

COMMITTEE REPORT

Date: 18 October 2017 **Ward:** Bishopthorpe
Team: Major and **Parish:** Acaster Malbis Parish
Commercial Team Council

Reference: 17/01790/FUL
Application at: Yorvale Ltd Fossfield Farm Foss Field Lane Acaster Malbis York
For: Erection of a single storey production building
By: Yorvale Icecream Ltd
Application Type: Full Application
Target Date: 27 October 2017
Recommendation: Delegated Authority to Approve/ Refuse

1.0 PROPOSAL

1.1 Planning permission is sought for a building to be used in association with the existing ice cream factory on site. The metal clad building would measure 1.8 metres by 22.2 metres, and would be 6 metres in height to the roof ridge. The green metal profile cladding would be similar to the ice cream factory buildings to the south. There would be a connecting element between the proposed building and one of the ice cream factory buildings to the south. To the south of the proposed site are the ice cream factory buildings, to the east is a metal clad farm shed, and to the north is a field which currently has 6 rows of ground mounted solar panels. To the west is the deciduous boundary hedge with fields beyond.

1.2 The site is within the general extent of the York Green Belt. The site is within Flood Zone 2.

1.3 There is an existing ice cream factory on the site and the proposed building would be an extension of the element of the business. The ice cream factory is sited adjacent to the farm complex. The building would be used for the production of Kefir. Kefir is a fermented drink, made by adding kefir 'grains' to milk and allowing it to ferment.

1.4 During the application process a revised plan was submitted setting out which buildings are used in association with the ice cream business. In addition, a Flood Risk Assessment in line with the National Planning Policy Guidance criteria was also requested together with clarification of the drainage arrangements. At the time of writing, this information had not yet been submitted.

1.5 Planning Site History

- 14/01524/FUL - Installation of 6 rows of ground mounted solar panels - Approved

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- 13/03423/FUL - Erection of dirty water storage tank - Approved
- 13/03328/FUL - External alterations and change of use of agricultural building to a cold store in connection with existing ice cream production business - Approved
- 07/02714/FUL - Extension of existing ice cream production building for use as storage - Refused, the decision was appealed and allowed
- 98/02011/FUL - Pitched roof two storey extension to rear and single storey extension to front - Approved
- 98/02010/FUL - Erection of single storey pitched roof ice cream production building - Approved
- 97/00251/FUL - Erection of milking parlour - Approved
- 8/81/70D/PA (1996) - Change of use of existing agricultural building to dry store for ice cream production - Approved
- 8/81/70C/PA (1994) - Erection of a livestock building. - Approved
- 8/81/70B/PA (1991) - Erection of a temporary mobile home for 2 years for a single cowman - Approved
- 8/81/70A/PA (1988) - Erection of a building for use for the manufacture and wholesale only of dairy ice cream - Approved
- 8/81/70/PA (1988) - Proposed erection of a building for the manufacture and sale of dairy ice cream and the construction of a car park - Refused

2.0 POLICY CONTEXT

2.1 Draft Development Plan Allocation:

- City Boundary GMS Constraints: York City Boundary 0001
- Floodzone 2 GMS Constraints: Floodzone 2

2.2 Policies: Please see the Appraisal Section (4.0) for national and local policy context.

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT

3.1 No objection. Access to the farm is as existing. The increase in traffic generated from that of its current lawful use is negligible. Although residents have objected to the proposed development; citing the need for passing places, it would not be a reasonable request for the scale of the proposed development.

PLANNING AND ENVIRONMENTAL MANAGEMENT (ARCHAEOLOGY)

3.2 No objections

FLOOD RISK MANAGEMENT TEAM

3.3 No drainage information was submitted, can be sought via condition

PUBLIC PROTECTION

3.4 Request condition for the reporting of unexpected contamination, and INF11

EXTERNAL CONSULTATIONS/REPRESENTATIONS

ACASTER MALBIS PARISH COUNCIL

3.5 No objections

ENVIRONMENT AGENCY

3.6 Applicant has failed to submit any sequential test evidence with the application

3.7 Due to the proposed development's scale and the level of flood risk, the EA has no objections to this development

3.8 EA recommend that to reduce the potential impact of flooding by raising floor levels wherever possible and incorporating flood proofing and resilience measures. Physical barriers, raised electrical fittings and special construction materials should be considered

