

## COMMITTEE REPORT

**Date:** 1 July 2021

**Ward:** Rural West York

**Team:** West Area

**Parish:** Parish Of Rufforth With  
Knapton

**Reference:** 21/00796/FULM

**Application at:** Land To The South Of Northminster Business Park Harwood  
Road Upper Poppleton York

**For:** Erection of distribution facility (use class B8) including formation  
of vehicle access onto Glaisdale Road

**By:** Northminster Properties Ltd

**Application Type:** Major Full Application

**Target Date:** 30 June 2021

**Recommendation:** Approve after referral to Sec. of State

### 1.0 PROPOSAL

1.1 Planning permission is sought for the erection of a 5,570 sqm storage and distribution warehouse building (including ancillary offices and welfare facilities) and parking/manoeuvring for vehicles. The gross total floor area is 5,570 sqm, broken down as follows:

Ground Floor:

Warehouse - 4,650 sq m

Office & Welfare - 460 sqm

First Floor

Offices - 400 sqm

Plant Deck - 60 sqm

1.2 The main part of the building would be single-storey and measure approximately 117m x 41m with a shallow-pitched roof. Reception, office and welfare facilities would be over two floors in two wings at the eastern end of the building. The site would be served by a new access from Glaisdale Road, part of the Northminster Business Park. The application is submitted on behalf of Northminster Properties Ltd and the future occupier of the building, DPD Group UK Ltd.

1.3 Main materials would comprise composite metal-faced cladding and micro-rib cladding in various shades of grey with a grey/blue detailing around the entrance and eaves.

1.4 An area of hardstanding would be laid out to serve 30 level-access loading doors and 11 dock-level loading doors. Parking would be provided for 15 HGVs, 145 vans and 165 cars, including 7 disabled bays. Secure cycle parking would be provided for 44 bicycles.

1.5 The facility would operate by receiving parcels at the site, sorting them and then delivering them elsewhere. The site would serve the Northallerton, Scarborough, Hull/Withernsea, Selby, Wetherby and Harrogate areas. Staff would work in shifts, allowing parcels to arrive to site and be delivered throughout the day. The premises would operate 24 hours a day, 7 days a week.

## EIA SCOPING OPINION

1.5 The proposed development does not comprise 'Schedule 1' development where an Environmental Impact Assessment is always required. The proposed development is however of a type listed at 10 (b) in column 1 of Schedule 2 (Urban Development Projects) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The proposed development does fall within 1 of the 3 criteria set out in the Schedule 2 - The development includes more than 1 hectare of urban development which is not residential development - However it is the view of officers that the proposed site is not within or adjacent to an environmentally sensitive area (as specified in the Regulations) and taking into account the characteristics of the proposed development, the location of the development, and characteristics of the potential impact and the proposed development would not result in significant environmental effects and therefore an Environmental Impact Assessment was not required.

## APPLICATION SITE

1.6 The application site occupies approximately 3.8ha. of agricultural land. It is not within a conservation area and there are no listed buildings in close proximity. The site is within Flood Zone 1. To the north of the site is the Northminster Business Park, separated by a substantial conifer hedge. The remaining sides abut agricultural land.

## RELEVANT PLANNING HISTORY

1.7 18/02158/FULM - Full Major application for the erection of a new industrial facility (use class B2 / B8 with ancillary office B1a) with access road, parking and landscaping. Gross floor area would be approximately 5,400sqm. Approved May 2019. Not implemented.

1.8 20/01725/PREAPP – Erection of a B8 storage and distribution building for DPD Ltd with associated works

## **2.0 POLICY CONTEXT**

2.1 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. Relevant policies are:

SP2	Green Belt
SP6	Location strategy
GP1	Design
GP15A	Development and Flood Risk
GB1	Development Within the Green Belt
GB10	Major Development Sites in the Green Belt

2.2 The Publication Draft Local Plan (2018). Relevant policies are:

SS2	The Role of York's Green Belt
SS23	Land at Northminster Business Park
EC1	Provision of Employment Land
D1	Placemaking
D2	Landscape and Setting
D6	Archaeology
GI4	Trees and Hedgerows
GB1	Development in the Green Belt
CC1	Renewable and Low Carbon Energy
CC2	Sustainable Design and Construction of New Development
ENV2	Managing Environmental Quality
ENV3	Land Contamination
ENV5	Sustainable Drainage
T1	Sustainable Access
T7	Minimising and Accommodating Generated Trips

2.3 See section 5.0 (Appraisal) for national and local policy context.

## **3.0 CONSULTATIONS**

### INTERNAL

### ECONOMIC GROWTH

3.1 Broadly in support of the application. The proposal is an opportunity for DPD to expand their business. The investment would roughly double the size of the existing Business Park and provide new road infrastructure. The application will increase existing depot space, removing the restrictions on the amount of business

they can presently undertake. The move to a larger site not only allows them to respond to natural growth in the home and commercial delivery sector, but also expands their current catchment area.

