

COMMITTEE REPORT

Date: 16 August 2023 **Ward:** Rural West York
Team: West Area **Parish:** Parish Of Rufforth With Knapton

Reference: 22/02605/FUL
Application at: Land And Buildings Lying To The North West Of Moor Lane And Forming Part Of Oakwood Farm Northfield Lane Upper Poppleton York
For: Change of use of 3no. existing agricultural buildings to use classes B2, B8 and E(g) to include; lighting, amendments to external materials and fenestration and additional hard standing to create new service yards, parking and access. Extension of Cropton Road to provide access to development from Northminster Business Park.
By: Mr Alastair Gill
Application Type: Full Application
Target Date: 21 August 2023
Recommendation: Approve after referral to Sec. of State

1.0 PROPOSAL

1.1. The application site is a parcel of land (0.9 hectares in size) located to the southeast of the DPD warehouse on Northminster Business Park (an employment site located to the northwest of York City Centre). The site currently hosts 3 agricultural buildings. Access to the site is currently taken from Moor Lane to the south of the site which is a narrow single track lane. Moor Lane is also a designated Public Right of Way. The site is a draft employment allocation (ST19) within the Draft City of York Local Plan, however, until the Plan is adopted the site should be regarded as being within the general extent of the Green Belt.

1.2. Planning permission is sought to change of use of 3 existing agricultural buildings to use classes B2 (general industrial), B8 (storage and distribution) and E(g) (uses which can be carried out in a residential area without detriment to its amenity including offices, research and development or industrial processes). The existing buildings are constructed in a mixture of materials including; metal profile sheeting, pre cast concrete boards, brickwork with large metal grey door openings on the front elevation. The existing buildings were granted permission in 2010, 2004 and 2001 respectively.

1.3. The proposal also includes lighting, amendments to the external materials of the building, including fenestration and additional hard standing to create new service yards, parking and access. The size of the units are to remain the same however each unit is to be partially clad with metal profiled sheeting in grey over the existing pre-cast concrete boards. A new pedestrian grey door is proposed on the front elevation of each unit. There are no changes to the roof. The proposal also seeks the extension of Cropton Road (to the north) to provide access to the development from Northminster Business Park.

1.4. New service areas and yards are proposed alongside 29 car parking spaces (including 3 disabled, 3 visitor and 3 EV charging points) and 24 associated cycle parking spaces. It is proposed that 3 trees are removed to facilitate the development as they are situated in the middle of the existing service yard which is required for the manoeuvring and access of vehicles. A landscape plan has been submitted which includes details of proposed native tree and hedge planting on the site.

1.5. The application was made valid on 17th January 2023. During the course of the application the following additional information has been received; Noise Impact Assessment (2nd June 2023), Revised Site Plan and Roof Plan (12th April 2023), letter from a Planning Agent employed by the Applicant (12th April 2023), updated Drainage Strategy (16th March 2023), Proposed Earthworks and Volumes (15th February 2023) and Lighting Plans (3rd February 2023). An extension of time has been agreed with the Agent until 21st August 2023.

1.6. The application is presented to Planning Committee as the proposal is for non-residential development (including changes of use) of between 1,000 and 3,000m². The application was also called in by Councillor Hook, however this request was received outside of the timeframe for call-in's.

1.7. The following planning history is of note:

10/02097/FUL - General Purpose Agricultural Building. Application permitted: 01.12.2010.

08/00501/FUL - Erection of 1 no. agricultural building. Application refused. Appeal dismissed: 30.40.2009 (green belt harm).

07/00313/FUL - 3 No. polytunnels (Retrospective). Application permitted: 03.08.2007.

04/00432/FUL - Erection of general purpose agricultural building. Application permitted: 26.04.2004.

01/02448/AGNOT - Erection of agricultural building. No objections from LPA: 29.10.2001.

2.0 POLICY CONTEXT

NATIONAL PLANNING POLICY FRAMEWORK

2.1. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. The NPPF is a material consideration in the determination of planning applications. Key chapters and sections of the NPPF relevant to this application are as following:

- Achieving sustainable development (chapter 2)
- Decision-making (chapter 4)
- Building a strong, competitive economy (chapter 6)
- Making effective use of land (chapter 11)
- Achieving well designed places (chapter 12)
- Protecting Green Belt land (chapter 13)
- Conserving the natural environment (chapter 15)

NEIGHBOURHOOD PLANS

2.2. The buildings lie within the Rufforth with Knapton Neighbourhood Plan area, however the wider business park (and its access) lie within the Poppleton Neighbourhood Plan area.

RUFFORTH WITH KNAPTON NEIGHBOURHOOD PLAN

2.3. The Rufforth with Knapton Neighbourhood Plan was adopted on 20th December 2018. Full weight is given to policies within this plan. The relevant policies are:

- Rwk 01 Draft Green Belt
- Rwk 04 Biodiversity
- Rwk 05 Footpaths and Cycle Ways
- Rwk 06 Traffic Management
- Rwk 09 Drainage
- Rwk 10 Design

- Rwk 14 Re-use of Buildings
- Rwk 16 Small Scale Commercial Enterprises

UPPER AND NETHER POPPLETON NEIGHBOURHOOD PLAN

2.4. The Upper and Nether Poppleton Neighbourhood Plan was adopted on 19th October 2017. Full weight is given to policies within this plan, in so far as they relate to the Business Park (which is within the Plan area). The relevant policy is:

- PNP 7 Business and Employment

PUBLICATION DRAFT LOCAL PLAN (2018)

2.5. The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in late 2023. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF. The weight afforded to the Draft Policies which are relevant to the determination of this application is detailed in the assessment section of this report.

2.6. The following policies are relevant;

- SS23 – Land at Northminster Business Park
- EC1 – Provision of Employment Land
- D1 – Placemaking
- D2 – Landscape and Setting
- D11 – Extensions and Alterations to Existing Buildings
- GI2 – Biodiversity and Access to Nature
- GI4 - Trees and Hedgerows
- GB1 – Development in the Green Belt
- CC2 – Sustainable Design and Construction of New Development
- ENV2 – Managing Environmental Quality
- ENV3 – Land Contamination
- ENV5 – Sustainable Drainage
- WM1 – Sustainable Waste Management
- T1 – Sustainable Access
- T7 – Minimising and Accommodating Generated Trips
- T8 – Demand Management

3.0 CONSULTATIONS

3.1. The application has been advertised via Site Notice and neighbour notification letters.

INTERNAL CONSULTATIONS

CYC Carbon Reduction

3.2. Recommend a condition to achieve BREEAM 'excellent'.

CYC Ecology

3.3. No objections but recommends a biodiversity net gain condition and Construction Environment Management Plan (CEMP) condition.

CYC Flood Risk Management Team

3.4. 20th March 2023 – in relation to the drainage strategy (revision 6), the previous conditions recommended (10th March) need to be updated.

CYC Highways

3.5. Comments as follows:

- a) Cycle parking must comply with LTN1/20 (Cycle Infrastructure Guidance published by the Department for Transport). For B2/B8 use, this guidance requires 1 short stay cycle parking space per 1000m² and 1 long stay cycle parking space per 500m². For office use, this requires 1 short stay cycle parking space per 1000m² and 1 long stay cycle parking space per 200m².
- b) The applicant should encourage the staff to use the Park and Ride.
- c) Recommends standard highway conditions in relation to the internal road layout, vehicle surfacing and cycle parking and conditions relating to a method of works statement and submission of a travel plan.

CYC Public Protection

3.6. 15th June 2023 – no objections in principle but concerns re noise and re-iterate original comments and would still advise previous conditions from response dated 28th March 2023.

