

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:

- CYSP6 Location strategy
- CYSP7A The sequential approach to development
- CYSP8 Reducing dependence on the car
- CYGP1 Design
- CYGP4A Sustainability
- CYT4 Cycle parking standards
- CYE3B Existing and Proposed Employment Sites

2.2 The Publication Draft York Local Plan

- DP4 Approach to Development Management
- EC2 Loss of Employment Land
- R1 Retail Hierarchy and Sequential Approach
- HW3 Built Sport Facilities
- D1 Placemaking
- ENV1 Air Quality
- ENV2 Managing Environmental Quality
- T1 Sustainable Access
- T7 Minimising and Accommodating Generated Trips

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT

3.1 We have no objections to the proposed development from a highways point of view. Traffic generation at peak times is unlikely to be materially different from the existing use due to the nature of the expected peak times relating to the development. The site will utilise the existing access from Millfield Lane. The applicant has amended drawings to establish a car parking plan that functions well, providing 71 spaces and leaving access to nearby industrial units. The proposed parking provision is considerably lower than the CYC Appendix E standards relating to leisure use; however, the applicant has provided visitor accumulation figures based on experience of other parks, which shows that 71 spaces will accommodate the anticipated maximum number of 225 staff and visitors.

3.2 The site is in a relatively sustainable location located just within the ring road. There are bus stops within suitable walking distance served by a half hourly bus service in to the city. The estate is served by off road cycle lanes and footways

which connect to nearby settlements of Poppleton and Boroughbridge Road via Millfield Lane. Request conditions HWAY18 and 19.

PUBLIC PROTECTION

3.3 Due to the location of the proposed adventure play park being within an industrial/commercial area and the previous use was as offices and warehouse use then this proposed use should not create any additional noise within the area and as such do not have any objections.

3.4 Request 1 electric vehicle recharging point via condition

FORWARD PLANNING

3.5 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, we would advise that the policy requirements of emerging Plan policies EC2 and R1 should be applied with moderate weight.

3.6 The key policy test for the change of use from warehouse to leisure is whether the site is needed for employment use. Whilst a sufficiently detailed economic statement has not been submitted by the applicant we have been advised to look at marketing information submitted by separate applicant for the same site which demonstrates that the property is no longer fit for purpose. It is also noted that the proposed use as an adventure play park whilst outside of the B use classes is still an employment generating use.

3.7 The principle of a D2 leisure use in this location can only be supported subject to detailed site specific considerations including the sequential and impact tests. These have been completed by the applicant who concluded there are no sequentially preferable sites and that the proposals will not impact upon York city centre or other regional centres. agree there are no sequentially preferable sites for the proposals at this time and that there will be no detrimental impact on the vitality and viability of the city centre.

ECONOMIC GROWTH TEAM

3.8 Object, would result in the loss of over 20,000 sq. ft. of good quality B1 (c) employment space in close proximity to York's major road network. The Economic Growth service objects to this proposed loss of employment space and advocates that the use of the property for light industrial space should be retained to support business growth and employment in York. There are currently close to 9,000 manufacturing and construction jobs in York and the loss of suitable employment space across York represents a barrier to business growth

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3.9 Both anecdotal evidence through business engagement and recent industrial availability data provided by Co-Star demonstrates a strong demand for industrial space. Make It York have reported a strong demand for premises through their Key Account Management visits to local businesses with a large number of searches being requested for light industrial units. This is supported by recent availability data provided by Co-Star which shows an overall vacancy rate of 2% for industrial space in York indicating strong demand with little under construction.

3.10 Data indicates that "York's vacancy rate has come down sharply in recent years, from over 10% in 2011 to below 2% in 16Q1, where it has stayed since. For more than two years, the market has been among the three tightest in the UK. Most of the available industrial space in York was leased during a period of strong demand from 2014 through early 2016. Leasing activity has been muted since, with little available in the nearly full-occupancy market. On the supply side, there has been a persistent lack of new deliveries that has aided vacancy compression, making York the tightest market in the Yorkshire and Humber region.

