

COMMITTEE REPORT

Date: 5 April 2018
Team: Major and Commercial Team
Ward: Rural West York
Parish: Nether Poppleton Parish Council

Reference: 18/00021/FULM
Application at: Plot 1B White Rose Close Nether Poppleton York
For: Erection of two storey vehicle dealership building comprising of showroom, workshop facilities and associated car parking
By: Mr Duncan Chapman
Application Type: Major Full Application (13 weeks)
Target Date: 10 April 2018
Recommendation: Approve subject to a Section 106 Agreement

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. Planning permission has previously been given for erection of a 1863 sq metre car dealership with associated facilities at the site ref:-16/00179/FULM.

1.2 Planning permission is now sought for erection of a 1,578 sq metre two storey car dealership building with ancillary facilities comprising servicing, valeting and 174 external car parking spaces, to relocate an existing dealership from elsewhere in the City. 2 additional jobs would be created.

1.3 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 York Development Control Local Plan (2005) Policies:

CGP15A Development and Flood Risk
CYGP1 Design
CYE3B Existing and Proposed Employment Sites

2.2 (Emerging) Publication Draft York Local Plan Policies 2018:-

G12 Biodiversity and Access to Nature

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EC2 Loss of Employment Land

3.0 CONSULTATIONS

INTERNAL

Public Protection

3.1 Raise no objection to the proposal subject to any permission being conditioned to require the submission and prior approval of details of any externally audible plant; a detailed lighting assessment, a CEMP(Construction Environmental Management Plan) and detailed remediation of any land contamination.

Planning and Environmental Management (Landscape)

3.2 Any response will be reported verbally.

Highway Network Management

3.3 No objection in principle to the proposal but seek a commuted sum payment of £5000 to cover the cost of a Traffic Regulation Order to deal with the issue of on-street parking in the surrounding area which would be impacted by the proposed development. Clarification is also sought in respect of the location and justification for the proposed security gate and the usage of demonstrator cars for the purposes of staff transportation. The applicant has subsequently addressed those issues to confirm that staff would have access to demonstrator cars for the purposes of going to and from work and to confirm that the proposed gate is purely for the purposes of security when the site is closed.

Planning and Environmental Management (Forward Planning)

3.4 Any response will be reported verbally.

Strategic Flood Risk Management

3.5 Object to the use of soakaways as a means of surface water drainage from the application site but would support surface water drainage by means of attenuated discharge to a water course as previously agreed in relation to the earlier permission.

Planning and Environmental Management (Ecology)

3.6 Raise no objection to the proposal subject to any permission being conditioned to provide mitigation measures in respect of newts crossing the site.

EXTERNAL

Environment Agency

3.7 No objection.

Ainsty (2008) Internal Drainage Board

3.8 No objection to the proposal subject to the submission and prior approval of a detailed drainage strategy for the site.

Yorkshire Water Services Limited

3.9 No objection subject to any permission being conditioned to require the submission and prior approval of a detailed drainage strategy for the site, the securing of maintenance "stand off for the trunk sewer crossing the site and the detail of the display podium to be erected above the water main in one area.

Nether Poppleton Parish Council

3.10 Raise no objection in principle to the proposal but wish to see any permission conditioned to require submission and prior approval of a lighting strategy and express concern in respect of the potential for displacement parking in the vicinity of the site entrance.

Network Rail

3.11 Raise no objection to the proposal subject to any permission being conditioned to secure the common boundary with the adjacent railway and the submission and prior approval of a detailed drainage scheme.

Neighbour Notification and Publicity

3.12 One letter of objection has been received stating the serious potential for an increase to the existing problem of on-street parking surrounding the site.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE

- Employment land issues;
- Impact upon local biodiversity;
- Impact upon the safety and convenience of highway users;
- Impact upon the local pattern of surface water drainage.

PLANNING POLICY

4.2 On 19th July 2017, the Upper Poppleton and Nether Poppleton Neighbourhood Plan became the development plan for this application site..

4.3 On 21 February 2018 the Publication Draft York Local Plan 2018 ("2018 Draft Plan") was published for the final six week consultation. The emerging Local Plan policies contained within the 2018 Draft Plan can only be afforded limited weight at this stage of its preparation, and subject to their conformity with the NPPF and the level of outstanding objection to the policies in accordance with paragraph 216 of the NPPF. However, the evidence base underpinning the emerging Local Plan is capable of being a material consideration in the determination of planning applications.

4.4 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 but any weight may be limited except where in accordance with the National Planning Policy Framework.

PRINCIPLE OF DEVELOPMENT AND EMPLOYMENT LAND ISSUES

4.5 The application site forms a large undeveloped section of the York Business Park which was granted outline 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, it is considered that there are material considerations which justify the proposed dealership which similarly applied in respect of the previous planning permission for the site ref:-16/00179/FULM and which remains extant.

4.6 The northern section of the Park has a concentration of car dealerships of some long standing, planning permission has been granted for similar proposal by Arnold Clark on a nearby site ref:-15/01307/FULM which has now been fully implemented. The proposal envisages the relocation of an existing dealership from Great North Way a short distance to the south west which has previously experienced difficulties in terms of accommodating its functional needs within the site and to cater for an expanding client base for Volvo cars. Twenty seven jobs would be relocated and two created.

4.7 The application 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 in respect of the previous permission for the site. 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

4.8 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. Policy G12 of the (Publication) Draft Local Plan indicates that any development where appropriate buffer zones around wildlife and biodiversity sites to ensure that the integrity of the site's interest is retained.

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. Further safeguards by condition are also recommended in respect of the prospects of newts foraging across the site.

IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS

4.10 Concern has been expressed by an objector in respect of the access and servicing arrangements to the site and the level of additional traffic flows anticipated on the local highway network. A Transport Statement has been submitted which indicates that parking would be provided within the site for staff and customers in line with the authority's parking standards. Cycle parking would also be provided in line with the standards. The applicant has indicated that the site would be managed to ensure that not all the staff are on site at any one time so that the usage of the on site parking spaces would be managed and that there would not be an issue of the existing problem of on-street parking from adjoining offices being exacerbated. This can be secured by a requirement for a commuted sum payment secured by a Section 106 Agreement to ensure a Traffic Regulation Order for the adjacent roadway. The requirement needs to be assessed against the requirements of the 2014 CIL Regulations, specifically Regulations 122 and 123 to ensure that any requirements fairly and reasonably relate to the development being permitted and are necessary for the development to proceed. It is felt that in dealing with an on-

street parking issue that the proposal could significantly exacerbate the requirement is justified in accordance with the Regulations.

4.11 The applicant has confirmed that staff will have access to "demonstrator cars" for the purposes of getting to and from work which would have the effect of lessening the requirement for on-site staff parking and securing compliance with the requirements of Policy PNP4 of the Poppleton Neighbourhood Plan.. A single point of access is envisaged for staff and customer vehicles and service traffic as was envisaged in the previous planning permission. It is felt that the overall level of traffic generation would be below that previously anticipated in respect of the approved call centre use with an 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 be able to accommodate the additional levels of traffic generated.

IMPACT UPON THE LOCAL PATTERN OF SURFACE WATER DRAINAGE

4.12 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. Serious concerns have been expressed in terms of the suitability of surface water drainage by means of soakaway when tests undertaken in respect of the previous planning permission ref:- 16/00179/FULM had indicated that the site would not be suitable. A scheme of surface water drainage involving attenuated discharge to a water course had been previously agreed in respect of the previous proposal which has not been progressed with. It is therefore recommended that the previous condition seeking the submission of an attenuated scheme be reincorporated in any planning permission.

4.13 Concern has been expressed by consultees in relation to the potential for development in proximity to the trunk surface water sewer crossing the site. The proposed development has been located to avoid developing within the vicinity of the sewer or its associated easement. Concern has also been expressed in respect of the construction of an external display area partially above the water main crossing the site. It is recommended that any permission be conditioned to require prior approval of details of the display area.

OTHER ISSUES

4.14 The applicant's 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. The proposal is therefore felt to be acceptable in sustainability terms.

5.0 CONCLUSION

5.1 The application site comprises a large vacant plot within the York Business Park bounded by the East Coast Main Line to the east which has previously been given planning permission for a call centre in 2006 and more recently for the construction of a motor vehicle dealership (16/00179/FULM) which remains extant. The site has been marketed unsuccessfully for the previously permitted employment use for a significant length of time and the proposed development would be an appropriate use of the site providing some employment opportunities. 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 subject to the provision of a scheme of attenuation of flows to a water course. The proposal is also felt to be acceptable in highway terms subject to a requirement for a contribution of £5,000 to secure a Traffic Regulation Order and works in relation to parking in surrounding side streets that may be secured by a Section 106 Agreement. This is compliant with Regulations 122 and 123 of the 2014 CIL Regulations as relating to an on-street parking issue which without the measures could be significantly exacerbated.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve Subject to a Section 106 Agreement to secure a contribution of £5000 towards a Traffic Regulation Order and works to address parking issues on surrounding streets

1 TIME2 Development start within three years

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

Drawing Refs: 626-01B; 626-02B; 626-03A; 626-04E; 626-05C; 626-07;626-08; 626-09; 626-10A; 626-13.

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 LAND1 IN New Landscape details

6 HWAY14 Access to be approved, details reqd

7 HWAY18 Cycle parking details to be agreed

8 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 626-04E and 626-05C. 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.

9 LC4 Land contamination - unexpected contam

10 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

11 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.

12 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.

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

13 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.

14 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, infiltration system and watercourse in that priority order, soakaways having previously been demonstrated to be infeasible. 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.

15 Prior to the commencement of the development hereby authorised above foundation level full details of the proposed vehicle display podium including the relationship with the water main crossing the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason:- To safeguard public infrastructure

16 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).

17 EPU1 Electricity socket for vehicles

18 Unless otherwise approved in writing with the Local Planning Authority, prior to commencement of development above foundation level the developer shall submit in writing and be approved by the local planning authority a formal pre-design BREEAM assessment for the design and procurement stages of the development. The developer shall submit a further BREEAM assessment after construction, at a time to be agreed in writing by the local planning authority. The developer shall submit a completion assessment when issued by the BRE. All assessments shall confirm the minimum 'Very Good' rating anticipated in the preliminary BREEAM assessment submitted with the application

Reason - To ensure the development complies with the principles of sustainable development

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) and having taken account of all relevant national guidance and local policies including imposition of appropriate planning conditions, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

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.

3. WILDLIFE AND COUNTRYSIDE ACT 1981:-

It is an offence under the Wildlife and Countryside Act 1981, as amended, to introduce, plant or cause to grow wild any plant listed in Schedule 9, Part 2 of the Act. Japanese Knotweed and Himalayan balsam are included within this schedule.

All Japanese Knotweed waste (the plant itself or material containing its rhizomes) is classed as a controlled/special waste and therefore needs to be disposed of in accordance with the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991.

Further information is available from the Non-native Species Secretariat (NNSS) web site and further advice for the construction industry on legal responsibilities when dealing with Japanese knotweed, giant hogweed and other invasive plants is available on Netregs <http://www.netregs.org.uk>

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