3.9 Consideration should be given to the production /update of a flood evacuation plan.

3.10 Non-mains foul drainage, should ensure that the proposal complies with the NPPG and the EA Pollution Guidance

YORKSHIRE WATER

3.11 Has no comments.

AINSTY INTERNAL DRAINAGE BOARD

3.12 The IDB has assets adjacent to the site in the form of Dimple Ditch; this watercourse is known to be subject to high flows during storm events.

3.13 The site is in an area where drainage problems could exist and development should not be allowed until the LPA is satisfied that surface water drainage has been satisfactorily provided for. Any approved development should not adversely affect the surface water drainage of the area and amenity of adjacent properties.

3.14 The expressed intention is to use an existing watercourse for the disposal of surface water however no further details appear to have been provided regarding the nature and location of the relevant watercourse. The IDB's preference would be to see the use of sustainable methods of surface water disposal, wherever possible, retaining the water on site. In these circumstances the IDB would be seeking that the applicant should demonstrate that there is currently positive drainage and a proven connection to the watercourse. Where this is the case, the IDB would want the rate of discharge constrained at the "greenfield" rate (1.4 l/s/ha) plus an allowance for any "brownfield" areas any of the site which are currently impermeable (at the rate of 140 l/s/ha) less 30%. With storage calculations to 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 event. All calculations should include a 20% allowance for climate change.

3.15 Foul Sewage from this site is to be treated in a package treatment plant but does not indicate what will happen to the discharge from that facility. The IDB would wish to make the applicant aware that it does not wish to see flow rates increase in its land drainage systems which can arise from cumulative small flows from multiple small discharges. In addition the disposal of treated sewage effluent is not the intended function of the land drainage network. The IDB would therefore wish it to be noted that if it is the applicant's intention to dispose of treated foul flows into the adjacent watercourse it is unlikely that the IDB would consent to this as a stand-alone flow. If however agreement can be reached regarding the discharge of surface water from the site (in line with the requirements and calculations shown above) the IDB may be prepared to accept the treated foul flow but only if the combined rate of discharge does not exceed the calculable rate for the surface water flow.

PUBLICITY AND NEIGHBOUR NOTIFICATION

3.16 One representation of comments

- Request provision of passing places. Fossfield Lane is a narrow single track road, as the business has developed a number of large vehicles using the lane has increased. Resulting in difficulties in passing one another. Request that the provision of passing places will be a condition of the planning permission.
- Request that the site is screening by trees and hedges to mitigates its impact.

3.17 One representation of objection

- Concerned would result in increased traffic on a single track road, including more HGVs delivering ingredients and removing finished products. Together with the increase in traffic from the increased staff numbers
- Request 2 passing places to prevent HGVs reversing on the lane particularly when 2 lorries are using the lane at the same time
- The increased number of industrial buildings is a concern. Evergreen trees would screen the development and would reduce the noise on a night from the compressors; concerns regarding the compressors have previously been raised.

3.18 Two representations of support

- Yorvale is very successful with a lot of the success coming down to the way the product is produced. There are a lot suppliers producing ice cream, but very few with the provenance that give Yorvale the unique point of difference over other mainstream producer. To lose the provenance aspect of the manufacturing process would have a detrimental effect on the business and damage customers' perception of Yorvale.
- Local sourcing from your Farm is a key selling point. It is important that production is kept to the Farm as it's such a big part of the product that is offered.

4.0 APPRAISAL

KEY ISSUES

- Planning policy
- Green Belt and consideration of very special circumstances
- Design and landscape considerations
- Flood Risk
- Drainage
- Impact to residential amenity

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. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. 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.

4.2 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed. The NPPF sets out the presumption in favour of sustainable development unless specific policies in the NPPF indicate development should be restricted. The presumption in paragraph 14 does not apply in this case as the more restrictive policies apply concerning Green Belt and flooding.

DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

4.3 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.