3.2 We support DPD's commitment to providing sustainable modes of transport, and the significant growth in their electric fleet over the last year alone. This is very much in keeping with the council's own sustainable transport policies. The availability of suitable employment space is crucial to ensuring that York remains a great place to do business. Industrial units of the size being proposed by DPD are in short supply in the York area. The Economic Growth team supports the creation of a new City Region distribution depot at Northminster Business Park, with local residents able to benefit from the jobs provided by DPD's investment in the city.

## HIGHWAY NETWORK MANAGEMENT

3.3 Further information is required in a number of areas in order for the council to be able to properly assess the application. They include: Justification for the number of proposed van parking spaces as there appears to be substantial over-provision; 24hr trip data to verify the assertions in the transport and noise assessments about HGV movements; the number of self-employed delivery drivers in order to justify the number of van parking spaces; mitigation for the increase in delay (as modelled by CYC) at the A59/Northfield Lane junction in the PM peak; sufficient car parking to allow for 'shift changeovers' and visitors; details of improved pedestrian routes/facilities within the business park and within the application site. Cycle parking is inadequate and existing off-road pedestrian routes between the business park entrance and the development are convoluted and discontinuous. These should be improved by the applicant and secured by conditions of approval. Financial contributions will be sought for improved signage (£2,500) and travel plan support (£10,000).

## DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (CONSERVATION AND DESIGN)

3.4 Development Management to assess.

## DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (LANDSCAPE)

3.5 No objection to the site layout subject to conditions regarding protection of existing trees and submission of a landscape plan.

## DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGY)

3.6 The Ecological Impact Assessment (EclA) provided is up-to-date, well considered and provide an appropriate level of detail. The site offers potential for nesting birds. Precautionary methods will be needed to ensure active nests are not destroyed during any vegetation clearance works. This should be made a condition of approval.

3.7 The site does not provide suitable habitat for great crested newts but construction works may lead to the creation of suitable habitat. The precautionary working methods set out in the EclA should be followed during construction and made a condition of approval.

3.8 Ecological enhancements have been recommended within the EclA to provide biodiversity net gains through the inclusion of bird boxes. The applicant should create a biodiversity enhancement plan that includes new features for nesting birds, bats and hedgehogs. This should be made a condition of approval.

## DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ARCHAEOLOGY)

3.9 The site has previously been subjected to archaeological evaluation. Despite the location of the site within a general Romano-British landscape and the discovery of a nationally significant metalwork hoard in the nearby vicinity no archaeological features were revealed during the recent archaeological works on this particular site. No further archaeological work is required.

## LEAD LOCAL FLOOD AUTHORITY

3.10 The revised Drainage Strategy Plan is generally acceptable subject to conditions to protect the local aquatic environment and public sewer network.

## PUBLIC PROTECTION

3.11 The site is located next to industrial land and agricultural land. If contamination is found, remedial action will be required to ensure that the site is safe and suitable for its proposed use. The council's standard contamination conditions should therefore be attached to any planning approval. The site is adjacent to existing businesses. The developer should therefore be required by condition to submit for approval a construction environmental management plan (CEMP). Noise from external plant/machinery has not been included in the submitted noise assessment. This also should be made a condition of approval. The methodology within the revised noise assessment report is accepted. Based on the predictions of noise levels from these noise sources the report advises that there would be no adverse impact on nearby noise sensitive receptors. Therefore provided the HGV movements, site traffic movements and fixed plant installation are as stated within

the report then this department has no objections to this application and no conditions to recommend.

