

Report Reference Number: 2019/0559/FULM

To: Planning Committee
Date: 12 January 2022
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APPLICATION NUMBER:	2019/0559/FULM	PARISH:	Colton Parish
APPLICANT:	Braegate Produce Ltd	VALID DATE:	05.06.2019
		EXPIRY DATE:	EOT in place
PROPOSAL:	Use of agricultural buildings and land for the processing and storage of potatoes, erection of enlarged storage building following demolition of existing building, construction of internal road way and footpath, construction of water tanks, excavation of lagoons, and construction of hard-standings		
LOCATION:	Ibbotsons Mill Hill Braegate Lane Colton Tadcaster LS24 8EW		
RECOMMENDATION:	Planning Permission be GRANTED subject to conditions		

This application has been brought before Planning Committee at the request of Councillor Musgrave.

1.0 INTRODUCTION AND BACKGROUND

- 1.1 This application is for full planning permission for the intensification of the use of the agricultural buildings and land for the processing and storage of potatoes. The proposal also includes the erection of an enlarged storage building following demolition of the existing building along with the construction of a new internal roadway, footpath, water tanks, lagoons and hardstandings.

- 1.2 The application was submitted on the 5 June 2019 following the previous application 2018/0562/FULM being withdrawn on officer advice due to insufficient information.
- 1.3 The use and some of the works have been implemented as such the proposal is for part retention of the development. The demolition and re- construction of the storage building has not yet commenced.
- 1.4 The site was formerly occupied by Ibbotson potato farmers from 1982 prior to be acquired by Braegate Produce supplies in 2018 who supply potatoes to supermarkets, wholesalers and processors around the UK.
- 1.5 The use has change from a storage facility in connection with potato farming in the local area by a local farmer, to a processing, storage and distribution facility where potatoes are provided by various growers. Braegate Produce procure produces from various potato growers, the product is processed and packed then distributed to supermarkets, wholesalers and processors all around the UK. In legal terms any buildings which were substantially completed more than 4 years ago have become lawful and immune from enforcement action. This only applies to their structures. The same applies to engineering works. The Courts have held that the period of immunity for a structure is 4 years, but the use of that building needs to have taken place for 10 years for it to have become immune.
- 1.6 The application is supported by the following information:
- Existing and proposed elevations
 - Site Plan
 - Proposed elevations and sections
 - Design and Access Statement
 - Ecology Assessment and Net Gain Assessment
 - Transport Assessment
 - Travel Plan
 - Planting Specifications
 - Topographical Survey
 - Planning Statement
- 1.7 On visiting the site officers identified a number of developments that do not have the benefit of planning permission and in the case of the operational development are less than 4 years old:
- Water towers
 - Internal road
 - Path
 - Hard surfaces
 - Lagoons
- 1.8 The applicant has commissioned a topographical survey of the site to accurately identify all development on site and amended plans and up to date ecological assessments have been provided.
- 1.9 Potatoes are delivered to the site 5 days per week Monday to Friday, and deliveries out of the site, to customers, are 7 days per week. Deliveries in generally are between 06:00 to 16:00 Monday to Friday, deliveries are generally 04:00 to 22:00.

- 1.10 Generally the packing operations work 6 days per week, 06:00 Monday through to Sunday morning 04:00. The business runs a day shift and a night shift. The number of packing lines in use and, consequently, the staff present on site is based on the daily orders.

2.0 CONSULTATION AND PUBLICITY

Consultation Responses

- 2.1 **NYCC Ecology** – The ecology walkover survey doesn't raise any ecological issues. The site is of low ecological value and the calculations show that the proposed hedgerow planting would achieve a net gain for biodiversity. Hedge planting should follow the plan 1301 Rev A submitted in October 2019.

NY Fire and Rescue – No objections

NYCC Highways - NYCC highways raise no objections. The previous use would have the potential to create numerous vehicle movements. The information provided within the Transport Statement has identified that there have been no accidents at the site in the last 5 years and that improvements have been made to the existing accesses. The improvements made were agreed with the Highway Authority.

NY Police – No comments.

NYCC Local Lead Flood Authority (LLFA) – The supporting statement states that surface water currently drains to soakaways, a condition is recommended requiring details of drainage.

