

Report Reference Number: 2021/0349/FUL

To: Planning Committee
Date: 6 October 2021
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2021/0349/FUL	PARISH:	Cliffe Parish Council
APPLICANT:	Condor Projects Ltd	VALID DATE:	9th April 2021
		EXPIRY DATE:	4th June 2021
PROPOSAL:	Erection of two buildings for use as E(g)(iii) industrial workshops following demolition of an existing building used for B8 storage		
LOCATION:	Birchwood Lodge Market Weighton Road Barlby Selby North Yorkshire YO8 5LE		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee, as the application has been called in by Ward Councillor Arthur, due to concerns over the adverse impact on the residential amenity of neighbouring occupiers, through visual and noise impacts.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1. The application site is located between the villages of Barlby and North Duffield and outside the defined Development Limits of both settlements and is therefore located within the open countryside.
- 1.2. The application site is located to the north of the A163 Market Weighton Road comprises land to the northeast of Birchwood Lodge. The site consists of a mixture of existing buildings used by Condor Projects Ltd in the carrying out of their specialist civil engineering business and aviation projects. The building to be replaced lies on the south boundary of the application site.

1.3. The application site is surrounded by existing buildings at Birchwood Lodge to the west, a grass runway to the north, with open fields beyond, open fields to the east and residential properties to the south.

The Proposal

1.4. The application form describes the proposals as the erection of new workshops following demolition of an existing building.

1.5. The existing building to be demolished is permitted to be used for B8 Storage or distribution. The new workshop building (as described on the outdated application forms) is to be used for B1(c) Light Industrial purposes. Given the changes to the Use Class Order this would in fact be Use Class E(g) "*Uses which can be carried out in a residential area without detriment to its amenity...E(g)(iii) Industrial processes*". The application is therefore being determined on the basis of a Class E g (iii) use.

Relevant Planning History

1.6. The following historical application is considered to be relevant to the determination of this application.

- 2021/0779/COU, Change of use of ground floor of main building to provide function and meeting space, Decision: PCO.
- 2021/0638/FUL, Single storey storage unit, Decision: PCO.
- 2021/0349/FUL, Erection of new workshops following demolition of existing building, Decision: PCO.
- 2021/0641/S73, Section 73 application to vary conditions 08 (hours) and 09 (flights) of planning permission reference number 2018/1387/FUL Proposed Forming of new storage area, forming of new workshop and use of runway for any day of the week granted on 15 October 2019, was refused on the 6th September 2021.
- 2021/0107/FUL, Erection of new workshop to replace temporary workshop, was approved on 13th April 2021
- 2020/1325/FUL, Erection of new hangar, was approved on 13th April 2021
- 2020/0366/FUL, Proposed erection of research and development building to replace an existing store building, was approved on 4th June 2020
- 2018/1387/FUL for the proposed forming of new storage area, forming of new workshop and use of runway for any day of the week, was approved on 15th October 2019.
- 2007/0408/FUL for the retention of livery stables was approved on 25 May 2007.
- 2012/0248/COU for a proposed change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was approved on 21 May 2012.

- 2012/0926/DPC for the discharge of condition 2 (materials) of approval 2012/0248/COU for the change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was Part Discharged on 23 November 2012.
- 2013/0349/DPC for the discharge of condition 2 (materials) to substitute previously approved materials of approval 2012/0248/COU for the change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was Discharged on 8 May 2013.
- 2014/0959/FUL for the proposed conversion of existing building to form manager's dwelling and conversion of existing building to disabled living accommodation was Approved on 12 March 2015.
- 2015/0763/FUL for the proposed erection of 2m high fence was approved on 11 September 2015.
- 2015/0768/FUL for the proposed conversion of building to allow disabled accommodation (amendment to previously approved application 2014/0959/FUL) was approved on 9 December 2015.
- 2016/0141/COU for the proposed change of use to form grass runway was approved on 9 March 2017. It should be noted that this permission had a time limit of 2 year. This expired on 9th March 2019.
- Application 2017/0528/FUL for the proposed construction of hanger/storage building was refused on 10 November 2017.

2. CONSULTATION AND PUBLICITY

- 2.1. **Cliffe Parish Council** – Cliffe Parish Council have raised objections to the proposed development due to concerns for how the workshop is going to be used, what noise level will be generated from the workshop, the working hours of the workshop and what happened if the applicant works outside of these times.
- 2.2. **Barlby and Osgodby Parish Council** – The Parish Council have no comments to make on this application.
- 2.3. **Riccall Parish Council** - The Parish Council have no comments to make on this application.
- 2.4. **NYCC Highways** – NYCC Highways have raised no objections to the proposed development.
- 2.5. **Yorkshire Water Services** – No comments received.
- 2.6. **The Ouse & Derwent Internal Drainage Board** – The IDB has raised no objections subject to a number of standard conditions attached to any consent granted.
- 2.7. **County Ecologist** – NYCC Ecology have raised no objections to the proposed development subject to the mitigation measures set out within the Bat Report being conditioned.