4.4 Policy GB1 'Development in the Green Belt' of the DCLP sets out a number of criteria of considering new sites, whilst some of the specific criteria do not comply with the National Planning Policy Framework (NPPF) the general aim of the policy is considered to be in line with the NPPF.

4.5 Policy SP2 'The York Green Belt' states that the primary purpose of the Green Belt is to safeguard the setting and historic character of the city. Policy SP3 'Safeguarding the Historic Character and setting of York' states high priority will be given to the historic character and setting of York. The general aim of the policy - take account of the different roles and character of different areas- is considered to be in line with the NPPF.

EMERGING LOCAL PLAN

4.6 The public consultation on the Pre-Publication draft Local Plan and evidence base started on Monday 18 September 2017 and runs until Monday 30 October 2017. The emerging Local Plan policies can only be afforded very limited weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF. However, the evidence base underpinning the emerging Plan is capable of being a material consideration in the determination of planning applications.

GREEN BELT STATUS OF THE SITE

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

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

4.8 The site is located within the general extent of the York Green Belt as described in the RSS. The DCLP (2005) and the emerging local plan designate the site as Green Belt.

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

4.10 Additionally, when the site is assessed on its merits it is concluded that it serves a number of Green Belt purposes, namely assisting in safeguarding the countryside from encroachment and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. It is considered that the site should be treated as lying within the general extent of the York Green Belt and the proposal falls to be considered under the restrictive Green Belt policies set out in the NPPF.

4.11 The application site is sited on the edge of the factory/farm complex. To the south are the three buildings used for the ice cream business. To the east is the farm. To the north is a field and directly to the north are 6 rows of solar panels. To the west are a deciduous hedge and a field. Further west is the neighbouring farm - Park Farm. The application site is partly hardstanding however the majority is grass.

4.12 The fundamental purpose of Green Belt policy is keep land permanently open. The concept of 'openness' in this context means the state of being freed from development, the absence of buildings, and relates to the quantum and extent of development and its physical effect on the site. The proposed factory building would create in an increase in the solid form and visual harm within the Green Belt, and would result in the encroachment of development into the Green Belt contrary to one of the purposes of including land in the Green Belt. This would result in harm to the openness and permanence of the Green Belt and is therefore considered to be inappropriate development in the Green Belt. The proposal gives rise to harm to the Green Belt by reason of inappropriateness which should not be approved except in very special circumstances. The NPPF states that 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, is clearly outweighed by other considerations.

4.13 NPPF paragraph 89 states that the construction of new buildings is inappropriate in the Green Belt save in the case of a list of exceptions. The proposed development does not fall within the exceptions set out in paragraphs 89 and 90 of the NPPF.

4.14 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF states that 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, is clearly outweighed by other considerations. Whether very special circumstances exist is assessed from paragraph 4.31 of this report.

DESIGN AND LANDSCAPE CONSIDERATIONS

4.15 The Government attaches great importance to the design of the built environment. The NPPF states that good design is a key aspect of sustainable development, and is indivisible from good planning, and should contribute positively to making places better for people. Development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit; optimise the potential of the site to accommodate development, create and sustain an appropriate mix of

uses and support local facilities and transport networks; respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and are visually attractive as a result of good architecture and appropriate landscaping. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

4.16 The design, height and proposed materials of the proposed building are similar to the existing farm and factory buildings. The proposed production shed would form part of the existing farm/factory complex. The surrounding landscape is flat and open. The proposed building would be visible from a distance by virtue of the siting on a slight rise. The building subject of the current application would be visible however it would be of similar appearance to the adjacent agricultural building and would be visible against the context to the existing farm complex. However, the proposal would increase the extent of development on the site, in terms of footprint, mass and height. This close proximity to the existing buildings, in conjunction with the additional mass, would increase the dominance and presence of the built form on the land. This would have a negative impact on the visual amenity of the area as the site is readily visible.

4.17 Comments have been received requested screening of the proposed building with evergreens; it is considered that this would make the site more visible as the use of evergreens such as leylandii would appear alien and atypical in this open location.