CYC Strategic Planning Policy

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3.7. Pre the local plan's adoption the application should be determined in the context of the NPPF paragraph 150 (Green Belt). The site lies within the area covered by employment allocation ST19 in the Publication Draft Local Plan. However, until the Local Plan is adopted, it should be regarded as being within the extent of the York Green Belt.

CYC Waste

3.8. CYC Waste Collections do not have a remit to collect commercial waste from developments of this nature, ie industrial units.

3.9. Waste should be stored within the boundaries of the property at all times and collected from within the boundaries of the site. Bin storage areas should have regard to the impact of noise and smell on the occupants of neighbouring properties, both existing and proposed. Bin storage areas should be contained within a suitable enclosure to prevent nuisance from the spread of waste, odour or noise and must be suitably designed to prevent entry by vermin.

CYC Archaeology

3.10. Does not wish to impose an archaeological condition on this application should it be approved. The results of archaeological investigation for larger schemes surrounding this site have largely proved negative despite the potential and important findings in the area generally. Given the scale of the scheme it is unlikely that the proposal will impact upon significant archaeological deposits or features.

EXTERNAL CONSULTATIONS

Ainsty Internal Drainage Board

3.11 20th March 2023 – Board is responding on the basis of the drainage strategy (P6 by Topping Engineers dated 16th March 2023). Board recommends that the drainage strategy is conditioned alongside the discharge rate for surface water. Recommend informatives.

Rufforth with Knapton Parish Council

3.12 Do not object in principle. In this case, on balance the Parish Council believes the criteria for policy Rwk 16 to be met but have some major concerns;

- a) The land surrounding the buildings in question is in the Green Belt in the emerging York Local plan and in the Neighbourhood Plan. If change of use is granted it must not create a precedent which allows the encroachment of Northminster Business Park on to this green belt land.
- b) Any further extension of the buildings under permitted development should not be allowed and a condition should be imposed if approval is granted.
- c) We are concerned about the intrusive nature of any proposed lighting. The extremely bright lighting of the adjacent DPD building is already causing problems to residents and any lighting agreed in this case must be commensurate with a rural environment and minimize harm to the Green Belt
- d) Any renovation of the buildings should ensure that the outlook when viewed across the green belt land is not changed.

Upper Poppleton Parish Council

3.13 Object on the following grounds;

- a) Change of use will generate additional traffic on Northfield Lane. Existing development detrimentally impacted neighbouring amenity. Must be a condition that all employees and visitors must use Park and Ride or walk and cycle to the buildings or an alternate access provided.
- b) Change of use is not in line with current or future government policy on Green Belt land.
- c) Change of use does not take into account either the Upper and Nether Poppleton or the Rufforth with Knapton Neighbourhood Plans policies on preserving the Green Belt.
- d) Local Plan is still draft and been modified many times. Irreversible changes to Green Belt shall not be made on the basis of an unconfirmed Local Plan.

Yorkshire Water

3.14 6th February 2023 – the drainage plan (revision P2) requires amendments but if permission is granted recommend two conditions. The first recommended condition is that no surface water is to be discharged until the surface water drainage scheme is completed. The second recommended condition is that no development shall take place until details of the proposed means of disposal of foul water drainage is submitted and approved by the Local Planning Authority.

4.0 REPRESENTATIONS

Application Reference Number: 22/02605/FUL

Item No: 4c

4.1. The application was advertised via neighbour notification and site notices. The deadline for comments was 17th February 2023. A letter of objection was received which was signed by 11 objectors on Northfield Lane. The following concerns were raised;

- Buildings are within the Nether Poppleton's Parish Council area, the access road and the main issues lie within Upper Poppleton Parish Council's area and they should be consulted.
- Accept that the change of use for existing buildings is a legitimate development within the Green Belt but object to the creeping expansion of Northminster Business Park on the grounds of noise disturbance from yet more traffic past our homes on Northfield Lane.
- New development should wait until a new access road is built.
- The Council wrongly allowed the development of DPD depot which has led to increase in traffic, noise concerns and deteriorating road surface.
- Loss of wildlife.
- Lighting impacts.
- Northfield Lane no longer safe.
- Poppleton Neighbourhood Plan states no further development should take place on Northfield Lane outside existing boundaries.
- No further expansion until access road is moved away from residential homes.

4.2. One letter of support was received on the following grounds;

- Impossible to farm from the bridleway on which there is a right of access (due to existing parked vehicles).
- Alternative use for the 3 buildings are required.
- Bring employment into the area
- Bridleway will revert back to being a bridleway.

4.3. Comments were received from Councillor Hook on the following grounds;

- The transport plan states the Number 10. Bus as a 20 minute service. This is now approximately 45 minute intervals.
- The Harrogate-York Northern Rail Service is now a 30 minute service each way during the day (2 hourly in the evenings).
- Northminster Business Park was originally intended to operate only during normal working hours.

- Several planning applications have been allowed to go ahead with 24/7 operation which is causing great distress to nearby residents (large vehicles).
- Would like an operating hours condition restricted to the original operating hours for Northminster Business Park
- A lit and very visible sign to be placed on Northfield Lane immediately after the turning to say that no vehicles above the tonnage needed to service the small business park on the other side of Northfield Lane to pass that point.

5.0 APPRAISAL

5.1. The key issues are as follows:

- Principle of New Uses (B2, B8 and E(g))
- Green Belt
- Design, Appearance and Landscaping
- Traffic, Access and Parking
- Public Right of Way
- Drainage
- Ecology
- Trees
- Sustainability
- Waste
- Contamination
- Very Special Circumstances
- Prematurity
- Public Sector Equality Duty

PRINCIPLE OF NEW USES (B2, B8 and E(g))

Policy

5.2. Paragraph 84(a) of the NPPF states planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.

5.3. Policy Rwk 16 of the Rufforth with Knapton Neighbourhood Plan states proposals for agricultural development and the change of use of existing buildings for employment generating development (Classes B1/B2/B8) will be supported subject to meeting a number of criteria including that the proposed use should

provide opportunities that meet local employment needs and be of a scale and type commensurate with a rural environment.

5.4. Policy EC1 of the Draft Local Plan (2018) as modified states provision for a range of employment uses will be made on Land at Northminster Business Park (ST19). The suitable uses on this site are light industrial (use class E), industrial (use class B2) and storage and distribution (B8). The site is suitable for an element of office (use class E) in line with policy SS23.

5.5. Policy SS23 of the Draft Local Plan (2018) (as amended in the main modifications March 2023) states Land at Northminster Business Park (ST19) will provide 49,500m² of Use Class E office, research and development, light industrial uses, industrial (use class B2) and storage/distribution (use class B8) based on a split of approximately 40/60 office (use class E) to light industrial (use class E/B2/B8) which is the current ratio at the existing business park.

Assessment

5.6. The proposed uses (B2, B8 and E(g)) are compliant with the general aspirations for the proposed allocated site and as such can be supported. The proposal is in a sustainable location and would provide significant employment opportunities within the locality. The proposal is considered to meet the adopted policy RwK 16 of the Rufforth with Knapton Neighbourhood Plan and the requirements of draft policy SS23 of the Draft Local Plan (2018) which can be given moderate weight, in so far as it relates to the principle of the new uses.

5.7. GREEN BELT

Policy

5.8. Policy RwK 01 of the Rufforth with Knapton Neighbourhood Plan states: within the general extent of the Green Belt inappropriate development will not be supported except in very special circumstances. New buildings are regarded as inappropriate development and will not be supported other than in the circumstances identified in paragraph 89 of the National Planning Policy Framework (now paragraph 149 of the NPPF).