2.8. **Neighbour Summary** - All immediate neighbours were informed by a site notice resulting in one letter of objection being received. In summary this raises concerns for:

- Noise disturbance;
- Traffic and highway safety, due to increased vehicle movements;
- Over development of the site;
- Pollution; and
- An extension of working time should be resisted.

3. SITE CONSTRAINTS

Constraints

3.1. The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside. The application site is located within Flood Zone 1.

4. POLICY CONSIDERATIONS

4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

4.2. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

4.3. On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.

4.4. The National Planning Policy Framework (July 2021) (NPPF) replaced the February 2019 NPPF, first published in March 2012. The NPPF does not change the status of an up-to-date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2021 NPPF.

4.5. Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework:

"213...existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

Selby District Core Strategy Local Plan

4.6. The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP13 – Scale and Distribution of Economic Growth
- SP15 – Sustainable Development and Climate Change
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

4.7. The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- EMP2 – Location of Economic Development
- EMP9 – Expansion of Existing Employment Uses in Rural Area
- T1 – Development in Relation to the Highway Network

5. APPRAISAL

5.1. The main issues to be taken into account when assessing this application are:

- Principle of Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Nature Conservation and Protected Species

The Principle of the Development

5.2. Policy SP1 of the Core Strategy outlines that *"...when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework..."* and sets out how this will be undertaken.

5.3. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.

5.4. Policy SP2 (c) of the Core Strategy states that "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new *"...buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10, or other special circumstances."*

- 5.5. Policy SP13 of the Core Strategy states that in rural areas, sustainable development which brings about sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including (amongst other things) the re-use of existing building and infrastructure and the development of well-designed new buildings. In all cases development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 5.6. Policy EMP9 of the Selby District Local Plan relates to the expansion of existing employment uses in rural areas and sets out that proposals for the expansion and/or redevelopment of existing industrial and business uses outside development limits and established employment areas, as defined on the proposals map are acceptable in principle, subject to four criteria, which will be assessed later in this report.
- 5.7. The application is for the proposed erection of new workshops following the demolition of an existing building. The proposed building would be used in association with the existing use of the site, which has permission for B1/B2/B8. The site is currently occupied by Condor Aviation, the Applicant states within the submitted documents that Condor Aviation are, the leading company in the UK for experimental aircraft and are among the world leaders in the use of radial engines in sport aircraft.
- 5.8. In terms of the need for the proposals the Applicant has advised that, the proposals would provide valuable additional working space as the aviation arm of the business expands. Furthermore, the new workshops would support the business and the jobs it provides.
- 5.9. Overall, the proposals are considered acceptable in principle, as the scheme would present an expansion of an existing business facility, which would support the growth of rural enterprise and is well designed and is considered appropriate in terms of its scale in accordance with Local Plan Policy EMP9 and Core Strategy Policy SP13.
- 5.10. Where the proposed scheme may be acceptable in principle it would be required to meet the policy tests set out in in Local Plan Policy EMP9 (1), (2), (3), (4) and all other relevant local and national policy tests.
- 5.11. The impact on acknowledged interests against the above policy tests is considered in the following parts of the report, including the issue of scale.

Design and Impact on the Character and Appearance of the Area

- 5.12. Relevant policies in respect of design and impact on the character of the area include Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. Significant weight should be attached to the Local Plan Policies ENV1 and EMP9 as they are broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design, include paragraphs 130, 132 and 134-136.
- 5.13. The site lies within the open countryside, which by its very nature is sensitive to new development. New buildings should respect their setting, be well related to existing structures and take advantage of screening where possible. The application site is located to the southwest corner of the existing site, which consists of a group of commercial buildings and is screened from the A163. The application site already

hosts a cluster of buildings, which include workshop, accommodation and site office, with the more open aspects of the site being the grassed runway.

