

## COMMITTEE REPORT

**Date:** 9 November 2017      **Ward:** Rural West York  
**Team:** Major and      **Parish:** Nether Poppleton Parish  
Commercial Team      Council

**Reference:** 16/02285/FULM  
**Application at:** 10 Great North Way Nether Poppleton York  
**For:** Erection of a single storey car showroom and workshop with associated facilities  
**By:** Mr Robert Bennett  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 6 October 2017  
**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

1.1 The proposal is for a car dealership sited to one side of the site with a central access point off Great North Way. There is a showroom to the front of the site with an attached workshop, valet and wash bay behind. A compound is sited to the rear of the site and an external sales area to the side closest to the existing care home.

1.2 The site is a vacant area of land within an existing business park. To one side is a small office development and to the other, beyond a strip of vacant land, is a 3 storey care home. To the rear of the site is a residential development of two storey detached dwellings. The boundary to these is a close boarded fence with a number of semi-mature self-seeded trees within the site. The front of the site is marked by a ditch and low level bund. Opposite the site on Great North Way is the new Arnold Clark dealership and car storage area.

1.3 The site is allocated as an employment site within the Development Control Local Plan (DCLP) but this allocation has not been carried over into the emerging Local Plan. Since being allocated in the DCLP the site was further designated as a Site of Local Interest to Nature Conservation (SINC) as a result of the calcareous grassland it contains.

1.4 On 19th July 2017, the Upper Poppleton and Nether Poppleton Neighbourhood Plan became the development plan for that area. Within the plan, the site is designated as green infrastructure.

### 2.0 POLICY CONTEXT

#### 2.1 Development Plan Allocation:

Upper Poppleton and Nether Poppleton Neighbourhood Plan

Application Reference Number: 16/02285/FULM

Item No:

Policy PNP2 Green Infrastructure

Policy PNP7 Business and Employment

## 2.2 DCLP Policies:

CYE3A

Standard Employment Allocations

CYE3B

Existing and Proposed Employment Sites

CYGP1

Design

CYGP4A

Sustainability

CYNE5A

Local Nature Conservation Sites

CYNE5B

Avoidance of, Mitigation and Compensation for Harm to Designated Nature Conservation Sites

## 3.0 CONSULTATIONS

### INTERNAL

#### Public Protection

3.1 A noise assessment was requested as none had been supplied with the application. The assessment has since been received. This has raised some concerns about noise impact on neighbouring residential properties however it is considered that the installation of an acoustic barrier along the boundary with the properties on Severn Green will reduce noise levels by at least 5dB and would resolve concerns about residential amenity. Conditions are suggested.

#### Highways NM

3.2 No objections are raised to the proposals. The site will be accessed via the existing access which will be altered to accommodate the proposed development. Parking meets CYC standards. Traffic generated by this application will have no material impact on the surrounding highway network with a good proportion of customer vehicle trips expected to be pass by trips due to the number of alternative

garages in the vicinity and likelihood that servicing would be planned on route to other destinations. Conditions are recommended.

#### Design Conservation and Sustainable Development (Ecologist)

3.3 Considerable negotiation has taken place with the applicant to resolve issues related to the presence of great crested newts on site and the designated SINC. Conditions have been suggested and a S106 agreement to secure off-site biodiversity measures and their long term management. It has been agreed that an area of off-site scheme for wildflower-grassland planting at Rawcliffe Country Park will be undertaken to compensate for the adverse impact to biodiversity from the loss of 0.7Ha of the SINC

#### Flood Risk Management

3.4 No objections in principle. Conditions are suggested in line with those recommended by Yorkshire Water.

#### EXTERNAL

#### Yorkshire Water

3.5 No objections. Conditions recommended.

#### Ainsty Internal Drainage Board

3.6 No objections. Conditions recommended.

#### Nether Poppleton Parish Council

3.7 Concerns raised about noise and light pollution on nearby residents of the dwellings on Severn Green and the care home.