5.9. Development for the extension or alteration of a building is appropriate provided that it does not result in disproportionate additions over and above the size of the original building (paragraph 149c of the NPPF).

5.10. The re-use of buildings can be supported provided that the buildings are of permanent and substantial construction and that they preserve the openness of the general extent of the Green Belt and do not conflict with the purposes of including land in the Green Belt (paragraph 150 of the NPPF and policy RwK 01 of the Rufforth with Knapton Neighbourhood Plan)

5.11. Policy GB1 of the Draft Local Plan (2018 – as modified) which supports the above is given very limited weight at the present time due to the extent of the proposed change within the modifications.

5.12. Policy RwK 14 of the Rufforth with Knapton Neighbourhood Plan relates to the re-use of buildings. Outside defined settlement limits planning permission for the re-use of buildings within the Green Belt will be supported provided:

- The re-use does not have a materially greater impact than the present use on the openness of the Green Belt.
- The buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction.
- The proposed re-use will generally take place within the fabric of the existing building and will not require extensive alteration, rebuilding or extension.
- The form, bulk and general design of the buildings are in keeping with their surroundings and sympathetic to the character of the building.
- Any residential buildings are not in close proximity to intensive livestock units or other uses that may result in a poor level of amenity for the occupier of the building.
- There is already a clearly defined curtilage.

Assessment

5.13. In line with the decision of the *Court in Wedgewood v City of York Council [2020] EWHC 780 (Admin)*, and in advance of the adoption of a City of York Local Plan, decisions on whether to treat land as falling within the Green Belt for development management purposes should take into account the Yorkshire and Humber Regional Spatial Strategy ("RSS") and may have regard to the emerging Local Plan (2018), insofar as can be considered against paragraph 48 of the NPPF (2021). Site specific features must also be considered.

5.14. The Wedgewood judgement explains that regard may be given to the draft Local Plan (April 2005) (DCLP). Only very little weight should be attached to the Green Belt proposals contained within it and its related evidence, which are superseded by the 2018 Local Plan that is now at an advanced stage in the examination process, with the examination hearing sessions having taken place in

December 2019 (Phase 1) and May –September 2022 (Phases 2, 3 & 4). The consultation period has recently concluded on the Main Modifications.

5.15. Retained parts of the RSS (saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013) are the only formally adopted policies or plans that relate to York's Green Belt. These policies are YH9(C) and Y1(C1 and C2). They state that the detailed inner and rest of the outer boundaries of the Green Belt around York (described as being 'about 6 miles' from the city centre) 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. It is the role of the new Local Plan to define the detailed boundaries of land within the Green Belt following assessment and interpretation of Green Belt purposes in the context of York.

5.16. The existing agricultural units currently lie within the boundary of the proposed employment allocation (ST19) in the emerging Local Plan, which is proposed to be excluded from Green Belt. However, there are unresolved objections to this aspect of the Plan, including one from Historic England to Policy SS23 (Land at Northminster Business Park) and therefore only limited weight can be attached to the Green Belt boundaries in accordance with paragraph 48 of NPPF 2021.

5.17. Policy SS23 (Land at Northminster Business Park) sets the criteria for developing the ST19 allocation, which is proposed to provide 49,000sqm of B1, B2/B8 uses (now Class E office, research and development light industrial uses, B2 & B8 uses in the current Use Classes Order – as amended by Main Modification MM3.79, in the Proposed Main Modifications consultation document), helping to meet the City's employment needs, and develop a comprehensive scheme which is linked to the existing business park. Consideration has been given to the impact the proposed development would have on the redevelopment of the whole of the ST19 allocation site in the future, and it is concluded that it would not compromise the site coming forward as there are a number of access points / spur roads to allow development to take place around the existing 3 buildings in the future.

5.18. In the Council's Topic Paper 1 – Approach to Defining York's Green Belt Addendum (EX/CYC/59f), Northminster Business Park is excluded from Green Belt as a densely developed area exhibiting a low degree of openness which does not contribute to the openness of Green Belt. The Addendum states that in terms of safeguarding the countryside from encroachment, the land to the south of the existing business park, which includes the site of the 3 agricultural buildings, functions as part of the countryside and the openness, views and accessibility contributes positively to the character of the countryside. However,

there is potential for some development to the south of the business park which would have limited impact on purpose 4 and would be contained by Moor Lane. Any development would need to ensure retention or creation of appropriate landscaping, wherein views towards the business park would not be detrimental as experienced from the A1237.

5.19. In light of the above assessment, it is considered that the site performs a green belt function and should be regarded as being within the general extent of the York Green Belt for the purposes of determining a planning application ahead of the Local Plan's adoption.

5.20. In this case, the proposal seeks a change of use of 3 existing buildings, which involves small external alterations in association with their new use, within an existing defined curtilage. The external alterations to the buildings are minor and does not result in any extensions to the building. This element is considered appropriate in the Green Belt and would fall under paragraph 149c of the NPPF. In terms of the re-use of the buildings, in line with policy RwK 01 and RwK 14 of the Rufforth with Knapton Neighbourhood Plan, paragraph 150 of the NPPF and policy GB1 of the Draft Local Plan, it must first be demonstrated that the buildings are of permanent and substantial construction to allow their re-use.

5.21. A letter has been provided by Topping Engineers dated 21st March 2023. The report states a visual structural inspection has been carried out on the buildings and confirms the buildings are permanent, modern portal framed structures on permanent foundations with substantial concrete floor slabs, very limited structural defects or issues and can be justified to be compliant with current regulations. The buildings have services and there is no evidence to suggest the buildings are temporary structures. The buildings can be converted into commercial spaces. It is therefore concluded that they can be classed as permanent and substantial buildings with no major extensions or alterations proposed.

5.22. Paragraph 150 of the NPPF, RwK 01 of the Rufforth with Knapton Neighbourhood Plan and policy GB1 of the Draft Local Plan (2018) states the development must preserve the openness of the general extent of the Green Belt and should not conflict with the purposes of including land in the Green Belt. In this case, the proposal is a change of use with no new physical structures, therefore the impact of the buildings on the wider Green Belt will be no greater than the existing arrangement. The change of use and re-use of the buildings therefore meets paragraph 150 of the NPPF, policy RwK 01 of the Rufforth with Knapton Neighbourhood Plan and policy GB1 of the Draft Local Plan.

5.23. In order to facilitate the change of use, the proposal also seeks to install lighting, hardstanding (for car parks and service yards) and a new access road from Cropton Road. These elements are not considered to fall within the exceptions listed in paragraph 149 or 150 of the NPPF, policy RwK 01 of the Rufforth with Knapton Neighbourhood Plan or policy GB1 of the Draft Local Plan (2018). As such these elements are classed as inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Additionally the provisions of these features will allow for increased activity and presence on the site which will ultimately change the character of the site from a small scale agricultural operation to a commercial site with potentially different businesses operating each unit, this is in conflict with part a of Policy RwK 14 of the Rufforth with Knapton Neighbourhood Plan (which seeks to ensure the new use does not have a materially greater impact on the Green Belt than the existing use). The increased vehicle movements, lighting and provision for car parking is considered to lead to harm to the openness of the Green Belt, both spatially and visually. It would fail to assist the countryside from encroachment (purpose C – paragraph 138 of the NPPF).

5.24. To conclude on Green Belt matters, the change of use, external alterations and re-use of the buildings is considered appropriate development in the Green Belt and meets paragraph 149c and 150 of the NPPF, policy RwK 01 of the Rufforth with Knapton Neighbourhood Plan and policy GB1 of the Draft Local Plan. However, the associated additions to the site (lighting, hardstanding (for car parks and service yards) and a new access road from Cropton Road) are considered inappropriate development in the Green Belt which is by definition harmful. In line with paragraph 148 of the NPPF very special circumstances would need to be demonstrated which would outweigh the harm identified to the Green Belt and any other harm resulting from the proposal. Whether Very Special Circumstances exist to justify this inappropriate development in the Green Belt are explored at the end of the report when all the key issues have been assessed and determined whether any other harm as a result of the proposed development has been identified.

