

2.2 2018 Publication Draft Local Plan (Draft Plan)

SS1 Delivering Sustainable Growth for York

SS2 The Role of York's Green Belt

EC1 Provision of Employment Land

EC5 Rural Economy

D1 Placemaking

D2 Landscape and Setting

GB1 Development in the Green Belt

ENV5 Sustainable Drainage

2.3 2005 Development Control Local Plan (DCLP)

3.0 CONSULTATIONS

INTERNAL

Public protection

3.1 No objections in principle subject to a condition to control noise levels audible outside of the premises.

EXTERNAL

Rufforth with Knapton Parish Council

3.2 No objection to the proposal which is covered by policy Rwk 16 of the Neighbourhood Plan. The proposal meets the policy and also the stated aims and visions of the NP. It is noted that the business has a good record of attempting to recruit locally.

Neighbour notification and publicity

3.3 No representations

4.0 APPRAISAL

4.1 KEY ISSUES

- o Policy context
- o Principle of the development - Assessment of harm to Green Belt
- o Landscape and visual assessment
- o Impact on neighbouring amenity
- o Parking and access
- o Flood risk and drainage
- o Very special circumstances

POLICY CONTEXT

Development Plan

4.2 The Rufforth with Knapton Neighbourhood Plan was made on 20th December 2018 and now, in the absence of an adopted Local Plan, forms the development plan for this area. Section 38(6) of the Planning and Compensation Act 2004 and NPPF at para.11 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

4.3 The saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relate to the general extent of the York Green Belt and form the development plan for York. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

National Planning Policy Framework (2019)

4.4 The revised National Planning Policy Framework was published in February 2019 (NPPF) and its planning policies are material to the determination of planning applications. It is against the NPPF (as revised), the Rufforth Neighbourhood Plan and the saved RSS policies relating to the general extent of the York Green Belt that this proposal should principally be assessed.

Emerging Local Plan

4.5 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).

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

Development Control Local Plan (2005)

4.6 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.

GREEN BELT

4.7 As noted above, saved Policies YH9C and Y1C of the Yorkshire and Humberside Regional Strategy define the general extent of the York Green Belt and as such Government Planning Policies in respect of the Green Belt apply. Central Government Planning Policy as outlined in paragraphs 133 to 141 of the National Planning Policy Framework identifies Green Belts as being characterised by their openness and permanence. Substantial weight should be given to any harm to the Green Belt.

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

The Green Belt serves 5 purposes:

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

4.9 The NPPF (paragraph 143) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

PRINCIPLE OF THE DEVELOPMENT ASSESSMENT OF HARM TO GREEN BELT

4.10 The proposal is for a new building within the Green Belt. As such para. 145 of the NPPF is relevant. This details the forms of new buildings which are considered not inappropriate in the Green Belt and includes:

buildings for agriculture and forestry;
the provision of appropriate facilities for outdoor sport, outdoor recreation, cemeteries, burial grounds and allotments;
the extension or alteration of a building;
the replacement of a building;
limited infilling of villages;

limited affordable housing for local community needs in accordance with a development plan policy; and limited infilling, or partial or complete redevelopment of previous developed land which would not have a greater impact on openness.

4.11 It is clear that the proposed new building does not fall within any of these exceptions and therefore constitutes inappropriate development. In accordance with para.143 of the NPPF, inappropriate development is by definition harmful to the Green Belt and can only be approved in very special circumstances. Para.144 goes on to state that substantial weight must be given to any harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other identified harm, is clearly outweighed by other considerations.

Impact on openness

4.12 The introduction of a substantial new structure will inevitably have an impact on openness. The proposed building has a footprint measuring 14.4m by 48.8m with a ridge height of 6.6m and is agricultural in character with a blockwork plinth, composite sheeting on the walls and roof which has a shallow pitch.

4.13 The area of the site on which the building will be located is currently hard surfaced and sits behind one of the existing buildings and adjacent to another. The two existing buildings to the South of the site are 7.2m and 6.8m to the ridge. Boundary treatments around the site are mature hedges of approximately 2m in height. The building will bring the built form closer to the Eastern boundary of the site and, in conjunction with the existing building in the South East corner, will result in a significant amount of development along this boundary.