The proposed reconstruction of the agricultural building and side extension are proposed on existing hardstanding that is already draining to the watercourse network as shown on the existing site layout plan. The proposed extension would not therefore result in an increase in surface water rate and volume entering the watercourse, thus not increasing flood risk elsewhere.

Notwithstanding this, in accordance with the NYCC SuDS design guide, any runoff from the redevelopment of a brownfield site should be reduced by 30%. The applicant has not provided any calculations to demonstrate how the runoff from the proposed reconstructed unit and extension will be managed and reduced by 30%.

The following condition is recommended:

Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to a minimum 30% reduction of the existing positively drained runoff rate in accordance with the NYCC SuDS Design Guide. A 30% allowance shall also be included for climate change effects for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

Reason: To mitigate additional flood impact from the development proposals and ensure that flood risk is not increased elsewhere.

NYCC Archaeology – There are no known archaeological sites in the area indicated or within the immediate vicinity. No objections.

Ainsty IDB – Discharge rate to the watercourse has not been agreed. The site is outside the district with no Board maintained watercourse within the immediate vicinity. The preferred option is discharge to soakaways. If there has been a previous discharge to a watercourse and if soakaways are not possible the existing rate should be reduced by 30%. If approved the following condition should be included:

No development approved by this permission shall be commenced until the Local Planning Authority, in consultation with Ainsty (2008) Internal Drainage Board, has approved a scheme for the disposal of surface water. Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered for the disposal of surface water:

- The suitability of soakaways, as a means of surface water disposal, should first be ascertained in accordance with BRE Digest 365 or other approved methodology.
- If soakaways are not feasible, then the Board may consider a proposal to discharge surface water to a watercourse (directly or indirectly).
- For the redevelopment of a brownfield site, the applicant should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140 litres per second per hectare or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from “greenfield sites” taken as 1.4 litres per second per hectare (1:1 year storm).
- Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100 year event. A 30% allowance for climate change should be included in all calculations. A range of durations should be used to establish the worst-case scenario.

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

The Countryside Charity (CPRE) – An agricultural use has been in operation for some years. The increased activity at the site have started to cause some concerns with local CPRE Members and residents in the area particularly in relation to traffic movements.

Furthermore, from the site, the vehicles travel along Braegate Lane to the A64. Until the A64 is reached, both Braegate Lane and Colton Lane are typical rural lanes and whilst residents are used to some large vehicular movements, the number of these movements are now causing distress and intimidation to many local road users.

The NPPF states very clearly that planning decisions should ensure any significant effects on the transport network, including from highway safety, can be mitigated to

an acceptable level. It goes on to state that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

The application includes the erection of a 40m new building, following the demolition of an existing general purpose agricultural building. It is recognised that whilst the new building is particularly large, it is in-keeping with the remaining buildings on site in terms of scale. CPRENY has no specific comments to make on the building and welcomes the use of solar panels on site in relation to the mitigation of climate change.

In terms of ecological improvements, CPRENY are dismayed that so many boundary trees and hedgerows are to be removed to facilitate the proposals, although understand that the submitted planting plan has included replanting of native species which will provide a good mix of habitats for biodiversity. However, it is disappointing that the applicant has not sought to provide net gain for biodiversity as part of the proposals in line with the revised NPPF (para.170) and the emerging Environment Bill.

Whilst CPRENY do not object in principle to the proposals, it is considered that as a minimum conditions should be attached to any future planning permission to secure effective hours of operation which do not include night time vehicular movements, restrictions on daily traffic movements and an appropriate biodiversity management plan. Furthermore, a condition relating to night-time noise control should be attached if proved appropriate. If the Council are not satisfied that the proposal can be made satisfactory by effective conditions then the application should be refused and enforcement action undertaken to ensure that vehicle movements and hours of operation return to the pre-sale level and commencement of operations by the applicant.

SDC Environmental Health – No objections. Aware of concerns raised by neighbouring receptors with regards to light spill from the development. Condition recommended:

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone - E2 contained within Table 1 of the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005.

Reason: In order to safeguard the amenity of adjoining residential occupiers.

Environment Agency (EA) – No response.

NYCC Public Rights of Way (PROW) – No response.