#### Neighbour notification and publicity

3.8 One letter of support, one of general comments and 7 letters of objection have been received in response to the initial consultation. Three of the representations come from the same household. The representations make the following points:

- Concern that negative impacts experienced as a result of the Arnold Clark site will be repeated here
- Questions about why the application focuses on the impact on Foss Walk not Severn Green; what is the height and impact of the building; will residents' boundary fences be protected; what will the impact of the development be on residential amenity; what is a secure compound and how will it be lit?
- An office development would have had less impact on residents
- There are enough car dealerships in the vicinity
- The site is a SINC
- The proposal will have less impact on the neighbouring businesses
- The area is under-developed and desolate

- The area needs investment to encourage other businesses and attract employment
- Construction of the Arnold Clark site was very disruptive to residential amenity
- Disruption continued after construction with excessive lighting from the site. The proposal is closer than Arnold Clark to residential properties and it is feared the impact will therefore be worse
- Light pollution
- Noise from vehicles and machinery on site harmful to residential amenity particularly within neighbouring gardens
- Impact on house prices
- Environmental problems like dust, noise and pollution
- Will trees on site be removed or protected?
- The Council should protect the SINC
- Overlooking to neighbouring properties
- Noise disturbance from music playing at Arnold Clark
- Resulting parking problems and highways congestion
- Should retain green open space

3.9 Following the adoption of the Upper Poppleton and Nether Poppleton Neighbourhood Plan, a further consultation has been undertaken. The following responses have been received as result of this further consultation:

- Three further letters of objection from local residents expressing concern about development, further car dealerships in the area and reiterating questions asked in relation to the initial submission.
- A response has also been received from the Ebor Court Care Home. They have no objection in principle to the proposal but ask that the operating hours are restricted to Monday to Saturday; noise and lighting are restricted; and that a construction method statement is requested.

3.10 A response has also been received from the Neighbourhood Plan Committee objecting to the proposal on the following grounds:

- Increase of traffic in a congested area.
- Arnold Clark site has highlighted issues of security lighting adjacent to residential development.
- Problems of car parking from other car dealerships in the area.
- The Neighbourhood Plan considers the site suitable for a care home.
- There is an excess of car dealerships in the locality to the detriment of the natural environment.
- Previous developments have failed to implement the landscaping schemes which were imposed to protect the natural environment.

- The mix of commercial and residential is not successful. House prices will be affected.
- Impacts that extend over 24 hours should be refused

## 4.0 APPRAISAL

### 4.1 Key Issues

- Policy background
- Principle of the Development
- Ecology issues
- Design, layout and landscaping
- Amenity considerations
- Highways access and parking arrangements
- Sustainability
- Drainage

## POLICY BACKGROUND

### National Planning Policy Framework

4.2 Paragraph 14 of the National Planning Policy Framework (NPPF) says that a presumption in favour of sustainable development should run through both plan-making and decision-taking.

4.3 Core land use planning principles set out in paragraph 17 include the expectation that planning decisions should proactively drive and support sustainable economic growth to deliver homes business and industrial units responding positively to wider opportunities for growth, always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable.

4.4 Section 1 'Building a Strong, Competitive Economy' says that significant weight should be placed on the need to support economic growth through the planning system. Paragraph 22 says planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of the site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

4.5 Section 7 'Requiring Good Design' attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is

indivisible from good planning, and should contribute positively to making places better for people. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.6 Paragraph 118 of the NPPF states: When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

#### Upper Poppleton and Nether Poppleton Neighbourhood Plan

4.7 The Development Plan for Upper/Nether Poppleton is the Upper Poppleton and Nether Poppleton Neighbourhood Plan which came into force with effect from 19 July 2017. Section 38(6) of the Planning and Compensation Act 2004 and NPPF at para 14 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise.

4.8 The following policies from the Neighbourhood Plan have been identified as relevant to this application:

Policy PNP2: Green Infrastructure relates to the site and requires that green infrastructure sites are safeguarded and that development which would harm the integrity or appearance of the green infrastructure are not supported.

Policy PNP7: Business and Employment Policy states that proposals for new business on established business parks will be supported where they provide car parking for staff and customers to Council standards.

#### City of York Draft Local Plan Incorporating the 4th Set of Changes Development Control Local Plan (Approved April 2005)

4.9 City of York Council does not have a formally adopted Local Plan. Nevertheless The City of York Draft Local Plan Incorporating the Fourth Set of Changes Development Control Local Plan (Approved April 2005) was approved for Development Management purposes.

4.10 The 2005 Draft Local Plan does not form part of the statutory development plan for the purposes of S38 of the 1990 Act. Its policies are however 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.

