layout. Issues relating to lighting and noise can be addressed by a discharge of condition application.

## 6.0 CONCLUSION

6.1 This reserved matters application provides the details required following the outline planning permission. The layout and form of development proposed and the landscaping principles accord with the outline permission. The details accord with the expectations established at outline stage and national policy within the NPPF and local policy within the 2018 eLP regarding design and landscaping.

6.2 Planning conditions relating to the scheme are contained in the outline permission. As part of the reserved matters application a number of details have been submitted relating to conditions on the outline consent. Although this helps to progress the scheme in a comprehensive manner and ensure that issues relating to reserved matters will not conflict with the goal of the conditions it will be necessary to discharge these matters through the formal approval of details process rather than through agreement of a reserved matters application.

6.3 It is recommend that the application is approved.

## 7.0 RECOMMENDATION: Approve

1 The development hereby permitted shall be carried out in accordance with the following plans:-

Proposed Site Plan 08693 BSP 20-202 Rev D received on 15 February 2022.

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Proposed Roof Layout 08693 BSP 20-209 Rev A received on 15 February 2022.  
Block A Proposed Floor Layout 08693 BSP 20-203 received on 13 July 2021.  
Block A Proposed Elevations and Section 08693 BSP 20-204 received on 13 July 2021.  
Block B Proposed Floor Layout 08693 BSP 20-205 received on 13 July 2021.  
Block B Proposed Elevations and Section 08693 BSP 20-206 received on 13 July 2021.  
Block C Proposed Floor Layout 08693 BSP 20-207 Rev A received on 11 February 2022.  
Block C Proposed Elevations and Section 08693 BSP 20-208 Rev A received on 11 February 2022.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

2. No unit shall be occupied until the areas shown on the approved plans for parking and manoeuvring for that unit have been constructed and laid out in accordance with the approved plans. The areas shall thereafter be retained for the prescribed purpose.

Reason: In the interests of the safe and efficient operation of the site.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Sought revised site layout to address issues relating to vehicle movement and space for landscaping.

#### **Contact details:**

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