



Report Reference Number : 2019/0559/FULM

To: Planning Committee
Date: 8th February 2023
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Lead Officer: Hannah Blackburn (Planning Development Manager)

APPLICATION NUMBER:	2019/0559/FULM	PARISH:	Colton Parish
APPLICANT:	Braegate Produce Ltd	VALID DATE:	05.06.2019
		EXPIRY DATE:	28.02.2021
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 hardstandings.		
LOCATION:	Ibbotsons Mill Hill Braegate Lane Colton Tadcaster LS24 8EW		
RECOMMENDATION:	REFUSE		

This application was brought before Planning Committee at the request of Councillor Musgrave on the 12 January 2022. The application was deferred in order for further information, as set out below, to be collected and evaluated as part of the scheme before being brought back to the Committee. Members should note that no further information has been provided as such this has resulted in a change in officer recommendation.

Information requested was:

- details of how the site had;
- developed over time;
- the verification of traffic data;
- the effects on residential amenity;
- tree removal and surveying;
- visual screening and the provision;
- of a landscape visual appraisal; and,
- that company records relating to information on traffic and vehicle movements be requested of the applicants.

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- 1.2 The application was submitted on the 5 June 2019 following the previous application 2018/0562/FULM being withdrawn on officer advice due to insufficient information. The proposal was resubmitted (this application) which was deferred from Planning Committee for further information.
- 1.3 The use and some of the works have been implemented and 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 Ltd supplies in 2018 who supply potatoes to supermarkets, wholesalers and processors around the UK.
- 1.5 The use has changed 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 Ltd procure produce 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. The Applicant submitted an application for a certificate of lawful existing use to seek to demonstrate the lawful parts of the site. This application was refused under delegated powers due to their being insufficient evidence to issue the certificate. Lawful Development Certificate applications are not based on planning merit but on evidence and the balance of probability.
- 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.

Relevant Planning History

CO/1976/31152	General farm building. Granted 30 June 1976
CO/1974/31133	General Farm Store Granted 28.08.1974
CO/1975/31150	Potato Store Extension Granted 21.08.1975
CO /1980/31153	Erection of general purpose agricultural building. Granted 30.04.1980
CO/1985/1122	Erection of extension to existing general purpose agricultural storage building Refused 21.06.85
CO/1985/1121	Proposed erection of extension to existing general purpose agricultural storage building refused 31.05.1985
CO/1986/1228	Erection of an extension to existing potato storage building. Granted 12.01.1993
CO/1986/1226	Proposed alterations to raise the roof height of existing potato storage. Granted 24.11.1986
CO/1996/0456	Erection of general purpose storage building. Granted 22.01.1997.
CO/1997/0145	Erection of lean-to extension to existing potato storage building. Granted 07.04.1997
CO/1998/0519	Continued development of general purpose storage buildings without complying with Condition 3 (roof to be sprayed with

	slurry) imposed on consent 8/77/1s/PA dated 22/01/1997. Granted 17.09.1998
CO/1997/0326	Proposed erection of 2 bay extension to storage building. Granted 26.06.1997
CO/1998/0562	Proposed removal of planning condition No 3 of planning permission 8/77/1V/PA dated 22/1/97. Granted 17.09.1998
2008/1118/FUL	Erection of an office building. Granted 24.11.2088
2009/0513/DPC	Discharge of condition 2 (materials) in relation to approval 8/77/46/PA (2008/1118/FUL) for the erection of an office building. 01.07.2009
2009/0648/DPC	Application to discharge condition 2 (materials) of approval of 2008/1118/FUL 10.08.2009
2018/0562/FULM	Retrospective change of use of agricultural buildings to B8 (Storage & Distribution); erection of enlarged commercial building (B8) following demolition of existing general purpose agricultural building & improvements to existing site access. Withdrawn 29.01.2019
2022/1092/CPE	Lawful development certificate for existing use of land and buildings for the processing of vegetables including warehousing, offices and parking. Refused 19.01.2023

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.
- 2.2 **NY Fire and Rescue** – No objections
- 2.3 **NYCC Highways** - NYCC highways initially raise no objections but have since provided a further response requesting the following information:
- Swept Path Analysis for largest vehicles.
 - ELV
 - Access to public transport
 - Improvement of traffic flows to reduce interaction between pedestrians and vehicular traffic
 - Details of how pedestrian trips will be encouraged
 - Speed survey data
 - Stage 1 Road Safety Audit
 - Further statistics for personal injury collision history
 - Parking Standards
 - Details of existing vehicle trips

- Traffic survey data
- Trip distribution
- Trip generation
- Temporal growth
- Traffic generation to take account of committed developments
- Junction assessment

No further information has been received as such Highways maintain a holding objection.