#### 4.11 Development Control Local Plan (DCLP) policies relevant to the development are:-

- Policy SP7a says that to ensure that development outside the York city centre is highly accessible by non-car modes of transport, a sequential approach will be taken in assessing planning applications for new retail, commercial, leisure and office development. A hierarchy for the location of such development is within the policy: first York City centre, then edge of city centre, Acomb and Haxby district centres, and then other out of centre locations genuinely accessible by a wide choice of means of transport.
- Policy E3a defines York Business Park as a standard employment allocation.
- Policy E3b says that standard employment allocation sites, will be retained within their current use class. Planning permission for other uses will only be given where there is sufficient supply of employment land to meet both immediate and longer term requirements over the plan period in both quantitative and qualitative terms and unacceptable environmental problems exist or the development of the site for other appropriate uses will lead to significant benefits to the local economy or the use is ancillary to an employment use.
- Policy GP1 'Design' includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.
- Policy GP4a 'Sustainability' of the City of York Council Development Control Local Plan (2005) states that proposals for all development should have regard to the principles of sustainable development and sets out those issues to consider as part of a sustainably designed development.
- Policy NE5a 'Local Nature Conservation Sites' states that development likely to have an adverse effect on a Local Nature Reserve or a non statutory nature conservation site will only be permitted where the reasons for the development clearly outweigh the substantive nature conservation value of the site.
- Policy NE5b 'Avoidance of, Mitigation and Compensation for Harm to Designated Nature Conservation Sites' indicates that where development is allowed under policy NE5a then appropriate compensatory measures and site management will be required.

## Emerging Local Plan

4.12 A new pre-publication draft local plan and revised evidence base is currently at consultation until 30th October 2017.

4.13 The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. The evidence base that underpins the proposed emerging policies is also a material consideration in the determination of the planning application.

4.14 The following emerging Local Plan policies are relevant:

Policy EC2 'Loss of Employment Land' continues the approach to existing employment land set out under E3b in the Draft Local Plan. When considering uses which involve the loss of land and/or buildings which are either identified, currently used or were last used for industrial, business, office or other employment uses, the council will expect developers to provide a statement to the satisfaction of the Council demonstrating that the existing land and or buildings are demonstrably not viable in terms of market attractiveness, business operations, condition and/or compatibility with adjacent uses; and the proposal would not lead to the loss of a deliverable employment site that is necessary to meet employment needs during the plan period.

Policy D2 'Placemaking' states that development proposals will be supported where they improve poor existing urban and natural environments, enhance York's special qualities and better reveal the significances of the historic environment. Development proposals that fail to take account of York's special qualities, fail to make a positive design contribution to the city, or cause damage to the character and quality of an area will be refused.

Policy GI1 'Green infrastructure' requires that York's landscapes, geodiversity, biodiversity and natural environment will be conserved and enhanced recognising the multifunctional role of green infrastructure in supporting healthy communities, cultural value, a buoyant economy and aiding resilience to climate change. This conservation will be achieved through the production of associated management plans to describe, protect and enhance York's biodiversity, with priority given to those designated as Sites of Importance for Nature Conservation.

Policy GI2 'Biodiversity and access to nature' highlights a number of matters related to biodiversity conservation which development should seek to address. The associated text to this policy states that 'Such sites do not occur in isolation as discrete, self contained habitats, but influence and are influenced by their surroundings. The surrounding area can therefore be as important to the interest of the site as the feature itself, and changes to it could affect the integrity of that interest.' The text goes on to



say that 'Only in very exceptional circumstances, where the proposed development clearly outweighs the nature conservation value of the site and the impact on biodiversity is unavoidable, appropriate mitigation or compensation will be required.'

### Principle of the Development

4.15 The site is considered to be brownfield land and was originally part of the glassworks site. This development was never completed and any buildings from this original use have been demolished and the site is now cleared and vegetation has started to re-grow although areas of hardstanding are still visible. The site was a standard employment allocation within the Policy E3a of the DCLP. This is carried on by policy EC2 in the emerging Local Plan. The proposed motor dealership with sales and servicing is in a sui-generis use and while not a traditional employment use as indicated by policy E3a (Classes B1, B2 and B8) it has been indicated that the business will provide employment for 16 staff.

4.16 Officers note that the site, within an established business park, is an appropriate location for the proposed use and that there are a number of car dealerships in the locality. Policy PNP7 of the Neighbourhood Plan encourages new business development within established business parks subject to sufficient parking provision. There have been no planning applications for the site since the original proposals to develop the business park were approved and paragraph 22 of the NPPF makes it clear that in such circumstances an extant employment allocation should not be a bar to other developments being considered and that such applications should strictly be considered on their own merits. Therefore, given the level of proposed employment, the nature of the use proposed and the character of the locality, officers consider that the proposal is an appropriate use of the land and is acceptable in principle subject to other material planning considerations.