DESIGN, APPEARANCE AND LANDSCAPING

Policy

5.25. Planning decisions should ensure developments will function well and add to the overall quality of the area (paragraph 130 of the NPPF). This is supported by Policy D1 of the Draft Local Plan (2018) which seeks to ensure the density, massing and design of development respects the local character and its setting. Landscaping is covered within policy D2 of the Draft Local Plan (2018) and this seeks to ensure

high quality hard and soft landscaping including suitable lighting. Alterations to existing buildings is covered within policy D11 of the Draft Local Plan (2018) and this ensures design responds positively to its context, whilst ensuring neighbouring amenity is protected.

5.26. Policy RwK 10 of the Rufforth with Knapton Neighbourhood Plan states development proposals must demonstrate high quality design, form and layout that respects the distinctive character of the Parish having regard to scale, density, massing height landscape, materials and access as appropriate. Proposals should have regard to the design principles set out in the Rufforth Village Design Statement and Knapton Village Design Statement. Policy RwK 14 and policy Rwk 16 of the Rufforth with Knapton Neighbourhood Plan states the re-use of buildings must ensure the form, bulk and general design of the buildings are in keeping with their surroundings and sympathetic to the character of the building.

5.27. Policy SS23 of the Draft Local Plan (2018) states development of the strategic site must provide a high quality landscape scheme in order, as appropriate, either to mitigate impacts and screen the development and/or to provide an appropriate relationship with the surrounding landscape. Attention should be given to the site's relationship with the countryside to the west of the site, to the southern boundary of the site, with Moor Lane (bridleway) and the village of Knapton.

Assessment

5.28. External alterations are required to the buildings which include access doors, fenestration and additional cladding on some parts of the buildings. The cladding will be metal profiled sheeting in a grey colour, with some brickwork panels and plinth. There are no alterations to the size of the buildings. The overall appearance will assimilate with existing units on Northminster Business Park and as such their appearance will respect the existing commercial setting to the North and intended proposed wider use of the employment site in the future.

5.29. Hardstanding (for car parking) and the new road would be suitable for its use as an employment site. Soft landscaping includes a new native hedge mix on the western and southern boundaries with a beech hedge to the north. The existing boundary hedge to the east is to be maintained. Small parcels of soft landscaping are proposed within the service yards by way of shrub beds and specimen trees. A meadow mix is proposed to the south eastern portion of the site. The landscaping will enhance and soften the appearance of the commercial site and can be supported. Hard boundary treatments such as fences, gates and walls have not been shown therefore a condition is recommended to approve these details before

installed, in the interests of the surrounding landscape character. Whilst the landscaping can be supported, the planting is in conflict with the drainage plan, which requires 3 metre easements from the culvert and watercourse (hatched yellow on the drainage plan). As such an updated landscaping plan is required pre-commencement of the development to ensure that the proposed development accords with adopted Neighbourhood Plan Policy RwK10 and Draft Local Plan Policy SS23, which can be afforded moderate weight. It is recommended that this matter is conditioned.

ACCESS, TRAFFIC AND PARKING

Policy

5.30. Policy RwK 06 of the Rufforth with Knapton Neighbourhood Plan states development will be supported where its generated traffic movements do not result in severe direct or cumulative impact on congestion, or road and pedestrian safety, specifically in the village of Rufforth. Policy Rwk 16 of the Rufforth with Knapton Neighbourhood Plan states the change of use of buildings can be supported subject to ensuring there is no significant adverse impact of traffic movement, with regard to HGVs, or on road or pedestrian safety.

5.31. Policy T1 of the Draft Local Plan (2018) requires safe and appropriate access, layout and parking arrangements (including cycle storage). Development will be supported where it is in compliance with the Council's up to date parking standards (policy T8). Policy T7 of the Draft Local Plan (2018) states development proposals that can be reasonably expected to have a significant impact on the transport network must be supported by a Transport Statement (TS) or by a Transport Assessment (TA) and Travel Plan (TP), as appropriate, depending on the scope and scale of the development.

5.32. Policy PNP 7 of the Poppleton Neighbourhood Plan states proposals for new business development on established business parks in the Plan Area will be supported where they provide car parking for staff and customers to the City of York Council standards at the time of the determination of the application.

5.33. Policy SS23 of the Draft Local Plan (2018) states the allocated site is in a sustainable location and all transport issues should be addressed including the optimisation of connectivity to sustainable modes of transport into, out of and through the site.

Assessment

5.34. The development proposes a new road to link to Cropton Road (to the north of the site) allowing vehicular and pedestrian access to the site from the wider business park. The new road runs north-south at approximately 50 metres in length and allows for two way access. Service areas and yards are proposed alongside 29 car parking spaces (including 3 disabled, 3 visitor and 3 EV charging points) and 24 associated cycle parking spaces. The existing access to the 3 existing buildings is via Moor Lane which is a single track road and a PROW. As such Moor Lane is not fit for purpose for accessing the proposed use.

5.35. The Highways Officer states the cycle parking must meet LTN1/20 (Cycle Infrastructure Guidance published by the Department for Transport) For B2/B8 use, this requires 1 short stay cycle parking space per 1000m² and 1 long stay cycle parking space per 500m². For office use, this requires 1 short stay cycle parking space per 1000m² and 1 long stay cycle parking space per 200m². The total floorspace proposed is 1931m². As such the Council require at least 4 short stay spaces and 14 long stay spaces. The site plan and accompanying documents state 24 cycle parking spaces are to be provided which exceeds the guidance and can be supported. However, the site plan is not detailed enough to show how 24 bikes will comfortably park within the Sheffield stands and no scaled elevations have been provided of the structures. As such a condition is recommended to request these further details. The Highways Officer has no objections to the proposal however recommends five conditions relating to vehicle surfacing, internal road layout, cycle parking details, method of works statement and a travel plan). These have been added with a slight alteration to the Travel Plan condition which is explained below.

5.36. The business park is not served by public transport. The nearest bus services are at Poppleton Park & Ride (approximately 900 metres from the Site) and the A59 (approximately 1100 metres from the Site). The nearest train service is at Poppleton station (approximately 2000 metres from the Site). These distances all exceed recommended distances for accessing public transport (Planning for Walking (March 2015); Guidelines for Providing Journeys on Foot (2000) and Buses in Urban Developments Jan 2018 CIHT publication). 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 and draft site allocation.

5.37. The application is accompanied by a Travel Statement and a Travel Plan. The Statement concludes the change in trip generation by the site in the morning and evening peak hours is equivalent to broadly a new trip every five minutes in both AM and PM peak hours. Given that the trip generation associated with the proposals is

significantly less than 30 two-way movements in both the morning and evening peak, the accompanying Transport Statement does not consider that the proposed change of use will have a material impact on the highway network and the Council would agree with this assessment for this application.

5.38. The application is accompanied by a Travel Plan (produced by Bryan G Hall) which sets out a number of measures to reduce car dependency and promote sustainable travel methods including transport advice at interview, travel boards, up to date public transport timetables, car sharing and the provision of cycle spaces. The plan is considered acceptable for the scale of development proposed. The condition requested by the Highways Officer for a travel plan is not required given that a Travel Plan has already been provided. The measures set out within the Travel Plan are conditioned alongside annual surveys and a review of the targets. Public Protection suggest a condition with regards to EV charging points, however this has not been added as charging points are covered within the updated building regulations (Part S).