## FORWARD PLANNING

3.12 Comments awaited.

## EXTERNAL

### RUFFORTH WITH KNAPTON PARISH COUNCIL

3.13 Do not object but have some serious concerns which should be addressed as conditions of approval:

3.14 Given that this application is for a parcels distribution business we are very concerned over possible congestion at the A59 junction, particularly in the light of the housing development underway on the Civil Service site. We are also concerned about the impact on Northfield Lane, bearing in mind that this is intended to be the main access to the Community Woodland. Congestion here is likely to encourage people to find alternative routes to the Woodland with resultant parking problems in places such as Knapton. Total vehicle movements per day are difficult to ascertain from the information provided but they will be significant and warrant stringent investigation.

3.15 The Neighbourhood Plan states that the roofline should not protrude above the screening and accordingly if approval is granted it must be conditional on appropriate screening to prevent the building being visible from Moor Lane. This is to prevent a negative impact on the openness of the green area and in particular in views from Moor Lane and importantly the Community Woodland in the future.

### UPPER POPPLETON PARISH COUNCIL

3.16 Objection, owing to the increasing traffic load at the junction of Northfield Lane with the A59.

### ENVIRONMENT AGENCY

3.17 No comments received

### YORKSHIRE WATER

3.18 If planning permission is to be granted add conditions requiring separate systems of drainage, provision of an oil/petrol/grit interceptor and no piped discharge prior to completion of approved surface water drainage works.

## AINSTY INTERNAL DRAINAGE BOARD

3.19 No objection to the revised proposals. Any approval granted to the proposed development should include a condition requiring the development to be carried out in accordance with the agreed plans and calculations.

### 4.0 REPRESENTATIONS

4.1 Two representations have been received, neither objecting nor in support, from commercial occupiers of the business park:

- ☐ There will be a significant increase in HGV traffic through the business park. Given this increase footpaths should be provided along Harwood Road and Glaisdale Road. They are used by workers/pedestrians walking to existing businesses.
- ☐ An increase in traffic will increase the likelihood of accidents and includes
- ☐ risk to pedestrians walking to the estate from the P&R.
- ☐ Can the methods of construction please consider the noise nuisance to existing businesses. Please do not underestimate the impact of this noise on neighbours who are trying to work. The size of this build will cause prolonged disruption.

### 5.0 APPRAISAL

#### PLANNING POLICY CONTEXT

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

5.2 The site lies within the parish of Rufforth with Knapton and abuts the parish of Upper Poppleton. For the purposes of this application the development plan for York comprises the Rufforth with Knapton Neighbourhood Plan (adopted 2018), the Upper Poppleton and Nether Poppleton Neighbourhood Plan (adopted 2017) and the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS). These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt.

5.3 The saved RSS policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance

the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

#### PUBLICATION DRAFT YORK LOCAL PLAN (2018)

5.4 The Publication Draft Local Plan 2018 (the 'emerging plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF the emerging 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.

5.5 Although there is no formally adopted local plan the City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. It does not form part of the statutory development plan and its policies carry very limited weight.

5.6 The most up-to date representation of relevant policy is the National Planning Policy Framework (NPPF). Local planning authorities should seek to approve applications for sustainable development where possible and work with applicants to secure developments that improve the economic, social and environmental conditions of the area.

#### DEVELOPMENT CONTROL LOCAL PLAN (2005)

5.7 The Development Control Local Plan Incorporating the Fourth Set of Changes was approved for development management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications. Where policies relevant to the application are consistent with those in the NPPF (as revised in February 2019), the weight that can be afforded to them is very limited.

#### RUFFORTH WITH KNAPTON NEIGHBOURHOOD PLAN (2018)

5.8 The Rufforth Neighbourhood Plan (RNP) sets out that in respect of Green Belt it is for York's Local Plan to define the detailed boundaries of the Green Belt and until that time should continue to apply the approach to the identification of the Green Belt as set out currently in the RSS and the Fourth Set of Changes



Development Control Local Plan (2005). Therefore it is considered that the site is within the general extent of the Green Belt.

5.9 Policy RwK10 states that within the general extent of the Green Belt inappropriate development, as identified in the National Planning Policy Framework which includes new buildings, will not be supported except in very special circumstances.

5.10 It is against the NPPF, the saved RSS policies relating to the general extent of the York Green Belt and the Rufforth with Knapton Neighbourhood Plan that this proposal should principally be assessed. Given the advanced stage of the emerging Plan's preparation, the lack of significant objection to the emerging policies relevant to this application and the stated consistency with the Framework, would advise that the policy requirements of emerging plan policies EC1, D1, D2, GI4, CC1, CC2, ENV2 and T1 and T7 should be applied with moderate weight. Only limited weight can be afforded to Policy SS2 and SS23 at this time.