### Ecology issues

4.17 The site was designated as a SINC (Site of Importance to Nature Conservation) in 2011 following its allocation as an employment site within the DCLP. The citation recognises that outline planning permission has already been granted for the development of the site. As a result of the designation of the SINC following the allocation of the site, development has previously been allowed within York Business Park providing sufficient mitigation and compensation for the loss of the SINC can be provided. This has been the route taken for the Arnold Clark site and also the care home adjacent to the current site.

4.18 Officers have been in discussion with the applicant to come to agreement over a scheme which provides sufficient mitigation and/or compensation for the calcareous grassland and great crested newts (GCN) on site. Previous newt surveys on neighbouring sites have identified GCN are present and the site provides good terrestrial habitat for newts. However the level of development in the locality over

recent years has led officers to accept that the GCN population is no longer likely to be viable. As a result of this the ecology officer has agreed that Reasonable Avoidance Measures would be sufficient to avoid an offence under Species Regulations 2010. This approach has been discussed with Natural England and does not require a European Protected Species licence although the measures will need to be agreed before development commences. This can be secured via planning condition.

4.19 In relation to the SINC it has been agreed that a scheme for the creation of an off-site wildflower grassland would be acceptable to compensate for the adverse impact to biodiversity from the loss of 0.7ha of the SINC. This will be created at Rawcliffe Country Park which is in reasonable proximity to the site and, as it is managed by the Council, long term management of the site can be controlled. This would be secured via planning condition and a S106 agreement for the financial contribution towards management. The S106 agreement will include submission of an Ecological Design Strategy and, following approval, implementation of that Strategy to create an area of off-site compensatory grassland. A sum of £12,500 (index linked) will be paid to the Council for long term management of the site once the requirements of the Strategy have been completed. These contributions are considered to be:

(a ) necessary to make the development acceptable in planning terms;

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development,

and therefore comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

4.20 Since agreeing these details, the Upper Poppleton and Nether Poppleton (UPNP) Neighbourhood Plan has been subject to a referendum and is now part of the development plan for York. Section 38(6) of the Planning and Compensation Act 2004 and NPPF at para. 14 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The UPNP Neighbourhood Plan designates the site as green infrastructure for which policy PNP2 applies. As stated above in para. 4.8, the policy requires that designated green infrastructure sites are safeguarded and enhanced. Unlike the DCLP and NPPF, which only recommend refusal of a scheme if harm to biodiversity cannot be avoided, mitigated or compensated for, policy PNP2 does not allow for any other measures and, as a result of this, the proposed scheme is considered contrary to the policy and therefore a departure from the development plan.

4.21 When considering the planning balance, officers note that the ecological value of the SINC is in its wide diversity of grassland species. The SINC is now restricted to the current site and a narrow strip of land between the site and the care home to the Northwest and is isolated from other areas of green infrastructure. The Ecology officer has further identified that the best area of grassland is within the strip of land outside of the site and adjacent to the care home. The site is in private ownership with no public access and no apparent public usage. Outside from the biodiversity value of the site it would appear that the grassland has little value to the local community.

4.22 Officers consider that the compensatory grassland proposed, combined with consideration that compensation and mitigation has been accepted on neighbouring sites, is sufficient to accept the loss of the SINC and to outweigh the requirements of policy PNP2. Further policy (policy PNP7) within the Neighbourhood Plan encourages development within existing business parks and the proposal complies with this. For these reasons, officers consider that, in this instance, there are material planning considerations which justify making a decision other than in accordance with the development plan.

#### Design, layout and landscaping

4.23 The proposal is for a flat roofed car dealership sited towards the front of the site on to Great North Way. There are glazed showroom windows to the highway and western elevation. The building will be clad with metallic mesh detailing above the glazed sections. The siting of the building has been revised so that it is in line with the office buildings to the East allowing for a wider planting strip to the highway.

4.24 A landscaping buffer is proposed around the boundaries of the site. This is a wider strip to the frontage of the site and along the access road and narrows to a minimum of 2m to the sides and rear. Planting is proposed to screen the development along these boundaries while along the frontage a mix of low level shrub and specimen tree planting is proposed.