Yorkshire Water – No response.

Bolton Percy, Colton and Steeton Parish Council – conflicts with Green Belt policy, concerns in relation to noise, traffic and highways. Concerns with regards to the number of HGV traffic movements, width of the existing country lane and the impact on the condition of the road due to the weight of the vehicles.

NY Bats – No response.

Yorkshire Wildlife Trust (YWT) – No response.

Publicity

2.2 The application has been advertised in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. A site notice was placed outside the site and then again after the submission of amended details and additional reports.

2.3 Various letters of objection have been received from one contributor.

The objections raised are paraphrased below:

- The application is a major departure from open countryside and with an enormous environmental impact from the vehicles servicing the site.
- A Transport Assessment has not been supplied with the application.
- The applicant's Travel Plan and Traffic Impact Assessment are fundamentally flawed and the County Council seem to have accepted them without checking, this is not acceptable, especially when to accept them is a breach of our rights within Article 8 of the Human Rights Act - the right of peaceful enjoyment of one's possessions and property.
- There are no details provided with regards to operating times. The key factor to the application is that it is a commercial operation without restrictions on specific usage in open countryside and this definition of use applies along its transport route. At any time it could change operations to any content of storage and vehicle operations.
- If there were reasonable operation hours and if the applicant stuck to the vehicle movements stated then a substantial element of our objections would cease.
- The proposal is for 17.9 acres of commercial development in the open countryside and access along a disproportionate narrow country road where the volume of HGV's servicing the site is far greater than the declared.
- Movements, forcing cyclists and pedestrians off Colton Lane and eroding the verges along the lane by up to 1m in places.
- The Applicant has submitted details of employees on the site, the huge majority do not contribute anything to the local economy. There is no overriding economic necessity of this site.

3.0 SITE CONSTRAINTS

3.1 The main constraints identified are:

- Low risk coal authority area.

4.0 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 recently amended replaces the previous versions dated, February 2019, July 2018 NPPF and 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 -

"219...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 (2013)

- 4.6 The relevant policies of the Core Strategy 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 (2005)

4.7 The relevant saved policies of the Selby District Local Plan are:

- ENV1 Control of Development
- EMP9 Expansion/re-development of existing employment uses in the countryside
- T1 Development in Relation to the Highway Network
- T2 Access to Roads

National Planning Policy Framework (July 2021)

4.8 The NPPF confirms the role of the planning system is to contribute towards the achievement of sustainable development. Paragraph 8 of the NPPF sets out the three overarching objectives a) an economic objective, b) a social objective c) an environmental objective. The relevant chapters/paragraphs of the NPPF are:

2. Achieving sustainable development
4. Decision making
6. Building a strong and economic economy
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
15. Conserving and enhancing the natural environment

Annexe 1 Implementation

Annexe 2 Glossary

National Design Guide

5.0 APPRAISAL

5.1 This report will consider the harms and benefits of the proposal and the main issues are considered to be:

- The Principle of Development
- Impact on the Countryside and Landscape Visual Impact
- Impact on the Natural Environment
- Highways and Transportation
- Impact on Residential Amenity
- Design

The Principle of Development

5.2 The Core Strategy directs most growth to Selby to foster regeneration and strengthen and diversify its economy, encouraging diversification in rural areas and focus some growth the Sherburn in Elmet and Tadcaster.

5.3 The site is located in the rural area outside the development limits of the village of Colton and as such is classed as open countryside, policy SP2 (c) of the Core Strategy states that development is generally resisted unless it involves the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes and well-designed buildings, proposals of an appropriate

scale that would diversify the local economy. The site is not within the Green Belt – the GB boundary runs to the east of Braegate Lane and washes over Colton. Policy EMP9 of the Local Plan allows for the expansion and/or redevelopment of existing industrial and business uses outside of development limits.

