

,COMMITTEE REPORT

Date: 12 May 2016 **Ward:** Rural West York
Team: Major and **Parish:** Nether Poppleton Parish
 Commercial Team Council

Reference: 16/00179/FULM
Application at: Plot 1B - Call Centre White Rose Close Nether Poppleton York
For: Erection of motor vehicle dealership with associated vehicle
 parking and display
By: Mr Andrew Hodgson
Application Type: Major Full Application (13 weeks)
Target Date: 13 May 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 The application site comprises a 0.85 hectare unused plot within the York Business Park. The site is bounded to the east by the East Coast Mainline, to the north by a series of pub and restaurant uses and to the south by an office development. The site is allocated in both the Development Control Local Plan and the (Publication) Draft Local Plan as employment land.

1.2 Planning permission is sought for the construction of a 1863 square metre car dealership building with ancillary servicing and valeting functions and external car parking. The application details have been amended subsequent to submission to clarify the servicing, access and parking arrangements. Further details have also subsequently been submitted in terms of the unsuccessful marketing of the site as employment land.

2.0 POLICY CONTEXT

STATUS OF THE EMERGING LOCAL PLAN:-

2.1 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only limited weight. Where relevant and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

The NPPF is the most up to date representation of key relevant policy issues and the proposal should principally be assessed against this policy Framework.

3.0 CONSULTATIONS

INTERNAL:-

3.1 Public Protection raise no objection to the proposal subject to any permission being conditioned to require appropriate mitigation measures against the impact of plant and operational noise as well as lighting.

3.2 Design, Conservation and Sustainable Development (Ecology) raise no objection to the proposal.

3.3 Planning and Environmental Management initially raised concerns in terms of the loss of employment land. However, the submitted further information in terms of marketing the site demonstrates that all reasonable efforts have been made for employment use without success and as such the issue has been addressed.

3.4 Strategic Flood Risk Management raises no objection in principle subject to the concerns of Yorkshire Water being adequately resolved. 3.5 Highway Network Management raise no objection to the proposal.

EXTERNAL:-

3.5 Nether Poppleton Parish Council raise no objection to the proposal subject to the height of the proposed building being restricted to that specified, sufficient parking being provided within the site for staff and visitors and lighting of the site being strictly conditioned.

3.6 Network Rail raises no objection to the proposal subject to any permission being strictly conditioned to safeguard the boundary to the operational railway.

3.7 The Ainsty(2008) Internal Drainage Board object to the proposal on the grounds that the impact of surface water discharge at the suggested rate is untested and that as a consequence it is likely to increase flood risk along a water course already subject to flooding during significant rainfall events.

3.8 Yorkshire Water Services Limited have objected to the proposal on the grounds that the proposed development would impact upon the required easement across the site to secure maintenance access to the surface water sewer and water main crossing the site. The applicant has subsequently submitted a detailed plan which demonstrates that the site can be satisfactorily developed without impinging upon the company's public infrastructure.

3.9 Two letters of representation have been received in respect of the proposed development expressing concern in respect of the proximity of the proposal to the

generator serving an adjacent business and also expressing concern in respect of the need to resolve problems of on-street parking in the locality.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Employment Land Issues;
- Impact upon Local Biodiversity;
- Impact upon the Local Surface Water Drainage Network;
- Impact upon the safety and convenience of local highway users;
- Sustainability.

PLANNING POLICY CONTEXT:-

STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN (2005 4th SET OF CHANGES):-

4.2 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in respect of Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

STATUS OF THE EMERGING LOCAL PLAN:-

4.3 The (Emerging) Publication Draft York Local Plan (2014) is currently not progressing through its statutory consultation. At the present early stage in the statutory process the emerging Local Plan policies carry only limited weight. Where relevant, and in accordance with the terms of the National Planning Policy Framework. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

4.4 The NPPF is the most up to date representation of key relevant policy issues and the proposal should principally be assessed against this policy Framework.

4.5 Loss of Employment Land: - Central Government planning policy as outlined in paragraph 22 of the National Planning Policy Framework indicates that where there is no reasonable prospect of allocated employment sites being used for the allocated employment use then applications for other alternative uses should be judged strictly on their merits. Whilst the policy may only be afforded very limited weight, Policy EC3 of the (Emerging) Publication Draft York Local Plan(2014) sets out presumption against the loss of land allocated for employment use unless it can

clearly be demonstrated that the site has been marketed for a prolonged period (a minimum of six months) for employment use without any success.

4.6 Impact upon Local Biodiversity:- Central Government Planning Policy as outlined in paragraph 118 of the National Planning Policy Framework indicates that Local Planning Authorities should seek to safeguard local biodiversity by ensuring that where significant harm arising from a development can not be avoided that it is adequately mitigated and that if that is not possible that planning permission should be refused. Whilst the policy itself may only be afforded very limited weight Policy G12 of the (Emerging) Publication Draft Local Plan seeks to ensure the retention and enhancement of sites of local biodiversity interest within new development proposals.