- 5.14. The comments of the occupiers of the neighbouring properties in relation to the proposed development have been noted. These relate to, over development of the site.
- 5.15. In terms of the appearance and scale of the proposed building it is noted that this would be relatively large in footprint. The workshop building would measure approximately 28 metres in width, 14 metres in depth and 4 metres in height from the existing ground floor level, with a footprint of 392 sq.m. It is noted that the existing building had a height of 3.25 metres and a footprint of approximately 151.5 sq.m.
- 5.16. Whilst it is noted that the proposed replacement building would be larger in footprint than the existing building to be demolished. It is considered that the building would reflect the character and appearance of the area as it would be designed to look like a typical agricultural outbuilding, with its portal framed design. Further to this, the applicant is proposing a green roof, which will further reduce the impact of the building in terms of appearance, biodiversity and sound.
- 5.17. Due to the building's position, it is not regarded to have a significant impact on the character of the rural area. Further to this, the materials to be used in the construction of the proposed scheme would be simple and traditional materials, as detailed on the application form:
- Walls – Larch cladding
 - Roof – Green roof
 - Doors – Grey aluminium doors/ windows
- 5.18. Furthermore, as the proposed building would be located to the southwest corner of the site. The building would be located in the same position as the existing building to be replaced within the main cluster of buildings. The building causes no new encroachment into the countryside and there would be limited views of the building from Market Weighton Road and surrounding properties. Therefore, it is considered that the new workshops would not have any significant adverse impact on the character and appearance of the surrounding area. Furthermore, having regard to the context of the site, it is not considered that the proposal would be unduly visually intrusive within the open countryside.
- 5.19. In terms of landscaping and boundary treatments, it is considered that the existing boundary treatments are sufficient, which includes a number of tall hedges along the southern boundary and mature Oak Trees along the western boundary of the site.
- 5.20. Having regard to the above, it is considered that the proposed replacement building is sited appropriately. The proposals are therefore acceptable in terms of design and appearance and would not have any significant adverse impact on the character and appearance of the area. The proposal is therefore in accordance with Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan, Policy SP19 of the Core Strategy and policies within the NPPF.

Impact on Residential Amenity

- 5.21. Relevant policies in respect to impact on residential amenity include Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan and Policy SP19 "Design

Quality" of the Core Strategy. In respect of the NPPF it is noted that one of the Core Principles of the framework is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

- 5.22. The comments of the occupiers of the neighbouring properties in relation to the impacts of the proposed development on residential amenity are noted. These include concerns for, noise disturbance and pollution.
- 5.23. It should be noted that this application is for the erection of new workshops following demolition of existing building and does not relate to working hours, use of the runway or the use of other parts of the site.
- 5.24. In respect of the proposed building, given the size, siting and design of the proposed building and its relationship to neighbouring residential properties. The building is not visible from neighbouring properties. However, it is noted that the proposed building is within 10 metres of the closest neighbouring property, at the closest point. The proposed use of the building is for E(g)(iii) industrial processes which would be restricted to uses which can be carried out in a residential area without detriment to its amenity. It is therefore considered that whilst the building would be within close proximity to the neighbouring property the building could only be used for industrial process which do not give rise to noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. Further to this, the openings would face north away from any neighbouring properties.
- 5.25. Comments were sought from Environmental Health who questioned the proposed use of the building. Following discussions with the planning agent, the building is confirmed to be used for small scale light fabrication with hand tools which is E(g)(iii). Therefore, any deviation from this intended use would not benefit from planning consent.
- 5.26. In terms of the use of the building, it is not considered that the workshops would introduce any new uses on the site given the existing permission for B1/ B2/ B8. A condition is suggested in the recommendation restricting the use of building to the operator of the wider site, to ensure the building and site isn't subdivided in order to control the use of the site in the interests of the amenities of neighbouring properties.
- 5.27. Overall given the siting of the proposed building and the distance to surrounding residential properties, it is considered that the proposal would not result in any adverse effects of overshadowing so as to have any adverse effects on the amenities of the occupiers of any neighbouring properties.
- 5.28. The proposal is therefore acceptable in terms of its impact on residential amenity in accordance with Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained with the NPPF.

Impact on Highway Safety

- 5.29. Policies in relation to highway safety are Policies ENV1 (2), T1 and EMP13 (3) of the Local Plan and Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF.
- 5.30. The comments of the neighbouring properties are noted. These include concerns for, highway safety, due to increased vehicle movements.

- 5.31. North Yorkshire County Council Highways have been consulted on the application and have raised no objections and have not suggested any additional conditions. However, it is noted that the access is to be upgraded in accordance with conditions attached to a permission reference, 2020/0366/FUL and is also a recommended condition on application reference, 2020/1325/FUL which is yet to be implemented.
- 5.32. Having regard to the above, it is considered that the proposal would not result in a detrimental impact on highway safety in accordance with Policies ENV1 (2), T1 and EMP9 (1) of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Flood Risk and Drainage

- 5.33. The application site is located within Flood Zone 1, which has a low probability of flooding. No sequential or exceptions test is therefore necessary.
- 5.34. In terms of drainage, the submitted application form states that surface water would be disposed of via sustainable drainage system and soakaways. However, no details of this have been supplied. Further to this, the application form states that no provisions are to be made for the disposal of foul water.
- 5.35. The Ouse and Derwent Internal Drainage Board and Yorkshire Water have been consulted on the proposals. The Ouse and Derwent Internal Drainage Board have advised that they have no objections to the proposals subject to a condition requiring drainage works to be agreed. It is considered that attaching the condition requiring drainage works to be agreed as part of any planning permission is sufficient for the purposes of this application.
- 5.36. On the basis of the above the proposals are considered to be acceptable in terms of drainage, and flood risk and therefore accord with Policies SP15, SP16, SP19 of the Core Strategy, and paragraph 163 of the NPPF.