#### Amenity considerations

4.25 A number of residents within Severn Green, to the rear of the site, have raised concerns about the impact of the proposal on their amenity. Many of these concerns have arisen because of issues at the neighbouring Arnold Clark site.

4.26 Officers have requested a noise assessment from the applicant which has been received and assessed. The erection of an acoustic barrier, which would take the form of a close boarded fence with no gaps and a minimum height of 2m, would be sufficient to mitigate noise from the site. Other concerns regarding lighting and disturbance from comings and goings have also been addressed via planning condition.

4.27 Officers note that the site was allocated in the DCLP for B1/ B2/ B8 uses, and granted planning permission in outline, and could have been developed as a general industrial site (to include manufacture and production processes) or B8 (warehousing and distribution) which could all have resulted in similar levels of disruption to the proposed car dealership and workshop.

4.28 Issues related to amenity impacts from construction have been addressed via a planning condition for hours of work. Other issues related to excessive noise, or dust,

during construction, are covered under separated legislation. Conditions requiring a lighting assessment, restricting amplified music outside the premises and stipulating hours of operation have also been suggested to protect neighbouring amenity.

4.29 At its closest point, the buildings proposed are 16m from the boundary with the dwellings on Severn Green. The closest building is the proposed workshop with an access point facing the dwellings. Beyond the boundary, the properties themselves are a further minimum of 14m from the shared boundary. It is noted that the properties with shorter gardens are sited further away from the workshop while those closest to it have slightly longer gardens but there is a minimum distance of approximately 33m between the original rear elevation of any dwelling and the workshop. In relation to the height of the buildings, the maximum height is approximately 8.5m. This is within the showroom section of the building towards the front of the site and away from the dwellings at the rear.

4.30 Given the proposed use and separation distances involved it is not considered that there will be any significant overlooking to the neighbouring residential properties from the development. The existing boundary treatment and proposed acoustic fencing will protect overlooking from the site in to gardens. There is a small first floor proposed above the showroom to provide office space but this does not have windows facing the dwellings. Separation distances are such that, even if windows were inserted in the first floor facing neighbouring dwellings, there is not considered there would be any significant risk of overlooking.

4.31 The care home have also made representations about the scheme and asked for restricted opening hours, noise and lighting controls. It is noted that Arnold Clark has permission to open on Sunday and bank holidays and is as likely to impact on residents of the care home as the present proposal being at a similar distance from the care home. The distance between the showroom/ workshop and care home is approximately 80m at its closest point which is considered sufficient to mitigate for excessive disruption from noise and to avoid any overlooking. A planted buffer on the Western boundary of the site will stop direct overlooking from the sales area to the care home. It should be noted that there will be an undeveloped strip of land of approximately 20m in width between the application site and the care home site. Planning conditions have been suggested to control noise and lighting from the development. A construction method statement has not been suggested as this is covered under other legislation and therefore such a planning condition would not meet the requirements of para.206 of the NPPF.

#### Highways access and parking arrangements

4.32 It is anticipated that 88 cars will be displayed on site and 23 customer parking spaces (including 2 disabled spaces) are provided. 16 FTE members of staff are anticipated on site and 8 parking spaces are provided for staff along with cycle parking

(5 stands). Officers would consider that the proposed parking provision is acceptable and meets DCLP guidelines.

4.34 The development is unlikely to result in any significant increase in traffic using the highway network. Customer trips are likely to be pass-by trips linked with other car dealerships in the area.

### Sustainability

4.35 As a result of the scale of the development, and in accordance with the Interim Planning Statement on Sustainable Construction, a condition requiring that the development achieves BREEAM Very Good is recommended.

4.36 The site has been previously developed and has subsequently sat empty for a number of years. The proposed regeneration of the site is considered a benefit of the scheme which will hopefully add to the prosperity of the wider business park.

### Drainage

4.37 The site is within flood zone 1. It is however unlikely that the soil conditions will support a soakaway and so discharge to the public sewer subject to a restricted discharge is anticipated.

### Other considerations

4.38 Neighbours and the Neighbourhood Plan Committee have made comment that the site could be developed for residential or care home use. This desire is noted but officers are not aware that any scheme for such development has ever come forward and, while the text within the Neighbourhood Plan does mention this preference for a more residential form of development on the site, it is not backed up by policy within the Plan. The only policies relevant to the site within the Neighbourhood Plan are PNP2 (Green Infrastructure) and PNP7 (Business and Employment) which have both been discussed earlier in the report.