## ECONOMIC DEVELOPMENT

5.11 The NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development (paragraph 80). The site is part of a strategic employment allocation in the emerging plan. Its development would contribute to achieving one of the council's main objectives which is to meet the city's employment needs. The proposal would also enable an existing company to remain within the district and to continue to grow. The applicant expects a total of 206 staff to be employed at the site. This is 125 more than the existing number of employees, i.e. 81, at the current depot. The depot would support local businesses and the local economy generally. The application complies with policies EC1 (Provision of employment land) and SS23 (Land at Northminster Business Park) of the emerging plan.

## OPENNESS AND PURPOSES OF THE GREEN BELT

5.12 The NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open and that, the essential characteristics of the Green Belt are its openness and permanence. The Green Belt serves 5 purposes:

- ☐ to check the unrestricted sprawl of large built-up areas;
- ☐ to prevent neighbouring towns merging into one another;
- ☐ to assist in safeguarding the countryside from encroachment;
- ☐ to preserve the setting and special character of historic towns;
- ☐ to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.13 In line with the decision of the Court in *Wedgewood v City of York Council* [2020], and in advance of the adoption of a Local Plan, decisions on whether to treat land as falling within the Green Belt for development management purposes should take into account the RSS general extent of the Green Belt, the 2005 DCLP, the 2018 Draft Plan, insofar as can be considered against paragraph 48 of the NPPF (2019), and site specific features in deciding whether land should be regarded as Green Belt.

5.14 The site is located within the general extent of the York Green Belt as described in the RSS. In addition to the saved policies YH9(C) and Y1 (C1 and C2) of the Regional Spatial Strategy which relate to York's Green Belt, the site is identified as falling within Green Belt in the proposals maps of the Development Control Local Plan (2005) and emerging Local Plan (2018).

5.15 In the Draft Local Plan (2005) the site is designated as reserved/safeguarded land for post 2011 development to ensure the Green Belt boundaries did not have to be altered. Policy GP24a (Land Reserved for Possible Future Development) states that "Until such time as the Local Plan is reviewed, planning permission on sites designated as reserved land, will only be granted for development that is required in connection with established uses, or alternative uses which will preserve the open nature of the land and will not prejudice the potential for the future comprehensive development of the site". The supporting text to the policy states: 'it is not allocated for development at the present time but will be brought forward with a review of the plan and therefore should be kept free from any development that would prejudice future development following the review of the Local Plan'.

5.16 In the draft Local Plan 2018 the site is excluded from the Green Belt; it is allocated as an extension to the business park (ST19).

5.17 The site is not identified in the City of York Local Plan - The Approach to the Green Belt Appraisal (2003), which the Council produced to aid in the identification of those areas surrounding the City that should be kept permanently open. However, whilst this document identifies key important areas, which do not include this site, it leaves large areas of countryside as similarly not being of particular importance and it does not set out that all that remaining land within the extent of the Green Belt is necessarily suitable for development or that it has no Green Belt purpose.

5.18 Additionally, when the site is assessed on its merits it is concluded that it serves two Green Belt purposes, namely assisting in safeguarding the countryside from encroachment and helping to preserve the setting and special character of York. As such, the site should be treated as lying within the general extent of the York Green Belt and the proposal falls to be considered under the restrictive Green Belt policies set out in the NPPF.

5.19 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. NPPF paragraph 145 states that the construction of new buildings is inappropriate in the Green Belt falling within any of the exceptions listed. The proposed development is not among the exceptions and is therefore inappropriate development in the Green Belt, harmful to openness and in conflict with the purposes of including land within it. The NPPF states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

## CHARACTER AND APPEARANCE

5.20 Paragraph 130 of the NPPF states that permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. The scale, design, appearance and external materials (mainly grey cladding) are in keeping with the character of the existing business park. They comply with policy D1 of the emerging plan and relevant paragraphs in section 12 of the NPPF. A condition should be attached requiring materials to be submitted for approval.