- 5.4 The proposal also involves the erection of a replacement building. The existing storage building has a floor area of 2026 sq m, the proposed storage building (existing plus the replacement) has a floor area of 2044 sq m which results in an increase of 18 sq m. The proposal is therefore considered to be of an appropriate scale in terms of the building. Transport and Traffic movements are considered later in the report; however, the Transport Assessment indicates that the comings and goings have not significantly increased and as such the scale of the use is considered to be appropriate for the location.
- 5.5 The use of the buildings is for employment purposes; the agent has advised that there are 86 employees - 10 drivers, 9 office staff and 67 production staff.
- 5.6 The proposal involves the re-use of the existing buildings for employment purposes and a diversification of a former agricultural use and as such is acceptable in principle.
- 5.7 Paragraph 84 of the NPPF states that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas both through conversion of existing buildings and well-designed new buildings and the development and diversification of agricultural and other land based rural businesses.
- 5.8 The proposal therefore complies with both local and national planning policy.

Impact on the Countryside and Landscape Visual Impact

- 5.9 Core Strategy Policy SP18, saved policy EMP9 require the expansion and re-development of existing businesses outside development limits to 2) not have a significant adverse effect on the character and appearance of the area and 4) proposals involving the expansion onto adjoining land would not result in the best and most versatile land and the site would be well related to the existing development and well screened.
- 5.10 As set out in paragraph 5.4 above, the proposed replacement building is marginally larger than the existing building it is to replace. The external finishes are to be a goosewing grey composite panel with verge trims which is not dissimilar to the existing building. The replacement building and re-cladding will improve the aesthetics of the building and in turn improve the appearance of the area.
- 5.11 In terms of expansion onto adjoining land, the land to the west/north was originally agricultural land associated with the Ibbotson's operation, the information provided suggests that this was in agricultural use until 2007 with the new use coming in around 2017. In 2018, google images provided by the agent show that the change of use took place, this is within the last 10 years and as such permission is sought for the use of the parcel of land in connection with the operations. A walkway has been created on the land to the south outside of the original site. The applicant advises that this has been created following health and safety guidance to allow a safe route for staff to ensure there is sufficing separation space from vehicles and people.

5.12 Policy EMP9 requires that expansion onto adjoining land should be well related to the development, which it is and be well screened. Both parcels of land are screened on all boundaries. The proposal involves the removal of the row of trees along the northern boundary of the site. These trees have been identified as moderate value in terms of biodiversity. The removal of the trees is not considered by officers to have a significant visual impact on the wider countryside when taking account of the mature landscaping within the adjacent site to the north. The proposed hedgerows on the north and south boundaries will provide good screening longer term to the site. The footpath to the south is made up of loose material to provide a hard surface protected walkway and will not be visible from distant views.

5.13 DEFRA Maps identify the land as being Grade 2 which is Very Good. In terms of assessing development proposals on agricultural land government guidance states that Grade 2 land is:

“Land with minor limitations that affect crop yield, cultivations or harvesting. A wide range of agricultural and horticultural crops can usually be grown. On some land in the grade there may be reduced flexibility due to difficulties with the production of the more demanding crops, such as winter harvested vegetables and arable root crops. The level of yield is generally high but may be lower or more variable than grade 1.”

The Town and Country Planning (Development Management Procedure (England) Order) (DMPO) 2015 requires local planning authorities to consult with Natural England on proposals for non-agricultural applications that result in a loss of more than 20 hectares of land. The adjoining land is less than 20 hectares. Taking account of the land being well related to the site and screened on boundaries the use of the land would not be practical for agricultural purposes given its scale.

5.14 The land to the north is used for outdoor storage and lagoons associated with the washing of the potatoes. Due to the topography, the site boundary screening and the interception of longer distance views by hedgerows and trees the storage area is not significantly visible. In order to manage the open storage area it is recommended that that conditions is imposed controlling the height of any equipment stored in this area and of a distance from the boundary.

5.15 Chapter 15 of the NPPF seeks to conserve and enhance the natural environment by protecting and enhancing landscapes, biodiversity, geology and soils recognise soils as a natural capital asset that provide important ecosystem services consider the economic and other benefits of BMV agricultural land, and try to use areas of poorer quality land instead of higher quality land

Highways and Transportation

5.16 Saved policies T1 and EMP 9 of the Local Plan, Policy SP19 Design Quality and Chapter 9 of the NPPF set out the considerations in relation to highways and transportation.

5.17 The application is supported by a Transport Assessment and Travel Plan prepared by Local Transport Projects Chartered Transport consultants.