2.4 **NY Police** – No comments.

2.5 **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.

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

2.7 **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, conditions are requested relating to surface water disposal.

- 2.8 **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.

- 2.9 **SDC Environmental Health** – No objections. Aware of concerns raised by neighbouring receptors with regards to light spill from the development. Condition about artificial lighting is recommended.
- 2.10 **Environment Agency (EA)** – No response.
- 2.11 **NYCC Public Rights of Way (PROW)** – No response.
- 2.12 **Yorkshire Water** – No response.
- 2.13 **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.

2.14 **NY Bats** – No response.

2.15 **Yorkshire Wildlife Trust (YWT)** – No response.

2.16 **Tree Consultant** – The Tree Consultant has advised that there has been a gradual reduction in tree cover across the site frontage and side. The tree consultant has visited the site and raises no objections overall as there is planting over the boundary to the north of the site which provides good screening but recommends planting to the east and south boundaries to soften the built form.

Publicity -

2.17 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.

2.18 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 ones 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.
- Adjacent to but outside designated Green Belt land.

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 various documents including the Selby District Core Strategy Local Plan (adopted 22nd October 2013), 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, the Minerals and Waste Joint Plan (adopted 16 February 2022), and the adopted neighbourhood plans none of which relate to the site.

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 2024. Consultation on issues and options took place early in 2020. Consultation on preferred options and additional sites took place in early 2021. The Pre-submission Publication Local Plan is currently subject to a period of formal consultation prior to submission to the Secretary of State for Examination. Given the stage of the emerging Local Plan, the policies contained within it are attributed no weight and as such are not listed in this report.

4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced previous iterations of the NPPF. 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 and, in particular, the sections listed below.

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

NYCC Minerals and Waste Joint Plan 2022 (MWJP)

4.10 The relevant Minerals and Waste Joint Plan Policies are:

- S01 Safeguarded Surface Mineral Resources
- S02 Developments Proposed Within Safeguarded Surface Mineral Resource Areas
- S07 Consideration of Applications in Consultation Areas
- D13 Consideration of Applications in Development High Risk Areas

Supplementary Policy Documents

4.11 Relevant SPD's are:

- NYCC Interim Parking Standards
- Selby District Landscape Character Assessment
- 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 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.

5.5 The use of the buildings is for employment purposes. The agent has advised that there are 86 employees, including 10 drivers, 9 office staff and 67 production staff.

5.6 The proposal is no longer a supplementary operation to the original farm holding, but constitutes a material change to the former agricultural use. The operation on site may at some point have been a diversification of an agricultural use, however, there is no information with the application to suggest that the original agricultural activities currently take place. This proposal is therefore considered to be a commercial operation which involves re-use of the existing buildings on site for employment purposes.

- 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 is considered to be a sustainable business within a rural area that is connected to land based rural businesses that supports a prosperous rural economy making use of the existing buildings on site along with the erection and replacement of buildings that are well designed and in keeping with the existing site. On this basis and taking into account all of the above the proposal would be acceptable in principle.

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. The SDC Landscape Character Assessment shows the site is in Character Area 1 – York Fridge West, the area is characterised by flat gently undulating low-lying farmland with areas of woodland scattered throughout the landscape. Predominantly arable farmland with a medium-large scale field pattern, defined by mature hedgerows. There are generally no distinct landmarks visible on the skylines. Skylines are generally undeveloped and dominated by woodland and shelterbelts. Therefore, they may be more sensitive to new development. The gently undulating landscape offers open, long ranging views in some less enclosed areas and areas of higher elevation such as at the Colton Bridge. These areas of greater visibility would be more sensitive to changes.
- 5.10 As set out 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. 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 Tree Consultant has advised that there has been a gradual reduction in tree cover across

the site frontage and side. The Tree Consultant has visited the site and raises no objections overall as there is planting over the boundary to the north of the site which provides good screening but recommends planting to the east and south boundaries to soften the built form. 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 conditions are 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.
- 5.16 Members at the previous Planning Committee deferred the application to request further information, included in this was the need for an assessment on the impact of the wider countryside views and the Green Belt opposite the site. For clarity the site is not within the Green Belt but lies directly opposite it. It was suggested the Applicant commissioned a Landscape Visual Impact Assessment. No further information has been received.