3.11 The market's low vacancy rate and lack of development could hinder future demand". Given the shortage of industrial accommodation in York, the Economic Growth service objects to the proposed planning application. The employment space provided at Millfield Business Centre is important to support business growth in York and create jobs for local people and therefore its use as light industrial space should be retained.

EXTERNAL CONSULTATIONS/REPRESENTATIONS

NETHER POPPLETON PARISH COUNCIL

3.12 Object, The area is used extensively by other business with lorries and heavy vehicles concerned there may be safety issues with children visiting the site

3.13 There is insufficient offices and warehouse space in this area, and it is an industrial estate. There would be a loss of potential employment space should this change of use be approved.

3.14 The change of use would demand a bigger area for car parking than is currently provided. There needs to be sufficient parking for clients within the curtilage of the current parking areas to prevent additional parking on Millfield Lane, which is an issue for the bus services and frequently creates delays.

3.15 The development of the former Sugar Beet site will create additional pressures on this section of the road

3.16 Manor Academy should be consulted as there will be an impact on the student safety with the above caveats on parking.

PUBLICITY AND NEIGHBOUR NOTIFICATION

3.17 Two representations of objection

- Full traffic assessment is required
- Without road improvements the traffic flow from the application would add to significant issues between 3 and 5pm on weekdays.
- Loss of employment site without the proper justification, and such loss is not justified by local need
- Under estimates staff numbers and the requirement for visitor parking and as such the site is unsuitable for the proposed use
- Not clear what the proposed centre will provide
- Fails to adequately describe existing facilities in the area
- Existing businesses are more comprehensive range than the proposed
- Compliance with the Equalities Act does not justify the proposed development as other similar uses comply with the act
- The loss of the unit for employment uses would reduce supply and increase the need for new land to be found and developed therefore contrary to policy in the 2005 and 2018 Draft Local Plan
- The type of leisure industry is struggling and the new facility may not survive and will impact on existing facilities which are in competition
- There are existing leisure sites for sale which will avoid the loss of employment site
- In the absence of an impact assessment of the proposal on the existing facilities there is no clear evidence to establish the proposal will bring benefits without harm
- Number of staff and staffing hours have been underestimated a similar nearby use (with reduced opening times to the proposed) employs 60 staff and 1000-1600 hours per week. Impact on viability of the proposed business. Difficulty in recruiting staff due to low wages and limited career progression
- Nearby similar use have 190+ parking spaces and these tend to be full before the facility is full. The proposed parking spaces which also provides access to other business to which larger delivery vehicles will need access. The proposed layout is tight with problematic vehicle turning. Insufficient parking provision the calculations used (3 children to 1 adult in cars) is unrealistic, and nearby similar use the usual ratio is 1 adult to 1 - children. Dwell time of 1.5 hours is unrealistic and average dwelling time would be 3-5 hours. Unlikely people will use public transport to visit the site. Therefore will require double the amount of proposed parking spaces and unable to cater for the parking demand
- No objective transport assessment has been submitted

3.18 Eight representations of support (2 parties made 2 representations)

- Would provide employment
- Healthy activity in a safe environment
- Good access

4.0 APPRAISAL

KEY ISSUES

- Location of the use and loss of industrial accommodation
- Highways
- Employment

ASSESSMENT

PLANNING POLICY

4.1 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.

PUBLICATION DRAFT YORK LOCAL PLAN (2018)

4.2 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in February 2019, the relevant 2018 Draft Plan 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. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

4.3 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

4.4 The revised National Planning Policy Framework was published on 19 February 2019 (NPPF) and its planning policies are material to the determination of planning applications. It is against the NPPF (as revised) and the saved RSS policies relating

to the general extent of the York Green Belt that this proposal should principally be assessed.

DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

4.5 The City of York Draft 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, although the weight that can be afforded to them is very limited.

POPPLETON NEIGHBOURHOOD PLAN (2017)

4.6 Policy PNP7 of the 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 City of York Council standards at the time of the determination of the applications. The supporting text sets out the following: Millfield Lane is a linear business park with small units employing 10 or less. It is located opposite to Manor Academy and the area is congested at peak hours with school traffic. It is considered by employers to be a convenient site. It has capacity for additional businesses in the current premises.