## LANDSCAPE

5.21 The site is currently part of an agricultural field with hedges, including some hedgerow trees, along the northern, western and eastern boundaries. The southern boundary is open. The application includes a landscape scheme based on the previously approved landscaping scheme for application 18/02158/FULM. The planting now proposed for along the southern boundary would comprise a native hedge approximately 3m wide, which is narrower than the previous approval which was approximately 5m wide. Weldmesh security fencing is proposed around the perimeter of the car park. This would be appropriately placed on the inside of the perimeter planting so would be screened, but the fencing would also further reduce the available width for establishing tree planting. The tall native hedgerow along Moor Lane to the south of the site is dense. It provides significant screening of the site from Moor Lane during the summer months when it is in full leaf but there would be filtered views of the site during the months when leaf cover is absent. Nevertheless, the proposed native hedge is acceptable subject to it being supplemented by a row of young specimen trees randomly spaced along the length of the hedge, so that they can attain their full canopy spread over and above the hedgerow. The applicant has agreed to this being made a condition of approval.

5.22 The site includes a mature oak tree part-way along the eastern boundary. It is one of three trees on the site that are worthy of protection. The oak would not be affected by the current proposals but if the access road into the site were extended

as part of a future phase, beyond the currently-proposed turning head, the road would significantly encroach into the root protection area of the oak tree and probably result in its early demise. Nevertheless the application has to be judged on its merits. If the road were to be extended in the future any impact on the tree would be a material consideration, which would be addressed in the design. The other two trees worthy of protection are on the western boundary. All three trees are shown to be retained within the development.

5.23 Additional native woodland species have been added to improve screening. No existing trees are planned to be removed from the site, apart from two small sections of hedge line for construction of the new road from this proposal. The additional trees proposed by the landscaping scheme would more than compensate for this and provide a net gain.

5.24 An area of grassland is proposed for the south eastern corner of the site where hardstanding is not required. It would soften the setting of the building and provide some amenity space for employees.

## TRAFFIC, PARKING AND ACCESS

5.25 The NPPF advises that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.26 Access to the site is from the A59 via Northfield Lane and the internal roads through the business park. Glaisdale Road, within the business park, would be extended by a dedicated single carriageway road, with footpath. It would terminate at the entrance to the depot. Parking and manoeuvring for all HGV's, delivery vans and staff cars would be provided within the site. The application was submitted with a transport statement and subsequently a transport assessment (TA). However, the information supplied to show how the depot would function and the impact it would have on the transport network are inadequate for the council to be able to properly assess the application. Further information has been sought and Members will be updated at the meeting.

5.27 The business park is not served by public transport. The nearest bus services are at Poppleton Park & Ride (approximately 900m) and the A59 (approximately 1100m). The nearest train service is at Poppleton station (approximately 2000m). These distances all exceed recommended distances for accessing public transport.

However the wider area has already been developed as a business park without the provision and benefit of public transport. It is not considered that the refusal of the application on the grounds of lack of access to public transport would be supported at appeal given the surrounding development. The application is accompanied by an interim travel plan, which is being assessed by highways officers.

5.28 The new road access road would have a dedicated footway and there is a public footway along Northfield Lane. However, there is no footway alongside the existing roads through the business park and no proposal to provide any, despite the significant number of additional vehicle movements that would result from the current proposal. The council's highways officers have queried this with the applicant. Members will be updated at the meeting.

5.29 Staff cycle parking would be provided on site in the form of 22 Sheffield stands (44 cycle parking spaces) within a secure cycle compound within the site car park. No details have been provided but the application states that cycle parking would comply with council standards. Details should be submitted as a condition of approval.

#### IMPACT ON RESIDENTIAL AMENITY

5.30 The NPPF seeks a good standard of amenity for all existing and future occupants, and for developments to add to the overall quality of the area for the lifetime of the development; are sympathetic to local character, including the surrounding built environment and landscape setting. Policy GP1 of the 2005 Development Control Draft Local Plan and policies D1 and ENV2 of the 2018 Draft Local Plan seek to ensure that development proposals do not unduly affect the amenity of nearby residents

5.31 The application has been accompanied by a noise assessment. It shows that the activities within the depot are unlikely to have any material impact on nearby occupiers. However, the noise assessment as initially submitted did not properly consider noise from goods vehicles entering and leaving the business park at the junction with Northfield Lane. The entrance is close to residential dwellings. The applicant has since submitted a revised noise assessment. The methodology within the revised report is accepted by public protection officers. The report advises that, based on the predictions of noise levels, there would be no adverse impact on nearby noise sensitive receptors. Noise from external plant/machinery has not been included in the submitted noise assessment. This should be made a condition of approval.