4.39 Comments are noted about the proliferation of car dealerships in the area however the site has long been identified as a business park. The proliferation of a single planning use in an area would be a material planning consideration if it was considered that it resulted in harm to amenity or other planning considerations however in this instance it has been identified that sufficient parking has been provided; other impacts from noise and disturbance will be conditioned to ensure neighbouring amenity is adequately protected.

## **5.0 CONCLUSION**

5.1 Officers recognize that, as a result of the adoption of the Upper and Nether Poppleton Neighbourhood Plan, that the proposal represents a departure from the development plan. The site is designated as Green Infrastructure (Policy PNP2) within the Neighbourhood Plan and as such should be safeguarded and development which would harm the integrity or appearance of the green infrastructure should not be supported. 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.

5.2 The previous allocation of the site as part of the York Business Park within the DCLP and the subsequent designation of the site as a SINC have been highlighted as well as the similar development of neighbouring sites within the Business Park. Officers have identified that the site has no public access and that the ecological value is within the variety of grass species found on the site. Great crested newts are present within the area but the level of development on neighbouring sites is considered to have resulted in a population that is no longer viable and it has been agreed that a European Protected Species Licence will not be required before works take place.

5.3 Further consideration has been made of the impact on neighbouring residents' amenity. The site was historically identified as a B1/ B2/ B8 business park and outline planning permission had been granted for such development. The public protection officer has considered the submitted noise assessment and has recommended that the impacts of the development on neighbouring residents would be acceptable subject to appropriate planning conditions.

5.4 In summary, the site has been empty for a number of years and the application proposes a new use which is in keeping with the other uses within the business park. Given that acceptable proposals have been put forward to compensate for the loss of the SINC; the Neighbourhood Plan policy PNP2 sets a higher bar than is required by para.118 of the NPPF; policy PNP7 (Business and Employment) encourages business uses on business parks; and the previous business use allocation of the site, then officers consider on balance that these are sufficient material considerations to recommend putting aside the development plan and that the application should be recommended for approval subject to planning conditions. A S106 agreement is also required that will secure the creation of 1Ha of compensatory grassland at Rawcliffe Country Park along with a payment of £12,500 for the long term management of the site.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve subject to Section 106 Agreement to secure the creation of 1Ha of compensatory grassland at Rawcliffe Country Park along with a payment of £12,500 (index linked) for the long term management of the site.

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

01605/ 001 H    Proposed site plan

1605-003B    Ground floor plan

1605-004    First floor plan

1605/002A    Elevations

Via Solutions Swept Path Analysis drawings 3 and 3a dated February 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      VISQ8      Samples of exterior materials to be app

4      Prior to construction, details of an acoustic noise barrier to protect the residential properties on Severn Green shall be submitted to and approved in writing by the local planning authority. These details shall include the construction method, height, thickness, acoustic properties and the exact position of the barrier. The barrier shall be erected in accordance with the approval before the use hereby permitted first comes into use and maintained thereafter for the life of the development.

Reason: to protect the amenity of the local residents.

5      The combined rating level of building service noise at the site should not exceed 41 dB(A) 1 hour during the daytime hours of 07:00 to 23:00 or exceed 35 dB(A) 15 minutes during the night time hours of 23:00 to 07:00 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.

Reason: In the interests of residential amenity.

6      AMUSE5    Background music only-no ext loudspeaker

7      LC4    Land contamination - unexpected contam

8      Prior to first occupation 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 and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

9 No development, including pre-commencement site clearance, shall take place until a Reasonable Avoidance Measures (RAM) Method Statement for Great Crested Newts has been submitted to and approved in writing by the local planning authority.

The RAM Method Statement shall include the following.

- a) Project and ecological background.
- b) Development proposals - site preparation and construction works.
- c) Risk assessment - working areas; potential impacts of works; assessment of impacts
- d) Method of working - surface vegetation removal and site preparation works; ongoing construction related activity; action on discovery of Great Crested Newts.
- e) Figures/plans.

Reason: To avoid harm to a species protected under the Conservation of Habitats and Species Regulations 2010 and Section 9 of the Wildlife and Countryside Act 1981 (as amended) which may occur if any works take place on site without appropriate measures being in place.

10 No development, including pre-commencement site clearance, shall take place until an ecological design strategy (EDS) addressing the compensation for the loss of 0.7ha of neutral grassland within York Business Park Site of Importance for Nature Conservation (SINC) has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following.

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.