5.39. It is considered that the proposed development is acceptable on highway grounds, subject to the provision of the new vehicular access and conditions relating to vehicle surfacing, internal road layout, cycle parking details and method of works statement. As such the proposed development complies with Neighbourhood Plan Policies RwK 6, RwK 16, PNP 7 (which can be afforded full weight) and Draft Local Plan Policies T1 and T7 which can be afforded moderate weight.

PUBLIC RIGHT OF WAY

Policy

5.40. Policy RwK 05 of the Rufforth with Knapton Neighbourhood Plan states development proposals that result in the loss of, or have a significant adverse effect on, the network of footpaths and bridleways will not be supported. Policy T1 of the Draft Local Plan (2018) states development must provide safe and appropriate links via the public right of way network.

Assessment

5.41. Currently the site is accessed off Moor Lane, which is a single track lane and also a Public Right of Way (PROW). The use of a single track lane and PROW for the traffic generated by this type of development would be unacceptable in terms of safety and amenity of the PROW. As such this access is to be closed off to

motorised vehicles and this can be secured by condition. It is envisaged pedestrians and cyclists however will still use the PROW network to access the site. The new access proposed from Cropton Road will provide vehicular access. The PROW is considered to be safeguarded as a result of the development in line with with requirements of Neighbourhood Plan Policy Rwk 05.

DRAINAGE

Policy

5.42. Policy Rwk 09 of the Rufforth with Knapton Neighbourhood Plan states all new development should be designed to maximise retention of surface water on the development site and to minimise 'run off'. Effective measures must be taken to ensure that such developments do not exert additional pressure on surface water and sewerage systems that are already at capacity. Rwk Policy 16 of the Rufforth with Knapton Neighbourhood Plan states change of use must ensure there are no significant adverse impacts on drainage. This is supported by policy ENV5 of the Draft Local Plan (2018) which emphasises the need for Sustainable Drainage Systems (SuDS) in new development.

5.43. Existing land drainage systems should not suffer any detriment as a result of development. Landscaping should be designed to reduce surface water flooding and to enhance local biodiversity. Areas of hardstanding such as driveways and parking areas should be minimised and porous materials used.

Assessment

5.44. The site is located in Flood Zone 1 with a low risk from flooding. In accordance with the SuDs guidance, the first point of discharge for surface water is soakaways, however these were not considered viable as witnessed by the CYC Flood Risk Engineer. Instead, the central watercourse is to be infilled (riparian maintained watercourse). A culverted compensatory storage area is proposed (900 diameter pipe around the site). The IDB agree to this in principle, however their formal consent for this is required outside of the planning process.

5.45. The applicant is proposing to discharge into the eastern watercourse which ultimately discharges into the Board maintained watercourse Knapton Moor Dyke. The applicant is responsible for ensuring the eastern watercourse is free flowing prior to any discharge. The discharge rate has been agreed with the IDB at 13.4 litres per second via a flow control device, and the CYC Flood Risk Engineer concurs with this agreement. The IDB and the CYC Flood Risk Engineer wish to

condition the updated drainage plan (revision P6) and this condition has been added. The IDB also request two additional conditions with regards to 3 metre strips from the culverts and watercourse to allow for maintenance, these conditions have also been added.

5.46. Foul water from the site will be pumped into the private onsite foul water system, which in turn connects to the public sewers. Yorkshire Water recommend a condition in this respect which has been added.

5.47. It is considered that the proposed surface water drainage or foul water drainage is acceptable subject to conditions recommended by the CYC Flood Risk Engineer, the IDB and Yorkshire Water, and complies with the requirements of Neighbourhood Plan Policy RwK 09 and RwK 16.

IMPACT ON NEIGHBOURING AMENITY

Policy

5.48. Policy ENV2 of the Draft Local Plan (2018) states development will not be permitted where future occupiers and existing communities would be subject to significant adverse environmental impacts such as noise, vibration, odour, fumes/emissions, dust and light pollution without effective mitigation measures.

5.49. Policy RwK 14 of the Rufforth with Knapton Neighbourhood Plan states that the re-use of buildings must ensure that any residential buildings are not in close proximity to uses that may result in a poor level of amenity for the occupier of the building. Policy RwK 16 of the Rufforth with Knapton Neighbourhood Plan states there must be no significant increase in air or noise pollution.

Assessment

5.50. The nearest residential dwellings are over 500 metres to the east on Northfield Lane. The site does not lie within an air quality management area. Noise is likely to arise from the proposed plant, machinery and vehicle movements.

5.51. To reduce the number of vehicles accessing the site from Moor Lane (which involves driving past residential dwellings 1-6 Northfield Lane), the vehicular access from Moor Lane is to be closed and a new access created north of the Site from Cropton Road. This element is conditioned.

5.52. A Noise Impact Assessment (NIA) by Dragonfly Consulting was submitted on 2nd June 2023. As no current occupiers are proposed, the NIA assumes the building services plant can operate 24 hours per day on a demand basis. The NIA clarifies that given the size of the units, it is not expected that more than one HGV will be onsite at each unit at any one time, resulting in around 3 HGV movements an hour at a maximum capacity. For the purposes of the NIA a base line of 8 HGV's travelling in and out of the site in any 1 hour period during the day and a maximum of 2 HGV's travelling in and out of the site in one 15 minute period during the night has been used. The NIA states this is a generous allowance given the size of the buildings and time associated with loading/unloading. The NIA concludes that the cumulative noise contributions from HGV noise accessing the application site, both daytime and night-time, is not significant and will not cause an adverse impact on the amenity of the neighbouring residents.

5.53. The Public Protection Officer recommends that a further NIA be completed once the uses for each unit have been decided. However this condition has not been added as it is considered that the NIA submitted has carried out a worst-case scenario for the buildings and has demonstrated that the impact will not have an adverse impact on the amenity of the neighbouring residents.

5.54. The application is accompanied by a lighting plan and assessment which has been reviewed by the Council's Public Protection Team. They consider that the proposed lighting is acceptable. A compliance condition is recommended to ensure the lighting conforms to the E2 environmental zone as specified in the Light Professionals Guidance Notes for the Reduction in Obtrusive Lighting. This condition has been added.

5.55. In view of the above, it is considered that the proposed development would not have an adverse impact on the amenity of the neighbouring residents in accordance with the guidance at paragraph 130 of the NPPF and Neighbourhood Plan Policies Rwk 14 and Rwk 16.

ECOLOGY

Policy

5.56. Policy Rwk 04 of the Rufforth with Knapton Neighbourhood Plan states development proposals that conserve or enhance wildlife, wild flowers, hedgerows and trees will be supported. This is supported by chapter 15 of the NPPF which seeks to protect and enhance biodiversity. Policy GI2 of the Draft Local Plan (2018) states development should result in biodiversity net gain.

Assessment

5.57. A Preliminary Ecological Appraisal has been submitted with the application by Wold Ecology, dated December 2022. The Appraisal states the habitats within the application site are centred around 3 steel portal barns and include scrub, semi-improved grassland, bare ground and a defunct ditch interspersed with several scattered trees located in a rural location. No invasive species were recorded on site and no further surveys were recommended. The site is suitable for nesting birds therefore vegetation removal should be cleared outside of the bird nesting season.