4.18 No further hardstanding is proposed.

4.19 The proposed land is classified as Grade 3 agricultural land by DEFRA. The NPPF states Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The proposed use would result in the loss of this agricultural land. Whilst it is considered that it is not a sufficient reason to refuse the application on these grounds alone, it is considered to result in additional harm to the Green Belt by reason of inappropriateness and the harm to the openness of the Green Belt as set out above.

FLOOD RISK

4.20 The NPPG advises that a site specific FRA must -

- Identify the flood risk
- Where appropriate, demonstrate how land uses most sensitive to flood damage have been placed in areas within the site that are at least risk of flooding
- Flood risk management measures to make the development safe
- Ensure no increased flood risk elsewhere and where possible reduce risk
- What flood-related risks will remain during the lifetime of development, and how will these risks be managed? (E.g. flood warning and evacuation procedures)

4.21 The site is within Flood Zone 2 as such a sequential test is required

4.22 The NPPG states that it is for LPAs, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere. The aim of the sequential test is to steer new development to areas at the lowest probability of flooding (Zone 1). This indicates that priority should be given to allocating sites for development in descending order to the 'Flood Zones' set out in the CYC Strategic Flood Risk Assessment.

4.23 The NPPG states that "When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere." The proposed development would extend the ice cream business (also within Flood Zone 2). The proposal building would fall within 'Less Vulnerable' in the flooding vulnerability categories'. The proposed building would be an extension to an existing business on site and it is considered reasonable to site an additional factory building adjacent to the existing factories buildings.

4.24 The NPPG states that ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere. Unfortunately the submitted Flood Risk Assessment (FRA) does not address any of the NPPG criteria set out in Para 4.20. The agent has been unable to demonstrate that the proposed development would be safe for its lifetime and would not cause flooding issues elsewhere. Therefore the development fails the sequential test. By virtue of the lack of an adequate FRA, officers can not currently accept the principle of the development or recommend

approval. Officers consider that the basic information can easily be provided and would likely prove that the development is acceptable in this location, however as yet no information has been submitted by the agent to demonstrate this. A revised FRA has been requested from the agent, the agent has expressed the intention of submitting a FRA but was unable to provide any timescale for when this would be submitted. It is hoped that the FRA will be submitted before the committee meeting, if so, it will be reported to committee and if there is sufficient information to demonstrate that the sequential test has been passed.

DRAINAGE

4.25 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan policy GP15a: Development and Flood Risk advises discharge from new development should not exceed the capacity of receptors and water run-off should, in relation to existing run-off rates, be reduced.

4.26 No details of the surface water drainage scheme were submitted as part of the application. In addition it is stated that the foul water would be disposed of to package treatment plant, no details have been submitted of where the trade waste would be disposed to. The Flood Risk Engineer is confident that a suitable drainage scheme can be achieved on the site, and that details can be sought via condition. However the agent has verbally requested that they do not want any pre-commencement conditions for the drainage. The agent has expressed the intention to submit drainage information during this application process that can demonstrate that the site can be suitably drained and thus negate the requirement for pre-commencement drainage condition. At the time of writing the drainage information had not yet been submitted. If any drainage information is submitted it will be reported to committee.

IMPACT TO RESIDENTIAL AMENITY

4.27 By virtue of the distance from the nearby dwellings it is not considered that the proposed development would result in disturbance or harm to residential amenity.

4.28 Concern has been raised regarding noise from machinery from the existing factory. Public Protection has confirmed they have not received any noise complaints regarding existing machinery on the site. However it is considered necessary given the quiet character of the area to add condition requiring details to be submitted of any machinery that would be audible from outside of the boundary to be submitted to the LPA.

HIGHWAYS

4.29 The milk used in the ice cream and yoghurt drinks comes from the cattle on the host farm. Double cream is brought to the site from a local creamy. Flavourings are also brought to the site. The increase in the size of the business will likely result in more ingredients being delivered to the factory. The refrigerated lorries which collect the produce for distribution are currently leaving the site with half their capacity filled. As such the additional produce, which would be generated, would unlikely result in any additional movements of from the site. There would be no alterations to the existing access to the farm or factory. The Highways Network Management team (HNM) consider that the increase in traffic generated would be negligible. Whilst concern has been raised regarding the lack of passing places the HNM Team consider it would be an unreasonable request for the scale of the proposed development.