5.32 The parking area will include 30 electric vehicle charging points to serve 17 electric cars and 13 electric vans, which are intended to be used to serve York. This exceeds CYC's current standards for active EV charging provision (5%). Furthermore, in order to future proof the distribution facility, the electricity

supply is to be installed across the application site in a way that means additional electric charging points can be introduced at a later date.

5.33 The site is not in an existing area of air quality concern. The proposed operation of electric vehicles from the site and the aspiration to increase this operation in the future will help to minimise emissions and air quality impacts associated with the site.

5.34 The applicant has provided an external lighting plan which demonstrates that the lux levels at the site boundary will be less than 1 lux. This is acceptable and therefore provided this lighting is installed then no conditions are required in relation to external lighting.

5.35 Construction nuisance would be mitigated by a CEMP, which should be secured by a condition of approval.

## ECOLOGY

5.36 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard biodiversity. Paragraph 170 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and providing net gains for biodiversity. Draft Local Plan policies reflect this advice in relation to trees, protected species and habitats.

5.37 The NPPF advises that if significant harm to biodiversity from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. An ecological assessment has been submitted to support this application. The assessment has been reviewed by the council's Ecology Officer who agrees with the findings of the report. The recommendations within the report, dealing with protection of breeding birds, avoidance of great crested newts and biodiversity enhancements should be made conditions of approval.

## DRAINAGE

5.38 The site is within Flood Zone 1. The NPPF requires that suitable drainage strategies be developed for sites so that there is no increase in flood risk elsewhere. Policy ENV5 (Sustainable Drainage) of the emerging plan states that discharge from new developments on greenfield sites shall be no greater than existing. Planning Practice Guidance requires that soakaways are first considered in accordance with sustainable drainage principles. However, flood risk officers and the IDB accept that the site is not suitable for soakaways. Instead the applicant is proposing on-site underground storage of surface water and a discharge rate of 4 litres per second. This has been agreed with the council's flood risk officers and AIDB, as has a

revised drainage strategy plan. Adherence to it should be made a condition of approval.

5.39 Foul water would discharge to an existing foul sewer.

## CLIMATE CHANGE

5.40 Policy CC1 of the emerging plan states that new buildings must achieve a reasonable reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable. This should be achieved through the provision of renewable and low carbon technologies in the locality of the development or through energy efficiency measures. The submitted sustainability statement says that consideration will be given to design, location and material usage in order to reduce energy consumption throughout the lifetime of the development. It gives no commitment to complying with policy CC1.

5.41 Policy CC2 of the emerging plan states that all new non-residential buildings with a total internal floor area of 100sqm or greater should achieve BREEAM 'Excellent' (or equivalent). The submitted BREEAM pre-assessment report demonstrates that the proposed development is capable of complying with and meeting a BREEAM 'Very Good' rating. However, the application includes site-specific information about why, in this case, a rating of 'Excellent' cannot be achieved.

## VERY SPECIAL CIRCUMSTANCES

5.42 The NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development. The site is part of a strategic employment allocation in the emerging plan. Its development would contribute to achieving one of the council's main objectives which is to meet the city's employment needs. The applicant expects a total of 206 staff to be employed at the site, i.e. 125 more than the number of existing employees at its current premises. The relocation would enable an existing company to remain within the district and to continue to grow. It would also enable the company's existing premises to be made available for occupation by another business. Overall, there are very special circumstances for the proposed development, whereby the environmental, economic and social benefits of the scheme are to be given significant weight, which clearly outweigh any potential harm to the general extent of the Green Belt in accordance with paragraph 143 of the NPPF. The site would form a natural extension to the well-established Northminster Business Park.

## 6.0 CONCLUSION

6.1 The application site is located within the general extent of the Green Belt and serves two Green Belt purposes. As such it falls to be considered under paragraph 143 of the NPPF which states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt. In addition to the harm to the Green Belt by reason of inappropriateness, the proposal would have a harmful effect on openness and would undermine two of the five Green Belt purposes. Substantial weight is attached to the harm that the proposal would cause to the Green Belt.

6.2 However, the proposed development would make a significant contribution to achieving one of the council's main objectives which is to meet the city's employment needs. The proposal would also enable an existing company to remain within the district and to continue to grow. These benefits are, in combination, considered to amount to very special circumstances' that clearly outweigh the harm to the Green Belt due to inappropriateness, impact on the openness and conflict with the purposes of including land within it.