Reason: To compensate for significant harm to biodiversity in line with Paragraph 118 of the NPPF. No works may take place on site prior to completion of the strategy as these would potentially destroy the ecological value of the site.

11 No development, including pre-commencement site clearance and earth moving shall take place or material or machinery brought onto the site until protective fencing and warning signs have been erected on site demarcating the off-site area of Site of Importance for Nature Conservation (SINC). All protective fencing and warning signs will be maintained during the construction period in accordance with the approved details.

Reason: To protect a biodiversity feature. Fencing must be implemented pre-commencement to adequately identify and physically protect the remaining area of 202 York Business Park Site of Importance for Nature Conservation (SINC) from accidental damage by development operations.

12 Prior to the commencement of any construction works details shall be submitted to and approved in writing by the Local Planning Authority for the discharge of surface water to the public sewer via storage at a maximum rate of 5.2 (five point two) litres/second in accordance with the submitted flood risk assessment prepared by JNP Group - Report dated January 2017. The details shall include the means by which surface water from vehicle parking, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and /or other similar areas where detergent is likely to be used shall be passed through an interceptor of adequate capacity prior to discharge. The approved details shall be implemented prior to any piped discharge of surface water taking place from the site.

Reason: To ensure that the site is properly drained and, in order to prevent overloading, potentially polluting surface water is not discharged to the foul sewer network. Details to be submitted prior to commencement to ensure the drainage scheme reflects the existing on-site situation.

13 LAND1 IN New Landscape details

14 The buildings hereby approved shall achieve at least a Building Research Establishment Environmental Assessment Method ('BREEAM') Very Good rating (or equivalent, as set out within the submitted BREEAM Pre-assessment report)) unless otherwise agreed in writing by the Local Planning Authority. A Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority within 3 months of practical completion of the retail development. Should the development site fail to achieve a BREEAM standard of 'Very Good' a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a BREEAM standard of 'Very Good'. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local

Planning Authority.

Reason: In the interests of sustainable development, in accordance with the requirements of policy GP4a of the Draft Local Plan and the Council's planning guidance Interim Planning Statement (IPS) on Sustainable Design and Construction.

15 The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

16 The hours of operation of the development shall be confined to:

Mondays to Fridays	08.00 hours to 20.00 hours
Saturdays	09.00 hours to 18.00 hours
Sundays and Bank Holidays	10.00 hours to 18.00 hours

Reason: To safeguard the amenities of occupants of the nearby dwellings and buildings.

17 The development shall not be begun until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety. Details are required prior to commencement of development as there is no access to site at present and the new access will therefore need to be constructed prior to commencement on building works.

18 Prior to the commencement of building works details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

19 HWAY28 IN Proximity of gate etc to highway - 15m - footway on Great North Way

20 HWAY35 Servicing within 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:

Additional information in relation to on-site ecology has been provided.

#### 2. SURFACE WATER DRAINAGE

i) The Flood Risk Assessment (prepared by JNP Group - Report dated January 2017) is acceptable. In summary, it states that sub-soil conditions are unlikely to support the use of soakaway and the site is remote from watercourse, surface water will discharge to public surface water sewer via storage with restricted discharge of 5.2 (five point two) litres/second. It is imperative that surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergent is likely to be used is not discharged to any public surface water only sewer network. Surface water from such areas must pass through an oil, petrol and grit interceptor/separator of adequate design before discharge to the public foul or combined sewer network. It is good drainage practice for any interceptor/separator to be located upstream of any on-site balancing, storage or other means of flow attenuation that may be required. Roof water should not pass through the traditional 'stage' or full retention type of interceptor/separator.

ii) Trade effluent may only be discharged to sewer with the prior consent of Yorkshire Water. A trade effluent is any liquid, other than domestic sewage, which is wholly or partly produced in the course of any business. The Industrial Waste Manager should be contacted as soon as possible regarding the acceptability of any proposals which may involve a trade effluent (including vehicle wash water) or contaminated surface water discharge. The developer is required to consult with Yorkshire Water's Industrial Waste Section (telephone 0345 1242424) on any proposal to discharge a trade effluent to the public sewer network.

#### 3. INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Application Reference Number: 16/02285/FULM

Item No:

Works in the highway - Section 171/Vehicle Crossing - Contact:  
streetworks@york.gov.uk

**Contact details:**

**Author:** Alison Stockdale Development Management Officer (Tues - Fri)

**Tel No:** 01904 555730