- 5.18 There are two existing accesses to the site off Braegate Lane that are utilised for the use separating the HGV/commercial traffic from light vehicles. The northernmost access serves all commercial and HGV traffic to the site. This was improved recently with increased junction radii, new surfacing and sight line improvements. This allows safe access and egress for large vehicles, with adequate area provided internal to the site to enable HGVs to turn around and exit in a forward gear.
- 5.19 The second access to the south of the site serves the office part of the site and is also used by shift workers. It is only used by cars/occasional light vans and was also recently improved with new surfacing and widening. The two accesses ensure that HGV movements are completely separate from car traffic at the site, helping to improve safety, including pedestrian safety within the site.
- 5.20 The speed limit at Braegate Lane is 60mph. Vehicle speed surveys were undertaken to inform the Transport Assessment. The vehicles speeds surveyed were 45/46 mph which is significantly below the 60mph in both directions.

Pedestrian Provision

- 5.23 Whilst the walking distance to the nearest villages of Colton and Appleton Roebuck are within the 2km suggested as a maximum walking distance by the Chartered Institution of Highways & Transportation (CIHT) the Transport Assessment accepts that the potential for walking trips is limited given the rural location and lack of footways. There are several public footpaths within the vicinity of the site, including three accessed within the village of Colton and several to the west of the site and one within the vicinity of the site. The PROW's are not affected by the development.

Cycle Provision

- 5.24 The proposed development site is located within a reasonable cycle ride, up to 5km (approximately 15 minutes at the average cycling speed of 12mph), of the villages of Colton, Appleton Roebuck, Bilbrough and Bolton Percy. The DfT state that "in common with other modes, many utility cycle journeys are under three miles (5km), although, for commuter journeys, a trip distance of over five miles (8km) is not uncommon".

Public Transport

- 5.25 The Guidelines for Public Transport states that the generally acceptable maximum walking distance that a bus stop should be located from a development site is 400m, although it is acknowledged that actual walking distances can be notably longer. The nearest bus stops to the proposed development site are located in the village of Colton, approximately 700m north-east of the site. Bus service 21 operates from these stops, which provides services every 2 hours to York via Askham Bar. Measures to promote and encourage trips by public transport to and from the site are detailed within the site Travel Plan (LTP, 2019).

Accident Data

- 5.26 The Transport Assessment states that, following a survey of the Department of Transport Data, no collisions have been recorded within the vicinity of the site during the 5-year study period of 01.01.2013 and 31.12.2017. It is concluded that there is no collision history over the last 5 years and that the proposals should not have a detrimental road safety impact on the local highway network.

Traffic Impact

- 5.27 The details supplied outline the current and proposed trip numbers/ traffic movements at the site:

HGV:

- 20 two-way HGV movements Monday-Friday; and
- 10 two-way HGV movements Saturday and Sunday.

Staff Vehicles:

- 10 office staff;
- 9 HGV drivers (7 full-time, 2 part-time);
- 66 Production staff including 4 managers (including approximately 30% car sharing); and
- 33 to 42 agency staff with various hours (including approximately 30% car sharing).

- 5.28 The Transport Assessment envisages that the traffic flow at the site will remain unchanged as part of the current proposal and due to a significant number of staff trips to/from the site expected to be made outside of the network peak hours, the impact of the proposal on the adjacent highway network is expected to be negligible.
- 5.29 Concerns have been raised by an interested party with regards to the highways impact, particularly the HGV comings and goings in relation to noise and disturbance and the impact on the condition of the public highway.
- 5.30 NYCC Highways Officer has been consulted and agrees with the outcomes of the Transport Assessment. the Highway Authority has no objections to the development given that vehicle movements to and from the site will not change from those already taking place. Whilst it is appreciated that the change of use was not previously approved through planning, it is noted that the previous use would have the potential to create numerous vehicle movements. The information provided within the Transport Statement has identified that there have been no accidents at the site in the last 5 years and that improvements have been made to the existing accesses. The improvements made were agreed with the Highway Authority.
- 5.32 NYCC Highways Engineers have advised that Braegate Lane and Colton Lane were surface dressed in 2017 and that there are no further plans to re-construct the highway.
- 5.32 The applicant has provided information about their intension to implement a travel plan. The information provided has explained the proposed process and monitoring requirements. The Highways Officer has recommended a condition requiring the formal submission of a Travel Plan and designated parking areas should Members resolve to grant planning permission.