POPPLETON VILLAGE DESIGN STATEMENT (2003)

4.7 The Poppleton Village Design Statement has a number of policies relevant to the application: Guidelines 29, 38, and 39.

LOCATION OF THE USE AND LOSS OF INDUSTRIAL ACCOMMODATION

4.8 Policy E3b of the Draft 2005 Local Plan seek to keep all employment uses in such use, unless there is an adequate supply of alternative premises over the plan period or where the proposed use will lead to significant benefits to the local economy. Policy EC2 of the Draft Local Plan (2018) sets out that if the proposal would result in a loss of employment land the applicants should provide information demonstrating the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and the proposal would not lead to the loss of an employment site that is necessary to meet employment needs during the plan period. The broad intention of these policies does not conflict in principle with the NPPF.

4.9 The NPPF states a sequential test is required for main town centre uses that are not within an existing centre. When considering out of centre proposals preference should be given to accessible sites that are well connected to the town centre. The

applicant has eventually submitted a sequential test and impact assessment and they demonstrate that the proposed use could not be located within the city centre. The impact assessment demonstrates that it is unlikely to negatively affect the viability and vitality of the town centre and consumer choice.

4.10 The Economic Growth Team have expressed concern regarding the loss of the industrial use, and that the vacancy rate for business units is very low (2%) and the York market is one of the most constrained in the UK- there is a strong demand with little under construction. The unit has been marketed since May 2016 and has been widely advertised. The selling/letting agents advise they have received 16 enquiries and the interest has been shown in the site for mainly for leisure uses. The letting agents state there are varying reasons why the site is not attractive for industrial use these include the unit's low internal heights, and poor large vehicle access/circulation within the site. The proposal would result in the loss of the building/units being available for business use and would therefore negatively impact on the City's employment land.

4.11 The NPPF is clear in that Planning should operate to encourage and not act as an impediment to sustainable growth. The NPPF states planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

4.12 There is a presumption in favour of sustainable development which, for decision taking, means approving proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or (2) specific policies in the Framework indicate development should be restricted (paragraph 11). Current Government policy is to assist the economy, sustainable development proposals should be allowed unless they would compromise the key sustainable development principles set out in national planning policy. 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 (paragraph 38). Planning policies and decisions should, among other things, plan positively for the provision of community facilities. Planning should encourage and not impede sustainable growth therefore significant weight should be placed on the need to support economic growth through the planning system (paragraph 80).

4.13 The proposed development would result in the creation 8 full time positions and 20 part time positions which is similar to the number of jobs the current unit could create in their existing permitted use. A cafe with 70 covers is proposed, whilst relatively large, a cafe is a reasonable requirement of this type of leisure use and is considered to be ancillary to the proposed use.

4.14 The use would add to the leisure opportunities available to the residents of York and approval would support the local economy. The NPPF is supportive of sports and recreation opportunities. The site is in a commercial area and the use of the leisure use would be unlikely to have any material impact on the adjacent occupiers in terms of noise etc.

4.15 The proposal falls within class D2 (Assembly and leisure) of the Use Classes Order. Permitted uses within D2 use class include cinemas; music and concert halls, bingo and dance halls, swimming baths, and skating rinks. Change of use to a different use within the same use class does not normally require planning permission. Whilst the currently proposed use is acceptable in this area - subject to appropriate conditions - the characteristics of other uses in class D2 may make those uses unacceptable. A condition should therefore be attached limiting the planning permission to the current use only and no other use within class D2.

HIGHWAYS AND PARKING

4.16 The car park would be re-organised to provide additional parking spaces (71 in total), and the plans indicate 10 cycle parking spaces The site will utilise the existing access from Millfield Lane. There is a bus service passing the site (No. 10 approx every 30 mins). The estate is served by off road cycle lanes and footways which connect to Poppleton and the city. The proposed parking provision is lower than the CYC Appendix E standards relating to leisure use; however, the applicant has provided visitor accumulation figures based on experience of other parks, which shows that 71 spaces will accommodate the anticipated maximum number of 225 staff and visitors.