6.3 Approval is recommended subject to the referral of the application to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009 (application received before 21 April 2021) and the application not being called in by the Secretary of State for determination. The application is required to be referred to the Secretary of State as the development is considered to be inappropriate development in the Green Belt, and the proposed 3 no. buildings would create floor space (1116.22sq.m) which is in excess of the of the 1000 sq.m floor space threshold set out in the Direction.

**7.0 RECOMMENDATION:** That delegated authority to be given to the Head of Development Services to:

- i. refer the application to the Secretary of State for Communities and Local Government under the requirements of Section 77 of the Town and Country Planning Act 1990, and should the application not be called in by the Secretary of State, then APPROVE the application subject to
- ii. The conditions set out in this report with the Head of Development Services granted delegated powers to determine the final detail of the planning conditions.



## CONDITIONS

1 TIME2 Development start within three years

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

2552 P100, 2552 P101, 2552 P200A, 2552 P400B, 2552 P401C, 2552 P402B, 2552 P403B, E001 and 20446-DR-C-0100-P9.

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

3 VISQ8 Samples of exterior materials to be app

4 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development and shall be provided in accordance with the approved details before the development is occupied.

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties. Insufficient details were submitted in the application. In order to preserve the visual appearance of York's Green Belt and to minimise the visual impact of the warehouse within the Green Belt.

5 Within three months of commencement of development a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include: the species, stock size, density (spacing), and position of trees, shrubs, hedging and other plants; a mix of 12no. tree species with a girth no less than 10cm to be planted along the southern boundary; and seed mixes, sowing rates and mowing regimes where applicable. It will also include details of ground preparation and tree planting details. The proposed tree planting shall be compatible with existing and proposed utilities. This scheme shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the substantial completion of the planting and 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, unless the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species and other landscape details across the site, since the landscape scheme, is integral to the amenity of the development and the surrounding views and landscape character.

6 Before the commencement of development a complete and detailed

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Arboricultural Method Statement regarding protection measures for existing trees shall be submitted to and approved in writing by the Local Planning Authority. Amongst other information, this statement shall include details and locations of protective fencing, a schedule of tree works if applicable, site rules and prohibitions, phasing of works, location of site compound including parking arrangements and locations for stored materials, types of construction machinery/vehicles to be used and means of moving materials around the site, locations and means of installing utilities, and implementation of landscape works. A copy of the document will be available for reference and inspection on site at all times.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development.

7 No part of the development shall be occupied until a Full Travel Plan has been submitted and approved in writing by the local planning authority. The Full Travel Plan should be developed and implemented in line with local and national guidelines taking into account the Interim Travel Plan, dated June 2021, and the subsequent first annual survey submitted. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of the approved Full Travel Plan.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly annual travel surveys carried out over period of 4 years from the first survey shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure that traffic flows from the site can be safely accommodated and to promote the usage of sustainable means of transport.

8 Prior to the commencement of the above ground works details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The storage and distribution building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

9 The storage and distribution building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

10 Prior to first occupation of the development 30 electric vehicle recharging Points shall be provided in a position and to a specification previously agreed in writing by the local planning authority. All charging points shall be located in a prominent position on the site and shall be for the exclusive use of zero emission vehicles.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy and the National Planning Policy Framework.

Notes: Electric Vehicle Charging Points should incorporate a suitably rated 32A 'IEC 62196' electrical socket to allow 'Mode 3' charging of an electric vehicle. The exact specification is subject to agreement in writing with the council. The location of charging points should be identified by parking bay marking and signage. All electrical circuits/installations shall comply with the electrical requirements in force at the time of installation.

11 The development shall be carried out to a BRE Environmental Assessment Method (BREEAM) standard of 'Excellent'. A post-construction stage assessment shall be carried out and a post-construction stage certificate shall be submitted to the Local Planning Authority prior to occupation of the building (or in the case of the certificate as soon as practical after occupation). Should the development fail to achieve a BREEAM standard of 'excellent' a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve 'excellent'. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: In the interests of achieving a sustainable development in accordance with the requirements of Policy CC2 of the Publication Draft Local Plan 2018.

12 No above ground works shall take place until details of the reduction in carbon emissions the development hereby approved would achieve when compared against Part L of the Building Regulations (the notional building) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The details shall demonstrate a reduction in carbon emissions of at least 28% through the provision of renewable or low carbon technologies or through energy efficiency measures when compared to the Target Emission Rate (calculated using Standard Assessment Procedure methodology as per Part L2A of the Building Regulations).