4.7 Impact Upon Flood Risk:- Central Government Planning Policy as set out in paragraph 103 of the National Planning Policy Framework indicates that in determining planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere.

LOSS OF EMPLOYMENT LAND:-

4.8 The application site forms a large undeveloped section of the York Business Park which was given planning permission in the late 1990s for a mix of B1 (business) and B8 (storage and distribution) uses. The proposed dealership whilst including elements of employment use including servicing and repair of cars and commercial vehicles and storage of vehicles for sale and awaiting repair would represent a change of use outside these use classes to a sui generis use and a loss of land for employment development. However, Officers consider that there are material considerations which justify the proposed dealership. The northern section of the Park has a concentration of car dealerships of some long standing, at the same time planning permission was very recently given for similar proposal by Arnold Clarke on a nearby site ref:-15/01307/FULM. The applicant has an existing dealership at Monk's Cross and the proposal is seen as necessary to deal with a significant increase in demand for the range of Fiat/Alfa Romeo and Jeep cars traded there and is thus a significant expansion of a business already present within the City. The applicant has indicated that the proposal if implemented would be their principal trading outlet within the wider locality and would employ, ultimately some 40 full time staff with other posts created in the locality for suppliers. The site was historically the site of an Outline Planning Permission for offices from 1999 and then speculatively for a Call Centre in 2006 but these were never implemented and have since expired. The site has subsequently been marketed unsuccessfully for employment use since 2006 as confirmed by additional information submitted by the applicant and evidences by marketing material available on the property agents' websites. As such the proposal is felt to be acceptable in terms of the loss of employment land and in terms of the other economic development benefits it would bring.

IMPACT UPON LOCAL BIODIVERSITY:-

4.9 The site represents a good example of semi-improved natural grassland providing an important habitat for several important wild flower species such as the creeping cinqfoil and tufted vetch along with the small tortoiseshell butterfly. It is more importantly a foraging habitat for the kestrel. The Clifton and Rawcliffe Ings SSSIs lie within 700 metres to the east and south east of the site beyond the East Coast Main Line. Other sections of the Business Park to the south and south west have been designated as a SINC (Site of Interest for Nature Conservation) on the basis of the richness of their grassland habitat. However, the application site has not been so designated and providing the proposed landscaping to the site boundaries is executed as indicated and the level of lighting is controlled by condition attached to any planning permission, then the development is felt to be appropriate in terms of its impact upon local biodiversity.

IMPACT UPON THE LOCAL SURFACE WATER DRAINAGE NETWORK:-

4.10 Concern has been expressed by the local Internal Drainage Board in respect of the proposed attenuated rate of surface water run-off from the site of 3.5 litres per second which they feel would harmfully increase water levels in the nearby water course they maintain and which has been subject to episodes of flooding during severe rainfall events. The applicant has submitted a detailed surface water drainage scheme which indicates that surface water run-off from the proposal would be attenuated within the site prior to discharge to the nearby Yorkshire Water surface water sewer and ultimately a local water course maintained by the Ainsty IDB and the River Ouse. It is felt that the proposed rate of run off for the site is the lowest that may be practically achieved and one which is entirely consistent with that previously suggested for the nearby Arnold Clark site. As such it is felt that the surface water drainage scheme is acceptable and that the requirements of paragraph 103 of the National Planning Policy Framework can be complied with.

4.11 Concern has been expressed by Yorkshire Water Services Limited in respect of the relationship of the proposed building complex to the required easement associated with their surface water sewer and operational water main which cross the site. However, the applicant has submitted a detailed plan which is able to demonstrate that the proposed development would be carried out to allow for the provision of the appropriate 4 metre easement to either side of the centre line in respect of the surface water sewer and 5 metres in respect of the water main. As such the development is felt to be appropriate in terms of its impact upon public infrastructure, subject to confirmation from Yorkshire Water.

IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.12 Concern was initially expressed in respect of the access and servicing arrangements to the site and the level of additional traffic flows anticipated on the local highway network. Subsequently the applicant has submitted a detailed travel plan along with clarification in terms of the proposed servicing arrangements. The proposed parking and servicing arrangements are felt to be acceptable with cycle and vehicle parking in line with the adopted standards. It is felt that the overall level of traffic generation would be significantly below that previously anticipated in respect of the approved call centre use with a high incidence of "linked trips" in terms of both retail and service customers. It is felt that the local road network within the Business Park and adjacent section of the A1237 outer ring road would clearly be able to accommodate the additional levels of traffic generated.

SUSTAINABILITY:-

4.13 The applicants have submitted a detailed BREEAM pre-assessment report indicating that the scheme has been designed to achieve a BREEAM rating of "very good". Energy use would be approached through a "fabric first" design response with enhanced energy controls and insulation. Potable water use would be reduced by 25% compared with their existing operation. Welfare and shower facilities would be provided to encourage staff members to cycle and a "sustainability champion" would be appointed for the site. A sustainable travel plan would also be prepared. The proposal is therefore felt to be acceptable in sustainability terms.