4.17 It is considered reasonable to require a recharging point for electric vehicles within the car park, this can be sought via condition.

5.0 CONCLUSION

5.1 The proposed development would result in the loss of Business use class employment uses from the building. However the physical limitations (low internal height and eaves) of the building limit the future potential for B1, B2, and B8 uses furthermore the site has been marketed for some time with little interest for business uses. The proposed use would provide some employment opportunities. The proposed use would add to the leisure opportunities available to the residents of York and would support the local economy.

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5.2 The NPPF states planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Information has been submitted to demonstrate that there is little prospect of the site being used within the Business use class. On balance it is considered that the change of use of the unit to the proposed use acceptable.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Drawing Number 5029/040319/02 'Proposed_Ground_Floor' received 04 March 2019;

Drawing Number 5029/040319/03 'Proposed_First_Floor' received 04 March 2019;

Drawing Number 5029/040319/04 'Proposed_Elevation_Plan' received 04 March;

Drawing Number 5029/180219/05 'Proposed Parking Plan' received 18 February 2019;

Location Plan received 05 December 2018;

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

3 The premises shall be used as an adventure play park and for no other purpose, including any other purpose in Class D2 in the Schedule of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: Whilst the proposed use is considered acceptable in this area, the characteristics of other uses within class D2 may make such uses unacceptable in terms of highway and parking impacts, the impact on the surrounding road network, the occupants of neighbouring buildings and the character of the area. This condition is therefore required to enable the Local Planning Authority to 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.

4 A minimum of one no. electric vehicle recharge point shall be provided with the parking areas hereby approved. The recharge points should be installed prior to first occupation of the building. The location and specification of the recharge points shall be submitted to and approved in writing with the Local Planning Authority prior to

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installation.

INFORMATIVE: Electric Vehicle Charging Points should incorporate a suitably rated 32A 'IEC 62196' electrical socket to allow 'Mode 3' charging of an electric vehicle. They should also include facilities for 'Mode 2' charging using a standard 13A 3 pin socket. Each Electric Vehicle Charge Points should include sufficient cabling and groundwork to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point of the same specification, should demand require this in this future. Charging points should be located in a prominent position on the site and should be for the exclusive use of zero emission vehicles. Parking bay marking and signage should reflect this. All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015)."

Reason: To promote the use of low emission vehicles on the site in accordance with the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 110 of the National Planning Policy Framework.

5 HWAY18 Cycle parking details to be agreed

6 HWAY19 Car and cycle parking laid out

7.0 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. DEMOLITION AND CONSTRUCTION INFORMATIVE

The developer's attention should also be drawn to the following which should be attached to any planning approval as an informative.

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

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Monday to Friday 08.00 to 18.00
Saturday 09.00 to 13.00
Not at all on Sundays and Bank Holidays.

- (ii) 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".
- (iii) Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions.
- (iv) 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.
- (v) There shall be no bonfires on the site.
- (vi) In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken and where remediation (clean-up) 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. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part 2A of the Environmental Protection Act 1990.

3. DISPOSAL OF COMMERCIAL WASTE

Section 34 of the Environmental Protection Act 1990 places a duty of care on all producers of controlled waste, i.e. businesses that produce, store and dispose of rubbish. As part of this duty, waste must be kept under proper control and prevented from escaping. Collection must be arranged through a registered waste carrier. It is unlawful to disposal of commercial waste via the domestic waste collection service.

Adequate arrangements are required for proper management and storage between collections.

Section 47 of the Environmental Protection Act 1990

The storage of commercial waste must not cause a nuisance or be detrimental to the local area. Adequate storage and collections must be in place. Where the City of York Council Waste Authority considers that storage and/or disposal are not reasonable, formal notices can be served (Section 47 of the Environmental Protection Act 1990). Storage containers cannot be stored on the highway without prior consent of the Highway Authority of City of York Council.

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