Nature Conservation and Protected Species

- 5.37. Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 174 to 182 of the NPPF. The presence of a protected species is a material planning consideration
- 5.38. The site is not a protected site for nature conservation but includes a building that is required to be demolished. It is therefore necessary to establish if this building has the potential to harbor any protected species.
- 5.39. The County Ecologist initially requested the applicant undertake a bat survey. Upon receiving the preliminary bat survey and in particular its construction type and sealed nature, considers that the likelihood of the building being used as a bat roost are low. Therefore, the County Ecologist has confirmed that they have no objections to the proposed development. Subject to the mitigation measures set out within the report being conditioned.
- 5.40. The above measures are considered to satisfy the nature conservation interests and therefore accord with the requirements of the Habitats Regulations 2010, and ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the NPPF.

6. CONCLUSION

- 6.1. This type of development for the expansion of an existing business use is supported by the NPPF and in development plan policy and EMP9 of the Local Plan. It is considered that the proposed building is considered acceptable in all respects. Furthermore, it is considered that the NPPF is a material consideration and in line with Paragraph 83 and 84 of the NPPF relating to the expansion of all types of business in rural areas and the recognition of business and community needs in rural areas would be acceptable.
- 6.2. Furthermore, it is noted that the proposed development is considered to propose economic benefits through the expansion of the existing employment use in this rural location. Therefore, the proposals provide some economic benefits to the rural community and economy.
- 6.3. Therefore, subject to the conditions set out below, this application complies with the up-to-date Framework guidance and with, principally SDLP Policy EMP9.

7. RECOMMENDATION

- 7.1. This application is recommended to be GRANTED subject to the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

02. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

- Location Plan – 21-106 S-002 Rev A
- Existing Site Plan – 21-106 S-001 Rev A
- Existing Building Plans and Elevations - 21-106 S-003 -
- Proposed Site Plan – 21-106 P-001 – REV A
- New Workshop Proposed Plans and Elevations – 21-106 P-002

Reason:

For the avoidance of doubt.

03. The materials to be used in the construction of the external surfaces of the proposed development hereby permitted shall be as stated on the application form:

- Walls – Larch cladding
- Roof – Green roof
- Doors – Grey aluminium doors/ windows

Only the approved materials shall be utilised and the green roof shall be maintained for the lifetime of the development.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

04. The development hereby approved shall be used for Use Class E(g)(iii) industrial processes only. Which would be restricted to uses which can be carried out in a residential area without detriment to its amenity and not give rise to noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Reason:

For the avoidance of doubt and in order to protect the residential amenity of the occupiers of neighbouring properties.

05. The development hereby approved shall be used in association with Condor Projects Ltd & Condor Aviation International Ltd only. The building shall only be occupied in connection with the existing business on site hereby approved and not sold off separately.

Reason:

To avoid the establishment of additional businesses on site outside development limits; to comply with the terms of the application as submitted; and to comply with Policy EMP9 of the Selby District Core Strategy

06. A scheme of surface water drainage should be submitted to and approved by the local planning authority prior to the development first being first brought into use. This should include details of discharge rates, the existing surface water discharge and details of the Sustainable Drainage System – SUDS (Combined Systems) and any surface water to adjacent watercourse.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding.

07. The development hereby approved shall be carried out in accordance with the mitigation measures as set out within the Preliminary Bat Assessment June 2021.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the CS, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017.

INFORMATIVES:

01. INFORMATIVE:

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

02.COAL:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

03.RIPARIAN MAINTENANCE RESPONSIBILITY:

Any watercourse adjacent to and/or affected by this development is not maintained by the IDB's. The responsibility for the continued maintenance of any such watercourse and its banks rests ultimately with the riparian owners.

04.CONSENT – DISCHARGE:

Under the IDB's Byelaws the written consent of the IDB is required prior to any discharge (directly or indirectly) into any watercourse within the IDB's District.

8. Legal Issues

8.1. Planning Acts

This application has been determined in accordance with the relevant planning acts.

8.2. Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

8.3. Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However, it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

9. Financial Issues

Financial issues are not material to the determination of this application.

10. Background Documents

Planning Application file reference 2021/0349/FUL and associated documents.

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Appendices: None