5.0 CONCLUSION

5.1. It is accepted that this longstanding vacant site has been marketed unsuccessfully for the previously permitted employment use for a significant length of time, and that therefore it can be concluded having regard to the NPPF that there is no reasonable prospect of this allocated employment site being used for the employment use. The current proposal therefore needs to be considered on its own merits. At the same time the proposal would not materially harm local biodiversity and is acceptable in terms of its impact upon the local surface water drainage network and local public drainage infrastructure. The proposal is also felt to be acceptable in highway terms. Approval is therefore recommended.

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:-

Application Reference Number: 16/00179/FULM

Item No: 4e

Drawing Refs:- 539-07C; SK001 P1; SK002 P1; 539-01; 539-02; 539-03; 539-04; 539-05; 539-06.

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

3 VISQ8 Samples of exterior materials to be app

4 VISQ4 Boundary details to be supplied

5 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees, shrubs and hard landscaping. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

6 HWAY11 Initial 10m of access surfaced

7 HWAY14 Access to be approved, details reqd

8 HWAY18 Cycle parking details to be agreed

9 HWAY19 Car and cycle parking laid out

10 HWAY37 Control of glare etc from lighting

11 Prior to the commencement of the use hereby approved, provision shall be made within the site for accommodation of delivery/service vehicles in accordance with the approved plans (ref:- SK 001 P1 and SK 001 P2). Thereafter all such areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To ensure that delivery/service vehicles can be accommodated within the site and to maintain the free and safe passage of highway users.

12 LC4 Land contamination - unexpected contam

13 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval prior to the commencement of works on site above foundation level. These details shall include maximum sound levels (LA max(f)) and average sound levels (LA eq), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. 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 background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

Reason: To protect the amenity of local residents

14 Prior to commencement of the development, an Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

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.

Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

For dust details should be provided on measures the developer will use to minimise dust blow off from site, i.e. wheel washes, road sweepers, storage of materials and stock piles, used of barriers, use of water bowsers and spraying, location of stockpiles and position on site. In addition I would anticipate that details would be provided of proactive monitoring to be carried out by the developer to monitor levels of dust to ensure that the necessary mitigation measures are employed prior to there being any dust complaints. Ideally all monitoring results should be measured at least twice a day and result recorded of what was found, weather conditions and mitigation measures employed (if any).

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.

Reporting and investigation measures should also cover any pollution/discharge incidents affecting the adjacent open drain.

In addition to the above I would also expect the CEMP to 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.

Reason. To protect the amenity of local residents

15 NOISE7 Restricted hours of construction

16 Prior to the undertaking of construction works above foundation level a full Lighting Impact Assessment undertaken by an independent assessor detailing predicted light levels at neighbouring residential properties including a description of the proposed lighting, a plan showing vertical illuminance levels (Ev) and all buildings within 100 metres of the edge of the site boundary, shall be submitted to and agreed in writing by the Local Planning Authority. Such details shall include all necessary mitigation measures to lessen impact from lighting upon the surrounding areas including the adjacent wildlife habitat and shall be provided in full before the development is first brought into use and maintained thereafter.

Note: Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone

E3 contained within the following table taken from the Institute of Light Professionals Guidance Notes for the Reduction of Obtrusive Lighting.

Environmental Zone Ev [lux]	Sky Glow ULR [Max %]			Light Intrusion (into windows) Building Luminance Pre-curfew		
	Pre-curfew	Post- curfew	Average L [cd/m2]	Pre-curfew	Post- curfew	Average L
E0	0	0	0	0	0	0
E1	0	2	0	2,5000	0	
E2	2.5	5	1	7,500500	5	
E3	5.0	10	2	10,000	1,00010	
E4	15	25	5	25,000	2,50025	

ULR = Upward Light Ratio of the Installation is the maximum permitted percentage of luminaire flux that goes directly to the sky

Ev = Vertical Illuminance in Lux- measure flat on the glazing at the centre of the window

I = Light intensity in Candelas (cd)

L = Luminance in Candelas per Square metre (cd/m2)

Curfew = the time after which stricter requirements for the control of obtrusive light apply, this is generally taken as 23:00

Reason:-To protect the amenity of the area and adjoining land uses

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

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

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

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 soak away, 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 to discount the use of SuD's.

If SuD's 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 surface water run-off from Greenfield developments must be attenuated to that of the existing rate (based on a Greenfield run off rate of 1.40 l/sec/ha).

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.

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 (paragraphs 186 and 187) 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:

i) Sought clarification in respect of the location of the proposed building works relative to the necessary maintenance easement for the public water main and surface water sewer;

ii) Sought clarification in respect of the detailed access, parking and servicing arrangements within the site.

2. NETWORK RAIL INFORMATIVE:-

By virtue of the proximity of the site to the railway line Network Rail have the following requirements:

Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

ENCROACHMENT

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. In this instance, the proposed development borders access to a bridge under the railway along its south eastern boundary and this access must remain open and

unobstructed at all times both during and after construction at the site.

Network Rail is required to recover all reasonable costs associated with facilitating these works.

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