5.58. Ecological enhancements have been recommended in the Preliminary Ecological Appraisal with the aim of providing biodiversity net gain post construction. These features include:

- Bat boxes
- Bird boxes
- Hedgehog enhancements
- Native planting

5.59. The Council's Ecologist recommends the applicant continues to work with a suitably qualified ecologist to ensure the enhancements are included within the final design. To secure this biodiversity gain a condition is recommended. Subject to the inclusion of this condition it is considered that the proposed development would provide ecological enhancements to the site and comply with the requirements of Neighbourhood Plan Policy RwK 04.

TREES

Policy

5.60. Policy GI4 of the Draft Local Plan (2018) states development will be permitted where it:

- i. recognises the value of the existing tree cover and hedgerows, their biodiversity
- ii. value, the contribution they can make to the quality of a development, and its
- iii. assimilation into the landscape context;
- iv. provides protection for overall tree cover as well as for existing trees worthy of

- v. retention in the immediate and longer term and with conditions that would sustain
- vi. the trees in good health in maturity;
- vii. retains trees and hedgerows that make a positive contribution to the character or
- viii. setting of a conservation area or listed building, the setting of proposed
- ix. development, are a significant element of a designed landscape, or value to the
- x. general public amenity, in terms of visual benefits, shading and screening.
- xi. does not create conflict between existing trees to be retained and new buildings,
- xii. their uses and occupants, whether the trees or buildings be within or adjacent to
- xiii. the site
- xiv. supplements the city's tree stock with new tree planting where an integrated
- xv. landscape scheme is required and
- xvi. Provides suitable replacement planting where the loss of trees or hedgerows worthy of retention is justified.

Assessment

5.61. The application is accompanied by an Arboricultural Impact Assessment which surveyed 7 trees and 3 hedgerows on and around the site. Of the trees, 3 are Oak Trees, protected by a Tree Preservation Order (TPO) and lie within close proximity to the site on the eastern boundary and close to the new site entrance. The TPO trees are proposed to be retained.

5.62. 3 trees will require removal which are a Common Beech, Blue Atlas Cedar and a Common Ash Tree. These are all category C trees (trees of low or average quality and value and are in an adequate condition to remain until new planting established). 1 hedge will require partial removal. The Ash Tree is of low amenity value and is showing minor symptoms of Ash Die Back. The Beech Tree and Cedar Tree are of moderate amenity value however are located in close proximity to the drainage ditches, with the Cedar showing some root damage.

5.63. Replacement tree planting is proposed comprising 3 Silver Birch Trees, 5 European Hornbeam Trees, 2 Cherry Trees and 2 Cypress Oaks. In terms of hedging, 1000 metre European Beech Hedging and 4300 metre of Native Hedge Mix is proposed. There is also a variety of shrubs and grasses. Whilst the loss of the 3 existing trees is regrettable, the replacement landscaping outweighs the harm

caused though the loss of the existing trees and meets the requirements of Draft Local Plan Policy GI4 which can be afforded moderate weight.

5.64. An updated landscaping plan is recommended as a condition, alongside a request for an Arboricultural Method Statement (in the interests of protecting the existing trees). At the time of writing this report, comments were awaited from the Landscape Architect and members will be updated at committee.

SUSTAINABILITY

Policy

5.65. Policy CC2 of the Draft Local Plan (2018) (as amended in the recent main modifications) states proposals for non-residential conversions or change of use will need to achieve BREEAM Non-Domestic refurbishment and Fit out 'Excellent' as minimum.

Assessment

5.66. A sustainability statement has been submitted with the application. The Applicant proposes the following with regards to sustainable measures;

- Minimise internal heat generation through energy efficient design;
- Reduce the amount of heat entering a building in summer through orientation, shading, albedo, fenestration, insulation and green roofs and walls;
- Manage the heat within the building through exposed internal thermal mass and high ceilings;
- Passive and mechanical ventilation;
- The "notional" efficient heating system (gas heating and electrical point of use water heaters).
- Wall constructions are of existing insulated cladding;
- New roller shutter doors are to be installed with a U-Value at 1.3W/m²K or better;
- The internal lighting will be subject to tenant fit-out, however the use of LED lamps is assumed;
- The above specification is expected to achieve a minimum reduction in carbon emissions over the minimum standards required under the Building Regulations Part AD L2 for a change of use at 10%+;
- The applicant proposes the use of PV as the preferred renewable technology

- to reduce overall emission for the development. An air source heat pump could be an option for the fully fitted units and incoming tenants will be encouraged to utilise heat pumps as the first option.

5.67. The Applicant argues that the BREEAM condition is not appropriate for a change of use application and argues that the 'excellent' rating cannot be achieved (letter dated 31st July 2023). The Applicant wishes the measures within the sustainability statement to be conditioned instead.

5.68. However, the Local Planning Authority state that policy CC2 is the recognised policy with regards to sustainable design and BREEAM is the recognised and chosen method of assessment by the Council. BREEAM conditions have been applied to other applications on Northminster Business Park. Examples of BREEAM 'very good' ratings on the business park include the following applications; 21/00796/FULM, 18/02158/FULM, 18/02919/FULM and 15/02721/FULM.

5.69. The Council acknowledges that an 'excellent' rating for refurbishment and fit out of existing agricultural sheds in a rural location can be difficult therefore recommend changing the requirement to 'Very Good' in this particular case based on the site location, existing constraints of the buildings and the justification put forward. In the interests of achieving a sustainable development and in accordance with the requirements of Policy CC2 of the Draft Local Plan, a BREEAM 'very good' condition is attached. Part C of policy CC2 of the Draft Local Plan (2018) can be afforded moderate weight.

WASTE

Policy

5.70. Policy WM1 of the Draft Local Plan (2018) requires the integration of facilities for waste prevention, re-use, recycling, composting and recovery in association with the planning, construction and occupation of new development for commercial sites.

Assessment

5.71. Waste will need to be arranged via a commercial waste collection. An informative is to be attached to remind/inform the applicant of this.

CONTAMINATION

Policy

5.72. Policy ENV3 of the Draft Local Plan (2018) states where there is evidence that a site may be affected by contamination or the proposed use would be particularly vulnerable to the presence of contamination, planning applications must be accompanied by an appropriate contamination assessment.

Assessment

5.73. The application is accompanied by a Phase 1 Preliminary Contamination Risk Assessment by GEOL Consultants LTD. This assessment considers the existing use and condition of the land and concludes that it is suitable for its proposed use. The Public Protection Team accepts this however recommends a condition in the event unexpected contamination is found and this has to be reported to the Council immediately and an investigation and risk assessment must be undertaken.

VERY SPECIAL CIRCUMSTANCES CASE

5.74. NPPF paragraph 148 states that “when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.

5.75. The identified harm to the Green Belt is as follows;

- The construction of the roads, car parks, service yards and associated lighting is inappropriate development in the Green Belt which is harmful by definition.
- Harm to openness – the new uses will ultimately lead to a change in the character of the site, by way of increased traffic/parking, increased volume of people visiting/working at the units and general landscaping associated with the uses.

5.76. The following considerations and benefits are put forward by the Agent to justify the proposal;

- The provision of employment land. The site and the surrounding land is allocated (ST19) in the Draft Local Plan for B1, B2 and B8 uses.
- The popularity of the Business Park is identified in the Council’s Employment Land Review (2016). The Park scores well in terms of market attractiveness and investment opportunities.
- The site forms a natural extension to Northminster Business Park.

- The removal of the land from the Green Belt would not be harmful to the purposes of the designation, in particular protecting the setting and historic character of the City and ensuring the villages do not merge.
- It will not undermine the aim of Green Belt policy which is primarily intended to prevent urban sprawl.
- Planning decisions should enable growth and expansion of all types of businesses in rural areas through the conversion of existing buildings (which is sustainable).
- General lack of available sites for employment purposes within York which is explained within the Employment Land Review (2016) and Local Plan Viability Study (2014)
- The units will be available for sale as well as being available to let.