- 5.33 The proposal is considered not to result in any highway safety issues or significant impact on the highway network as advised by both the applicants and the Council's competent experts.
- 5.34 Paragraph 111 of the NPPF states that development should only be prevented on highways grounds if there would be unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Impact on the Natural Environment

- 5.35 Policy SP18 Protecting and Enhancing the Environment of the Core Strategy and Chapter 15 Conserving and enhancing the natural environment of the NPPF set out the key considerations with regards to development and the impact on the natural environment.
- 5.36 An Ecology Appraisal 2018 by Yorkshire Ecology Surveys has been submitted with the application and more recently an updated Walkover Survey by Curtis Ecology. The report concludes that proposals to extend and/or replace existing buildings onsite within the same footprint or on hard standing is on land of Negligible Ecological Value.
- 5.37 The proposal involves the removal of an existing tree line which consists of semi mature *Fraxinus excelsior* (Common Ash) and *Fagus* spp (Beech) along the northern boundary. The consultants advise that the trees affect the foundations of the building immediately to the south and also the bankside of the existing ditch.
- 5.38 Whilst the trees are of amenity value along the northern boundary, they are considered by ecologists to be of moderate ecological value. The proposal is to replace the trees with a species rich native hedgerow of greater ecological value.
- 5.39 A second hedgerow is proposed along the southern boundary to meet with the existing hedgerows to the west and east boundaries of the site.
- 5.40 The surveys conclude that there was very little favourable habitat for bats within the application site. The trees around the perimeter of the site would be of benefit to bats as such the reports recommend the consideration of suitable lighting to ensure that there are no negative effects for the foraging habitats for bats. The lagoons have been considered to be very unlikely habitat for Great Crested Newts due to their location and the water is polluted from the washing of potatoes, the water is regularly disturbed and there are no aquatic plants growing in the ponds which means that GCN breeding pond is definitely not present.
- 5.41 The survey did not indicate the presence of any reptile species and data concludes that the site is not favourable habitat in addition to a lack of connectivity.
- 5.42 The survey did not indicate any nesting birds within the site boundaries. Any clearance and demolition should occur only in the months of October – February inclusive. An informative is recommended should Members resolve to grant permission.
- 5.43 The survey recommendations include long lasting ecological enhancement with species rich hedgerow, bat boxes to be fitted, enrichment plan and dark corridors around the habitat that may be used by trees. Conditions are recommended should Members resolve to grant permission.

- 5.44 The aforementioned policies and paragraph 174 and 180 of the NPPF seeks to conserve and enhance biodiversity. Whilst the proposal results in a loss of trees of limited weight is attached to their loss due the overall biodiversity net gain through the replacement with a native hedgerow. The proposal is therefore considered to be acceptable in terms of the impact on the natural environment.

Impact on Residential Amenity

- 5.45 Saved policies ENV1 Control of Development and EMP9 Expansion of existing industrial/business uses outside development limits of the local plan seek to ensure that new development and expansion of existing industrial/business uses would not have a significant adverse effect on local amenity.
- 5.46 As set out above in section 2.3 above concerns have been raised by an interested party with regard to the impact of the development on their residential amenity. The interested party is located around 500 metres to the north of the site on Colton Lane, this is a significant distance from the site, however, the occupiers are affected by comings and goings along Colton Lane/Braegate Lane as they are particularly close (around 250 metres) to the junction with the A64 and the service station.
- 5.47 The material planning concerns raised mainly relate to the level of comings and goings, which in the opinion of the interested party create noise and disturbance as a result of the change in the use and the impact on the stability and structure of the road and their property.
- 5.48 As set out in paragraph 5.30 above, NYCC have advised that they agree with the conclusions of the Transport Surveys and Assessment and that the change in the use does not result in a significant increase in vehicle trips from the former use. On this basis there is no evidence to suggest that any impact on the condition of the road or the occupier's property is as a result of the use and operations at Braegate Produce.
- 5.49 In terms of other impacts from the development such as noise, water pollution and light pollution, the Council's Environmental Health Officer (EHO) has advised that they have no objections to the change of the use from an agricultural storage and processing facility for potato farming to the storage, processing and distribution of potatoes brought onto site from alternative agricultural suppliers.
- 5.50 The EHO has recommended a condition to control lighting, it is accepted that the nearest residential receptor is some distance from the site and as such would not be significantly affected by light pollution. The details of lighting are an important consideration in terms of the night-time visual impact and on ecological receptors. On this basis , it is considered reasonable and necessary to apply a condition requiring technical lighting details should Members resolve to grant planning permission.
- 5.50 Whilst the level of comings and goings has been concluded not to be significant from the outcomes of the reports and advice from competent experts it is considered that it would be reasonable and necessary to control the traffic movements by condition to protect the amenity of residents along the travel route from unnecessary disturbance should Members resolve to grant permission.