4.30 The numbers of vehicle (20) and cycle parking (15) spaces would remain the same.

ASSESSMENT OF THE CONSIDERATIONS FORWARDED BY THE APPLICANT

4.31 Paragraphs 87-88 of the NPPF advise that permission should be refused for inappropriate development in the Green Belt unless other considerations exist that clearly outweigh the potential harm to the Green Belt (and any other harm so as to amount to very special circumstances. Substantial weight is to be given to any harm to the Green Belt.

4.32 The Applicant has forwarded the following factors to be considered as very special circumstances:

- It is an existing business that is operationally and functionally linked to the farm. This provenance and history of the ice cream business.
- There is a commercial and operational need for the development
- Benefit for the local economy and local employment

(i) It is an existing business that is operationally and functionally linked to the farm. This provenance and history of the ice cream business.

4.33 There has been a previous appeal (in 2008) on the site for a factory building. The Inspector considered that the site was greenbelt and that the proposed development was inappropriate. However they considered that the business was existing, and that there were very special circumstances to overcome this harm as follows: The functional link to the farm activity and the importance of the "provenance" issue to the future success of the business, there were no alternatives for on-site solutions for the storage building, and that there was an commercial and

operational need for the development, which would benefit to local economy and local employment

4.34 In 2012 the NPPF was published, setting out the revised greenbelt policy. The modest size of the farm and the current modest number of cattle currently limits the size of the business while its provenance (only using milk from the farm) continues to be its main selling point. Once milk from other sites is being transported onto the site the unique selling point is lost and so is the justification for the business being on this site. That is not to say that the extent of the farm may not extend at a later date.

4.35 The existing ice cream manufacturing business on the site dates from 1988 and the existing production/storage building dates from 1998, 2009, and 2013 (change of use). The business is established. As mentioned above the milk used in the ice cream comes from the cattle on the host farm, the 'provenance' of the ice cream is the selling/marketing grounds of the ice cream. There is a currently a functional link between the business and the farming activity. Relocation to another site would break the functional link and remove the farm-based marketing value. The "provenance" is an important marketing consideration in a competitive market.

(ii) There is a commercial and operational need for the proposed building

4.36 The NPPF states that planning policies should support economic growth in taking a positive approach to sustainable new development. Nevertheless, this policy does not outweigh green belt policy, as the presumption in favour of sustainable development does not apply to sites within the green belt.

4.37 The size of the building has been justified on the need for more space to provide the kefir drink and to providing staff facilities. From the supporting information the kefir is already made on site, however due to its popularity more space is required. The proposed building would be used for the housing of cold production line (bottling) with freezer standard walls and freezers and the production of kefir. The product has been successful as such the building is required to keep up with demand.

(iii) Benefit for the local economy and local employment

4.38 The NPPF states that planning policies should support economic growth in taking a positive approach to sustainable new development. Nevertheless, this policy does not outweigh green belt policy, as the presumption in favour of sustainable development does not apply to sites within the green belt.

4.39 From the application form it states that 3 full time positions would be created by the proposed development. This would be of direct benefit to the local economy and local employment. However the level of direct employment created is not considered

to be of a sufficient economic benefit to outweigh the harm to the Green Belt and is considered to have limited weight.

4.40 To conclude, it is an established successful business that currently exists on the site and whilst the proposed development would be a significant increase on the existing host building it would be sited on a partially enclosed site on the edge of the confines of the farm and factory complex. Relocation to another site would break the functional link and remove the farm-based marketing value. There is considered to be a functional link of the ice cream business to the farm activity and the importance of the "provenance" of the ice cream, frozen yoghurt, and kefir. As such it is considered that cumulatively factors (i) and (ii) are considered to clearly outweigh the harm to the Green Belt due to inappropriateness to the openness and permanence of the Green Belt.

5.0 CONCLUSION

5.1 The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 87 of the NPPF which states inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.