4.14 While the introduction of a building within an area of the site currently empty of any structure does inevitably have an impact on openness, this is somewhat mitigated by agricultural form of the building, its scale relative to other buildings on site and the good boundary treatment around the site which mean that in terms of its visual impact on openness the harm is limited. Harm to openness has also been identified as a result of the increase in built form along the Eastern boundary of the site although visibility of this will be restricted as a result of the lack of highway or public right of way in any proximity.

Landscape and visual assessment

4.15 As a result of the agricultural appearance of the building and its similar height to existing buildings it is considered that the visual impact will be minimal. There are existing mature hedges around the site and the building will be partially screened by these. The strong boundary treatment ensures that the site is visually very contained with the proposed development sitting comfortably within the existing site boundaries. In addition, the road passes to the South of the site and existing buildings between the new building and highway will provide screening. A public right of way passes to the West of the site; again existing buildings will partially

screen the new building from walkers. The landscape and visual impact of the building has been assessed against policies D1 and D2 of the emerging Local Plan and is considered to comply with these.

Impact on neighbouring amenity

4.16 The proposal is approximately 300m from the nearest dwellings and it is considered that as a consequence of the distance involved there will be little impact on neighbouring amenity. To ensure that machinery operated within the building does not result in excessive noise to neighbouring residents, a condition is recommended to submit details and mitigation for any equipment which will be heard outside the site.

Parking and access

4.17 The site is already in use by Vale Engineering with vehicles using the access road on to the B1224. The access road is single track but a passing place is provided. It is not considered that there will be a significant increase in traffic on the road as the applicant has stated that the building is to provide shelter for works currently undertaken on the site outside of the existing buildings. However there is an intended increase in employees of 3 FTE so some small increase in comings and goings is likely but not significant. Adequate space is retained on site for employee parking. The site is not particularly sustainable as a result of its rural location however it is close to Rufforth and the Parish Council have indicated that the applicant seeks to employ local workers. There is also a bus service along Wetherby Road which could be used by workers from the urban area.

Flood risk and drainage

4.18 The construction of the building increases the impermeable area on site. As such surface water run-off from the building will need to be dealt with in a way which will not increase flooding. An appropriately worded condition is recommended to deal with this.

Other considerations

4.19 Policy RwK 10 Design in the Neighbourhood Plan, requires that development proposals 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. The design and materials of the building are considered appropriate in this rural location. The building is similar in height and width to existing buildings on site but is significantly longer although still not out of keeping with the character of the site. The proposal is considered in compliance with this policy.

Very special circumstances

4.20 The applicant had provided a legal submission providing evidence for an extant planning permission for a pig farm which has only been partly implemented. It is claimed that this could still be fully implemented and includes a building in a similar location to that now proposed. The approved, but not implemented, building

was similar in footprint but only 1.8m in height. The bulk of the building was also set further into the site and away from the building than the current proposal. The applicant claims that it would still be possible to implement this building from the pig farm and provides case law to support this. Officers consider otherwise - the use of the site has changed and a pig fattening shed would be incompatible with the existing use on site. In addition, the building was significantly lower in height than that now proposed and of a distinctly agricultural form specific to its proposed use.

4.21 Following discussion with officers, the applicant has provided some very special circumstances in support of the application. These are:

The building is required to be the scale and height proposed as a production line form of assembly is utilised to avoid errors. The height is required to lift gritter bodies on to axles.

Currently, as a result of a lack of space in the existing buildings, assembly takes place outside. This clearly has impacts on the workforce being cold in winter and hot in summer.

The site is in a rural location which is suited to the business. Consideration of sites at Northminster Business Park has been made although use of this would fragment the workforce and require the doubling up of tools and equipment to cover both sites. The Business Park is a 10 mile round trip from Rufforth Approach through neighbouring villages. There are also benefits from the existing situation as goods vehicles moving metal and picking up finished equipment generally come off the A1 and down the B1224 thereby missing most residential areas.

Attention is brought to the character and form of the buildings being appropriate in an agricultural setting and the mature boundary treatment around the site which provides good screening of the development.