Reason: In the interests of sustainable design and in accordance with policies CC1 of the Publication Draft Local Plan 2018.

13 No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To ensure that breeding birds are protected from harm during construction. All British birds, their nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended.

14 The development shall be carried out in accordance with the great crested newt 'Reasonable Avoidance Measures' (RAMs) set-out in section 7.3.2 of the Ecological Impact Assessment dated March 2021 by MAB Environment and Ecology Ltd.

Reason: To limit to creation of suitable habitat on site for Great crested newts through construction works.

15 Prior to commencement of development a biodiversity enhancement plan/drawing shall be submitted to the local planning authority for approval in writing. The plan shall include, but not be limited to, the recommendations set out in the Ecological Impact Assessment dated March 2021 by MAB Environment and Ecology Ltd.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 175 d) of the NPPF (2019) to encourage the incorporation of biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity.

16 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be produced and submitted to the local planning authority for approval in writing. The report of the findings 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:
  - o human health,
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- o adjoining land,
- o groundwaters and surface waters,
- o ecological systems,
- o archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17 Prior to development, a detailed remediation scheme 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) shall be prepared and shall be subject to the approval in writing of the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall 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.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18 Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and submitted to the local planning authority for approval in writing.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

19 In the event that unexpected contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared and submitted to the local planning authority for approval in writing. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the local planning authority for approval in writing.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

20 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of the locality

21 Details of all external machinery, plant and equipment to be installed or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

22 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interest of satisfactory and sustainable drainage.

23 The development hereby approved shall be constructed in full accordance with the Drainage Strategy Plan numbered DR-C-0100 Revision P9 received 21 June 2021.

Reason: To ensure that the proposed development is properly drained

24 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The information shall include site specific details of:

- i) the foul water pumping station, the means of discharge and connection to existing private foul water drainage system which in turn connects to public foul sewer,
- ii) the surface water pumping station, the means by which the surface water discharge rate shall be restricted to a maximum rate of 4 (four) litres per second,
- iii) the attenuation tank, the means by which the surface water attenuation up to the 1 in 100 year event with a 30% climate change allowance shall be achieved, and
- iv) the future management and maintenance of the proposed drainage scheme.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

25 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

## **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:

- Requested additional information
- Requested revised plans
- Use of conditions

## 2. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

For vibration details should be provided on any activities which may results in excessive vibration, e.g. piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e. substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e. investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received and actions taken should be kept and details forwarded to the Local Authority every month during construction works by



email to the following addresses [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) and [planning.enforcement@york.gov.uk](mailto:planning.enforcement@york.gov.uk)

### 3. CONSENT TO DISCHARGE INTO A WATERCOURSE

Under the Board's Byelaws, the written consent of the Internal Drainage Board is required prior to any discharge, or increase in the rate of discharge, into any watercourse (directly or indirectly) within the Board's District.

i) The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.

ii) The applicant should be advised that the York Consortium of Internal Drainage Board's prior consent is required (outside the planning process) for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge to the watercourse will also require the Board's prior consent.

### 4. CONSENT FOR A NEW OUTFALL

Any new outfall to a watercourse requires the prior written consent of the Internal Drainage Board under the terms of the Land Drainage Act 1991 and should be constructed to the satisfaction of the Board.

### 5. HEDGEHOGS

The applicant is advised to consider using permeable fencing or leaving occasional gaps suitable to allow passage of hedgehogs. Any potential hibernation sites including log piles should be removed outside the hibernation period (which is between November and March inclusive) in order to avoid killing or injuring hedgehog.

Hedgehogs are of priority conservation concern and are a Species of Principal Importance under section 41 of the NERC Act (2006). An important factor in their recent population decline is that fencing and walls are becoming more secure, reducing their movements and the amount of land available to them. Small gaps of approximately 13x13cm can be left at the base of fencing to allow hedgehogs to pass through. Habitat enhancement for hedgehogs can easily be incorporated into developments, for example through provision of purpose-built hedgehog shelters or log piles.

<https://www.britishhedgehogs.org.uk/wp-content/uploads/2019/05/developers-1.pdf>

### 6. NESTING BIRDS

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any

wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

**Contact details:**

**Case Officer:** Kevin O'Connell

**Tel No:** 01904 552830