5.77. The Local Planning Authority (LPA) attach significant weight to the re-use of the vacant buildings to provide over 1000m² of employment floorspace. The development would provide both temporary (construction) and permanent employment opportunities and allow a range of businesses to occupy the units. The option of buying or renting the units is an advantage of the development and would attract a wider market. The LPA acknowledge that in order to facilitate the change of use there is a need to create car parking, roads and associated landscaping (e.g lighting) and this is proportionate for the intended use and well-contained within the existing curtilage.

5.78. With regards to the weight that can be afforded to Draft Local Plan Policy SS23, there are outstanding objections to the Green Belt boundaries and as such objections reduce the weight that can be attributed to the relevant draft plan policy SS23 and therefore only moderate weight is attached to this policy. However, even taking this into account and recognising that it is a matter of planning judgement and attaching substantial weight to the harm to the Green Belt, cumulatively there are very special circumstances which, as is required by the NPPF, clearly outweigh the harm to the Green Belt. It is considered to be a ground for very special circumstances which justifies the development.

PREMATURITY OF THE APPLICATION

Whether prematurity is grounds to refuse the application

5.79. Paragraph 49 of the NPPF states that “in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

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

5.80. Paragraph 50 of the NPPF states “Where planning permission is refused on the grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan making process”.

5.81. Taking into account the scale of the development proposed, that the site is part of a wider allocation required to meet development needs, that the site will be excluded from the Green Belt; and as the Draft Local Plan has been submitted for examination and promotes this as an employment site, there are no clear grounds (as is required by the NPPF) to refuse this particular application on the basis that it would prejudice the plan-making process.

PUBLIC SECTOR EQUALITY DUTY

5.82. Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.83. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.84. The PSED does not specify a particular substantive outcome, but ensures that the decision made has been taken with “due regard” to its equality implications. Officers have given due regard to the equality implications of the proposals in making its recommendation. The issues with regard thereto are noted above in relation to this application but do not raise any matters that would outweigh the material planning considerations.

6.0 CONCLUSION

6.1. To conclude, at present the site is considered to remain within the general extent of the Green Belt, until the Local Plan is adopted. However, the site is identified as part of the portfolio of sites to meet identified employment needs in the city and is therefore excluded from the Green Belt in the defined Green Belt boundaries. The re-use of the buildings and associated alterations to the buildings are considered to be appropriate development within the Green Belt, however the associated external works on the site is inappropriate development in the Green Belt, which are harmful by definition. It is considered however that there are very special circumstances that would clearly outweigh any harm to the Green Belt. Further, there is no case for refusing the scheme on prematurity grounds. Matters such as design, landscaping, amenity, biodiversity, trees, drainage, sustainability, contamination, waste, access and parking are adequately addressed either within the plans or via a specific condition.

6.2. The application accords with policies within the National Planning Policy Framework, Rufforth with Knapton Neighbourhood Plan, Poppleton Neighbourhood Plan (in so far as it relates to the Business Park) and policies set out within the Draft Local Plan (2018) (as modified March 2023). Based on the merits of this case, approval is recommended subject to the referral of the application to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 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 part of the development is considered to be inappropriate development in the Green Belt and the proposed 3 buildings would consist of 1931m² of floor space which is in excess of the 1000m² floor space threshold set out in the Direction.

7.0 RECOMMENDATION: Approve after referral to Sec. of State

1 TIME2 Development start within three years

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

Location plan; drawing number 3050 PL10, revision B, dated 24/03/2023.

Proposed roof plan; drawing number 3050 PL03, revision B, dated 29/03/2023.

Proposed site layout; drawing number 3050 PL02, revision C, dated 24/03/2023.

Existing and proposed long elevation; drawing number 3050 PL04, revision A, dated 11/01/2023.

Unit A existing and proposed floorplans; drawing number 3050 PL05, revision A, dated 11/01/2023.

Unit A existing and proposed elevations; drawing number 3050 PL08, revision A, dated 11/01/2023.

Unit B existing and proposed floorplans; drawing number 3050 PL06, revision A, dated 11/01/2023.

Unit B existing and proposed elevations; drawing number 3050 PL09, revision A, dated 11/01/2023.

Unit C existing and proposed floorplans; drawing number 3050 PL07, revision A, dated 11/01/2023.

Unit C existing and proposed elevations; drawing number 3050 PL11, revision A, dated 11/01/2023.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 The buildings shall be used for light industry (Class E (g)), general industry (Class B2), or storage/distribution (Class B8) and for no other purpose, including any other purpose in the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: So that the Local Planning Authority may re-assess alternative uses which, without this condition, may have been carried on without planning permission by virtue of Article 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

4 No development shall take place (including ground works and vegetation removal) until a Construction Environmental Management Plan for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development has been 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.

5 Prior to development commencing, a details method of works statement shall be submitted to the Local Planning Authority for its written approval. The statement must identify the programme and management of site including clearance, preparatory and construction works. The statement shall include at the following information:

- Measures to prevent the egress of mud and other detritus onto the adjacent public highway;
- Where contractors will park;
- Where materials will be stored within the site;
- The routing for construction traffic that will be promoted;
- A scheme for signing the promoted construction traffic routing
- Details of the organisation in control of the development;
- Details of the individual responsible for the works;
- How the work and the access off the highway will be managed;
- The location of the works, its boundaries, means of access and how it is segregated from the area;
- Plant and equipment required;
- The handling and storage of materials and pollution prevention procedures;
- The method for safeguarding highway structures.

Reason: To ensure highway safety and management of the construction works is adequate in the interests of neighbouring businesses and occupants.

6 No development shall take place (including ground works and vegetation removal) until a Biodiversity Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The Biodiversity CEMP shall include (but not be limited to) the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) Use of directional lighting during construction and operation.
- e) The location and timing of sensitive works to avoid harm to biodiversity features.
- f) Measures should also include protection for badgers and hedgehogs who may

access the site for foraging and commuting purposes including and not limited to, precautionary working methods to prevent accidental harm or injury to badgers, removal of tree or shrub cuttings from the site and the covering of trenches and capping of any open pipes.

g) Responsible persons and lines of communication.

h) The roles and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

i) Use of protective fences, exclusion barriers and warning signs.

Reason: To facilitate the protection of notable/sensitive ecological features and habitats on the application site and within the local area.

7 No vegetation removal shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation and structures for active birds' nests immediately before the works 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 nesting 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.

8 The development shall not commence until details of the internal road layout have been submitted to, and approved in writing, by the Local Planning Authority. No building shall be occupied until the internal roads and new access road from Cropton Road has been provided, up to base-course level, in accordance with such approved plans. The wearing course shall be laid within two years of the base-course being laid or prior to the occupation of the penultimate building to be converted, whichever is the sooner.

Reason: In the interests of road safety.

9 The buildings shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles) 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 The buildings shall not be occupied until the turning areas have been provided in accordance with the approved plans. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To enable vehicles to enter and leave the site in a forward gear thereby

ensuring the safe and free passage of traffic.

11 Prior to the development commencing details of the cycle parking areas to store 24 cycles, including means of enclosure (to scale), shall be submitted to and approved in writing by the Local Planning Authority. The buildings 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.

12 The buildings shall not be occupied until the pedestrian footpath is fully constructed and operational to the west of the access road shown in Drawing Number 3050 PL02, revision C, dated 24/03/2023 in accordance with details submitted. The pedestrian footpath shall be maintained and retained for the lifetime of the development.

Reason: To ensure there is safe pedestrian access to the site.