5.2 In addition to the harm to the Green Belt by reason of inappropriateness, it is considered that the proposal would have a harmful effect on the openness of the Green Belt when one of the most important attributes of Green Belts are their openness and that the proposal would undermine two of the five Green Belt purposes. Substantial weight is attached to the harm that the proposal would cause to the Green Belt. The harm to the Green Belt is added to by the harm to the visual character and amenity identified in this report.

5.3 It is an established successful business that currently exists on the site and whilst the proposed development would be a significant increase on the existing host building it would be sited on a partially enclosed site on the edge of the confines of the farm and factory complex. Relocation to another site would break the functional link and remove the farm-based marketing value. There is considered to be a functional link of the ice cream business to the farm activity and the importance of the "provenance" of the ice cream, frozen yoghurt, and kefir. As such it is considered that cumulatively factors (i) and (ii) referred to in paragraphs 4.32 to 4.37 of this report are considered to have sufficient weight to clearly outweigh the harms to the Green Belt and other harms identified in this report even when substantial weight is given to the harm to the Green Belt. Therefore the very special circumstances necessary to justify the development exist.

5.4 It is recommended that the decision is delegated to officers to approve following the submission of an adequate Flood Risk Assessment and an acceptable drainage scheme and subject to any further conditions required to secure a successful development. It is also recommended that delegated authority be granted to refuse the application if the outstanding information is not submitted and found acceptable within 3 months application, due to lack of information and/ or unacceptable arrangements for drainage.

COMMITTEE TO VISIT

6.0 RECOMMENDATION:

- i) Delegated Authority to Approve on the receipt of adequate flood risk information that would result in a positive sequential test, and receipt of satisfactory drainage information.
- ii) Delegated Authority to refuse the application if adequate flood risk information that would result in a positive sequential test and receipt of satisfactory drainage information has not been submitted within 3 months of the date of this resolution.

1 TIME2 Development start within three years

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

Drawing Number 00 'Floor Plan' received 21 July 2017;

Drawing Number 01 Revision A 'Elevations' received 11 September 2017;

Drawing Number 02 Revision A 'Site Plan' received 11 September 2017;

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 materials to be used externally shall match those of the existing ice cream factory in colour, size, shape and texture.

Reason: To achieve a visually acceptable form of development.

4 No raw materials, finished or unfinished products or parts, crates, materials, waste, or any other item shall be stacked or stored outside any building on the site without the prior approval in writing of the Local Planning Authority.

Reason: In the interests of visual amenity of the area and the openness of the green belt.

5 Prior to the first occupation of the building, full details of the method and design (including illumination levels) and siting of any external illumination shall be submitted to and approved in writing by the Local Planning Authority and shall be completed in accordance with the approved details. Any subsequent new or replacement illumination shall also be agreed in writing by the Local Planning Authority prior to its provision.

Reason: In order to protect the character and appearance of the green belt and countryside from excessive illumination

6 Unless otherwise agreed in writing with the local planning authority, the building hereby approved shall be used for ice cream and kefir production only, using milk produced at Fossfield Farm, and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order.

Reason: The proposed development is considered to be inappropriate development in the greenbelt. There is currently considered to be a functional link of the ice cream business to the farm activity and the importance of the "provenance" of the ice cream, frozen yoghurt, and kefir. The change of use of the building to any other use would potentially remove the very special circumstances and justification for the development, and the use may further impact on the openness of the greenbelt. The characteristics of other uses in class B2 (or B1 or B8) may make this use unacceptable in terms of highway impacts and the impact to the surrounding road network. Other uses may potential impact on the residential amenity the occupants of nearby dwellings. 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.

7 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 their installation. The 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.

Reason: In the interests of the living and working conditions of nearby properties

Application Reference Number: 17/01790/FUL

Item No: 4d

Informative: 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, it is considered that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

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

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:

- Request revised plans
- Request flood risk information
- Use of conditions

2. The applicant should be advised that the Ainsty Internal Drainage Board's prior consent is required for any proposals to culvert, bridge, fill in or make a discharge to the watercourse

3. PUBLIC PROTECTION INFORMATIVE

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

1. 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.

2. 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".

3. Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions.

4. 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.

5. There shall be no bonfires on the site.

4. INFORMATIVE:

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

Contact details:

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