Policy RwK 16 'Small scale commercial enterprises' in the Rufforth Neighbourhood Plan is also highlighted as it is considered to support the proposal. This states that:

Policy No. RwK 16 - Small Scale Commercial Enterprises- In so far as planning permission is required, 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 the following criteria:

- The proposed use should provide opportunities that meet local employment needs and be of a scale and type commensurate with a rural environment.
- There is no significant increase in air or noise pollution.
- There is no significant adverse impact of traffic movement, with regard to HGVs, or on road or pedestrian safety.
- Conversions are within the dimensions of the existing building and of a style sympathetic to existing buildings and the surrounding countryside.
- There are no significant adverse impacts on drainage.

Paragraph 8.16.4 of the supporting text for the policy reads 'The Plan allows for the small-scale expansion of existing operations providing the criteria above are met. It is noted that these operations may be within the Interim Draft Green Belt and therefore any expansion must be within the existing site curtilage and buildings must be of a size and nature commensurate with existing buildings on the site'.

4.22 Officers also note that the proposal will result in an increase in the workforce from 9.5 FTE to 12.5 FTE. The business is an existing location employer who has operated for a number of years from the site. The nature of the business is also broadly suited to a rural location; this location also being particularly appropriate as it is outside the village such that works on site are unlikely to disturb neighbouring residents and the site itself is well contained thereby making further sprawl into the Green Belt unlikely.

4.23 Officers have considered relevant policy within the Neighbourhood Plan. Policy RwK 01 refers to development in the Green Belt. This states that inappropriate development in the Green Belt will not be supported except in very special circumstances and that new buildings are regarded as inappropriate development. The supporting text to the policy states that the NP's Green Belt seeks to preserve the agricultural character of the Parish. There is nothing in the proposal which fails to meet this policy.

4.24 Policy RwK 16 (as stated above at para. 4.20) is supportive of small scale commercial enterprise. The proposal is considered to meet the criteria listed in the policy. While the building is large, it fits comfortably within the existing site curtilage which is well defined within the countryside. The building is appropriate for this rural location and there is little visible from outside the site which would suggest that the site was in anything other than an agricultural use.

5.0 CONCLUSION

5.1 The site lies within the general extent of the Green Belt as identified in the RSS to which S38 of the 1990 Act applies. Having regard to the purpose of the RSS policies it is considered appropriate and justified that the proposal is therefore assessed against the restrictive policies in the NPPF relating to protecting the Green Belt. The development plan for the site is the Rufforth with Knapton Neighbourhood Plan and the proposal must be assessed against this and policies in the NPPF relating to the Green Belt.

5.2 The NPPF indicates that very special circumstances necessary to justify inappropriate development in the Green Belt cannot exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The NPPF also states that in the planning balance substantial weight should be given to any harm to the Green Belt. In this case, harm has been identified by way of inappropriateness of the proposed

development. The presumption against inappropriate development in the Green Belt means that this harm alone attracts substantial weight. Additionally, the proposed development would reduce the openness of the Green Belt as a result of its scale and position when the most important attributes of Green Belts are their openness and permanence. The building would also undermine one of the purposes of including land within the Green Belt by failing to safeguard the countryside from encroachment. Some limited harm has also been identified to visual amenity as the result of the scale of the building and its position close to the boundary of the site.

5.3 The applicant has put forward a number of factors to demonstrate very special circumstances to clearly outweigh these harms. Substantial weight has been given to the harm to the Green Belt through inappropriateness and additional harm through harm to openness, visual amenity and one of the purposes of including land within the Green Belt. It is considered however that the very special circumstances put forward by the applicant are sufficient to outweigh this harm and are unique and individual to the applicant.

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:-

Location plan

Proposed plans and elevations P6189-01 D

Proposed site plan

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

3 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.

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 1metre from the nearest noise sensitive facades when assessed in accordance with BS4142:2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

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

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

Design considerations.

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuDs methods can be proven to be unsuitable then In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha or if shall be used for the above. For the smaller developments where the Greenfield run-off rate is less than 1.4 l/sec/ha and becomes impractical and unsustainable then a lowest rate of 2 l/sec shall be used.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties. Details of the future management and maintenance of the proposed drainage scheme shall be provided.

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

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:

Imposed appropriate conditions

Discussed possible very special circumstances with applicant

2. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974.

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

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) 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.

(c) 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.

(d) 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

(e) There shall be no bonfires on the site

(f) 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.

Contact details:

Author: Alison Stockdale Development Management Officer

Tel No: 01904 555730