Design

- 5.51 Saved policy ENV1 Control of Development and EMP 9 (3) expansion/re-development of industrial and business uses, SP 19 Design Quality of the Core Strategy and Chapter 12 Achieving Well Designed Places of the NPPF and the National Design Guide set out the key principles of quality design. The local and national policies state that the proposal should achieve high quality design, materials and landscaping which complements the existing buildings.
- 5.51 The design and appearance of the collection of buildings are that of a typical agricultural storage facility located within the open countryside. The buildings are large in scale and cover most of the site, however the height and roof span reduce the overall mass of the buildings.
- 5.52 The external appearance of the proposed extension/replacement building will be in keeping with the existing cladding in a grey colour. The design is functional and serves a purpose by responding well to the existing local character and identity. The proposed extension will be seen entirely in context with the existing buildings and as such whilst good design and the creation of high quality, beautiful buildings are fundamental to the planning and development process and a key aspect of sustainable development the design is sympathetic and in keeping.
- 5.53 It is therefore considered that the proposal is acceptable in terms of the design and appearance.

Other Matters

Archaeology

- 5.54 NYCC have advised that there are no archaeology issues, the proposed new build is to replace an existing building as such there are no heritage assets to consider.

Drainage

- 5.55 NYCC LLFA have advised that there are no objections with regards to the disposal of surface water from the site, however a detailed drainage strategy is required with regards to the run off rates. This is echoed by the drainage board. Details provided by the drainage board suggest that approval has not been given for discharge into the water course – despite the watercourse not being owned/managed by the IDB. An informative is recommended advising the applicant to seek the necessary permissions for existing and additional water discharge into any water course.

6.0 CONCLUSION AND PLANNING BALANCE

- 6.1 The established use as a processing, storage and distribution facility at the former Ibbotson's sites has changed from that solely connected with the farming of land by the Ibbotson farmers in the local area to a facility that processes, stores and distributes potatoes that are sourced from a variety of farmers and locations. It has been concluded that this has resulted in a change of use of the site. The proposal seeks permission for this along with the proposed replacement of a building and the retention of other developments as described in connection the use. The application also seeks permission for the use of land to the west as outdoor storage, land to the north west for lagoons connected with the washing of potatoes and the land to the south which has been included in the site to provide a pedestrian path.

- 6.2 The operation of the site has therefore changed from agriculture and ancillary uses to a business use for the processing, storage and distribution.
- 6.3 The Government states in the NPPF that planning decisions should help create conditions in which businesses can invest, expand and adapt. Paragraph 81 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities.
- 6.4 The NPPF states in paragraph 84 that planning decisions should enable a) the sustainable growth and expansion of *all* businesses in rural areas both through conversion of existing buildings and well-designed new buildings and b) the development and diversification of agricultural and other land based rural businesses.
- 6.5 Braegate Produce delivers an important role in food production by supplying UK grown potatoes to the UK market by working with UK producers in addition to employing 86 staff members. The proposal is considered to be a diversification of the former agricultural facility.
- 6.6 It has been concluded that there are no unreasonable impacts from the diversification that cannot be effectively managed through the use of planning conditions that meet with the legal tests.
- 6.7 The NPPF states that the purpose of the planning systems is to contribute towards sustainable development, the objective of sustainable development is to meet the needs of the present without compromising the ability of future generations to meet their own needs. The proposal puts forward economic, social and environmental objectives for which significant weight has been attached in reaching the officer recommendation.
- 6.8 The concerns raised by interested parties have been thoroughly investigated and taken into account in reaching the recommendation. Conditions are recommended should Members resolve to grant planning permission in line with the officer recommendation.
- 6.9 Significant weight has been attached to the NPPF in supporting the economic growth and productivity whilst taking into account the local circumstances.
- 6.10 Taking into account all of the above material planning considerations, Officers are of the view that the planning balance lies in favour of the proposal and as such recommend that planning permission is **GRANTED**.