13 No part of the development hereby permitted shall be brought into use until the existing vehicular access along the southern boundary of the site to Moor Lane (public right of way - route code 54/1/10) has been permanently closed to vehicular traffic in accordance with details indicated on the approved site plan. The closure to vehicles shall thereafter be retained in accordance with the approved details for the lifetime of the development.

Note: The term vehicle refers to all types of vehicle, except cycles.

Reason: To ensure the public right of way is not used by vehicular traffic generated from the development in the interests of safety and amenity for users of the public right of way.

14 The development shall operate in strict accordance with the targets, proposed monitoring and measures of the Travel Plan (by Bryan G Hall, dated December 2022). The annual travel surveys shall be made available to the Local Planning Authority within 5 working days of any such request. Should the targets within the plan not be achieved, following annual review, details of further actions (to achieve such targets) shall be submitted to, and approved by the Local Planning Authority and implemented accordingly.

Reason: To ensure all reasonable steps have been put in place to promote sustainable travel to and from the site minimize the need to travel, particularly by encouraging reduced dependence on the private car, having regard to policy T1 and

T7 of the Draft Local Plan (2018).

15 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.

16 The development shall be carried out in accordance with the details shown on the submitted Drainage Strategy - Re: 21760-DR-C-0100 revision P6 dated 16th March 2023 and supporting calculations by Topping Engineers, unless otherwise agreed in writing with the Local Planning Authority.

The discharge rate for surface water shall not exceed 13.4 litres per second.

Reason: In the interest of satisfactory and sustainable drainage and to reduce the risk of flooding.

17 Unless otherwise approved in writing by the Local Planning Authority, no buildings shall be occupied or brought into use prior to the completion of the approved surface water drainage works and approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that the approved drainage strategy is in place prior to the new uses coming into operation.

18 No development shall take place until details of the proposed means of disposal of foul water drainage for the whole site, including details of any balancing works, off-site works and phasing of the necessary infrastructure, have been submitted to and approved by the local planning authority. If sewage pumping is required from any part of the site, the peak pumped foul water discharge must not exceed 4 (four) litres per second. Furthermore, unless otherwise approved in writing by the local planning authority, no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: To ensure that no foul water discharges take place until proper provision has been made for their disposal.

19 A strip of land 3 metres wide adjacent to the top of the embankment of the watercourse to the east of the site shall be kept clear of all new buildings, structures, walls, fencing and planting unless agreed otherwise in writing with the Local Planning Authority, in consultation with the Ainsty (2008) Internal Drainage Board.

Reason: To maintain access to the watercourse for maintenance or improvements.

20 No development, including buildings, walls, tree planting, or any other

permanent obstruction, shall be located over or within 3 metres measured from either outside edge of the proposed culvert (which is to replace the watercourse within the centre of the development).

Reason: To ensure that access to the culvert is available for maintenance and prevent damage to the culvert.

21 Details of all machinery, plant and equipment to be installed in 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.

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

22 All external lighting shall conform to the E2 environmental zone as specified in the Light Professionals Guidance Notes for the Reduction of obtrusive lighting.

Reason: To protect the amenity of the surrounding environment.

23 Prior to development commencing, a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following;

- No planting or permanent features within the 3m easement as specified within condition 19 and 20.
- Planting plans (to a recognized scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
- Existing landscape features such as trees, hedges, shrubs and ponds which are to be retained and/or removed, accurately plotted
- The position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge(banks))
- A timetable for the implementation of the soft and hard landscaping scheme.

This scheme shall be implemented within a period of six months of the practical completion of the development. Any trees or plants that 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 to ensure the drainage easement is protected.

24 Before the commencement of development including demolition, excavations, and building operations, an Arboricultural Method Statement (AMS) regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. Amongst others, this statement shall include details and locations of protective fencing, site rules and prohibitions, phasing of works, site access during demolition/construction, types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, locations for stored materials, locations and means of installing utilities, location of site compound and marketing suite and any other temporary buildings. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material and boundary treatments is proposed within the root protection area of existing trees. A copy of the document will be available for inspection on site at all times.

Reason: To ensure protection of existing trees before, during and after development 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.

25 The development hereby permitted shall achieve a BREEAM Non-Domestic refurbishment and fit out rating of 'very good' or higher. A Post Construction Assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate submitted to the Local Planning Authority within 12 months of the first use (unless otherwise agreed). Should the development fail to achieve a 'Very Good' BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a 'Very Good' rating. The 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 Draft Local Plan.

26 Prior to first occupation details of the refuse bin enclosures shall be submitted to and approved in writing by the Local Planning Authority. The bins shall be of sufficient size for their use. Prior to first occupation the refuse bins enclosures shall be constructed and ready for use. The refuse bin enclosures shall be retained for such use at all times.

Reason: In the interests of good design in accordance with section 12 of the NPPF. To ensure there is suitable refuse storage areas for the life of the development in

accordance with policy WM1. To achieve a visually cohesive appearance.

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

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

8.0 INFORMATIVES: Notes to Applicant

1. WASTE

As the proposal involves the running of a business, any waste arising from this business is subject to a duty of care under Section 34 of the Environmental Protection Act 1990, including waste created by guests. As someone who will be producing and disposing of controlled waste, arrangements will be required for the storage of any waste arising from the business. Further information is therefore required on how this waste will be stored pending lawful disposal. Business waste must be disposed of via an authorised waste carrier or taken to a site authorised to accept it. It is unlawful to dispose of commercial waste via the City of York Council's domestic waste collection service. Further information can be found at www.gov.uk/managing-your-waste-an-overview

2. YORKSHIRE WATER

The applicant should be advised that the Yorkshire Waters prior consent is required (as well as planning permission) to make a connection of foul and surface water to the public sewer network.

3. YORK CONSORTIUM OF DRAINAGE BOARDS

ii) The applicant should be advised that the York Consortium of Drainage Board's prior consent is required (outside and as well as planning permission) 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 (either directly or indirectly) to the watercourse will also require the Board's prior consent.

4. RIPARIAN MAINTENANCE RESPONSIBILITY

Any watercourse adjacent to and/or affected by this development is not maintained by Ainsty (2008) Internal Drainage Board. The responsibility for the continued maintenance of any such watercourse and its banks rests ultimately with the riparian owners.

5. CONSENT FOR CULVERTING OF WATERCOURSE

Any culverting of a watercourse requires the prior written consent of Ainsty (2008) Internal Drainage Board under the terms of the Land Drainage Act 1991.

6. CONSENT - DISCHARGE

Under the Board's Byelaws, the written consent of Ainsty (2008) 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.

7. WILDLIFE AND LIGHTING

When designing external lighting its potential impacts on light sensitive species should be considered. Direct lighting and light spill should be avoided where new bat roosting and bird nesting features are installed, on trees and 'green' linear features, such as hedgerows. Advice on lighting design for light sensitive species is available from the Bat Conservation Trust (2018) Bats and artificial lighting in the UK guidance: <https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229&focal=none>

8. 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) 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>

9. 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. Suitable habitat is

likely to contain nesting birds between 1st March and 31st August inclusive. As such habitat is present on the application site and is 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 certain that nesting birds are not present.

10. NOISE

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+ A1 2019, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

11. DEMOLITION AND CONSTRUCTION WORKS

All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".

Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions. Some basic information on control noise from construction site can be found using the following link. https://www.york.gov.uk/downloads/download/304/developers_guide_for_controlling_pollution_and_noise_from_construction_sites

All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

There shall be no bonfires on the site.

12. CEMP - FURTHER INFORMATION

NOTE: 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. 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.

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

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 and planning.enforcement@york.gov.uk

Contact details:

Case Officer: Natalie Ramadhin

Tel No: 01904 555848