7.0 RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

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 not be carried out otherwise in complete accordance with the approved plans and specifications.

Amended Supporting Statement Published 24.09.2021

Location Plan 1301-1B

Proposed Layout Plan 1301-4C

Five Acre Plot 1301-15

Proposed Elevations 1301-10

Part Proposed Site/Building Plan 1301-8

Proposed Sections 1301-11

Roof Plan 1301-12

Reason

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

03. Before development is commenced full details of the proposals for the disposal of foul sewage and surface water drainage, including the results of any necessary percolation tests, shall be submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall be implemented.

Reason:

To ensure the adequate provision for drainage from the proposed development, having had regard to Policy ENV1 of the Selby District Local Plan.

04. Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to a minimum 30% reduction of the existing positively drained runoff rate in accordance with the NYCC SuDS Design Guide. A 30% allowance shall also be included for climate change effects for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

Reason: To mitigate additional flood impact from the development proposals and ensure that flood risk is not increased elsewhere.

05. There shall be no delivery of products from suppliers to the site other than on Monday to Friday between the hours of 0600 hours and 1600 hours and not at all on a Saturday or Sunday.

Reason

To ensure the impact of the development on residential amenity is protected, having had regard to Policy ENV1 of the Selby District Local Plan

06. There shall be no deliveries of products out of the site to customers other than on Monday to Friday between the hours of 0400 hours to 2200 hours and not at all on a Saturday or Sunday.

Reason

To ensure the impact of the development on residential amenity is protected, having had regard to Policy ENV1 of the Selby District Local Plan.

07. There shall be no packing operations either inside or outside buildings other than between Monday 0600 hours to Sunday 0400 hours.

Reason

To ensure the impact of the development on residential amenity is protected, having had regard to Policy ENV1 of the Selby District Local Plan.

08. The external cladding shall match the existing buildings unless otherwise agreed in writing.

Reason

In the interest of policy ENV1 and EMP9 of the Selby District Local Plan

09. Prior to the first occupation of the building a detailed ecological enhancement plan and long-term management plan shall be submitted to and agreed in writing by the LPA. The plan shall include:

- Species rich hedgerows
- Bat boxes
- Enrichment plan
- Dark corridors

Reason

In the interest of conserving and enhancing the natural environment in line with policies ENV14 Protected Species of the Local Plan, SP18 Core Strategy and Chapter 15 of the NPPF.

10. Within 3 months of the date of this approval a detailed plan shall be submitted to and agreed with the LPA. The plan shall include the area used for outdoor storage, height in which items are to be stored and the proximity to the boundaries.

Reason

In the interest of visual amenity and protecting distance views across the countryside in accordance with Core Strategy Policy SP18, saved policy EMP9 and Chapter 15 of the NPPF.

INORMATIVES

- 1 The applicant is advised of the following requirements in relation to the surface water disposal.
 - The suitability of soakaways, as a means of surface water disposal, should first be ascertained in accordance with BRE Digest 365 or other approved methodology.
 - If soakaways are not feasible, then the Board may consider a proposal to discharge surface water to a watercourse (directly or indirectly).
 - For the redevelopment of a brownfield site, the applicant should first establish the extent of any existing discharge to that watercourse.
 - Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140 litres per second per hectare or the established rate whichever is the lesser for the connected impermeable area).
 - Discharge from “greenfield sites” taken as 1.4 litres per second per hectare (1:1 year storm).
 - Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100-year event. A 30% allowance for climate change should be included in all calculations. A range of durations should be used to establish the worst-case scenario.
- 2 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.

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 2020/0149/FULM and associated documents.

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Appendices: None