Highways and Transportation

- 5.17 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. 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. The Highways Team have requested a Swept Path Analysis for the largest vehicles to access the site will need to be undertaken for the proposed junction arrangement and internal layout arrangements. The proposed access arrangement must enable the clear movement of the vehicle into the site without encroachment to the opposing carriageway. This will need to be provided to demonstrate that clear and safe manoeuvres can be undertaken. The existing landscape feature also appears to impinge on visibility splays which will need to be assessed.
- 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

- 5.21 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. The NYCC Highways team have advised that details are provided on how the applicant will improve traffic flows and reduce the interaction between pedestrian and vehicular traffic. As suggested in the Transport Assessment, details on the measures to promote and encourage pedestrian trips to and from the site need to be provided and how this will be safely accommodated within the highway extent.

Cycle Provision

- 5.22 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

- 5.23 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). The Highways team have asked for details on how safe and reasonable access will be provided to the associated bus stops in Colton. This should also include times/days when the service is available and include details on the quality of the bus stop, to ensure it is of a reasonable standard to promote sustainable travel.

Accident Data

- 5.24 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

- 5.25 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).

- 5.26 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.
- 5.27 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.
- 5.28 NYCC Highways team have re-assessed the information submitted with the application and advise that whilst an assessment of Road Traffic Collisions has been undertaken, it does not fully cover the junctions and associated routes.
- 5.29 The Highways Team state that full statistics should be requested from NYCC Traffic Engineering Team and duly analysed within the Transport Assessment. Further, the data for the speed survey is required along with a stage 1 Road Safety Audit. The

Highways Team also advise that details are required to demonstrate that the NYCC parking standards re applied along with manoeuvring arrangements. The information provided within the transport assessment does not provide sufficient detail with regards to junction capacity, traffic flows, trip generation or include assessment of committee developments. All this information is normally required for such proposals.

- 5.30 The applicant has provided information about their intention 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.
- 5.31 The Highways Team advise that there is insufficient information to assess the impact on highway safety or the residual cumulative impact on the highway network.
- 5.32 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. It is therefore not possible for the LPA to consider the full impacts on the highway without the requested information. Paragraph 42 of the NPPF states that 'the right information is crucial to good decision making and paragraph 44 states the a Local Planning Authority should only request supporting information that is relevant, necessary and material to the application in question. Officers are of the view that the information requested is indeed relevant, necessary and material in assessing the potential impacts of the development.

Impact on the Natural Environment

- 5.33 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.
- 5.34 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.
- 5.35 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.
- 5.36 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. The Council's Tree Consultant has visited the site and advised that there has been a gradual reduction in tree cover across the site frontage and side. The Tree Consultant has visited the site and raises no objections overall as there is planting over the boundary to the north of the site which provides good screening but recommends planting to the east and south boundaries to soften the built form.

- 5.37 A second hedgerow is proposed along the southern boundary to meet with the existing hedgerows to the west and east boundaries of the site.
- 5.38 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.
- 5.39 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.
- 5.40 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.
- 5.41 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. Should Members resolve to grant planning permission officers suggest that conditions are attached requiring details of a landscaping and biodiversity enhancement scheme be submitted within an appropriate timescale.
- 5.42 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 subject to appropriate conditions mentioned above.

Impact on Residential Amenity

- 5.43 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.
- 5.44 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.
- 5.45 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.

- 5.46 As set out in paragraph above, NYCC have advised that they agree with the conclusions of the Transport Surveys and Assessment however insufficient information has been provided to properly assess the impact of the development on the highway.
- 5.47 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.
- 5.48 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.
- 5.49 Whilst the level of comings and goings has been concluded not to be significant from the outcomes of the reports and advice from the Applicant's competent experts, NYCC Highways Team have advised that further information is required to assess the impact on the highway and therefore no conclusion is made with regards to the level of comings and goings arising from the development.

Design

- 5.50 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 and the proposal accords with relevant policy in this regard.

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 runoff 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.

Minerals

- 5.56 The site is not located within a minerals safeguarding area or within close proximity to an existing quarry.

6.0 CONCLUSION AND PLANNING BALANCE

- 6.1 The 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 and the applicant has submitted this application to regularise this. The proposal seeks permission for this along with the proposed replacement of a building and the retention of other developments as described in connection with the use. The application also seeks permission for the use of land to the west as outdoor storage, land to the northwest 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 of potatoes. It is not clear to officers when this change has occurred.
- 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 Ltd 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 Government in its Food Strategy, June 2022, on its priority to create a prosperous agri-food sector to boost health, sustainability and food security. The proposal seeks permission to retain the economic use of the

land and buildings which would support food security aims and this weighs in favour of the proposal.

- 6.6 Planning Committee previously asked for further information to fully assess the impact of the development, no further information has been received by the LPA.
- 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.
- 6.8 The concerns raised by interested parties and consultees have been thoroughly investigated and taken into account.
- 6.9 Whilst significant weight has been attached to the NPPF in supporting the economic growth, productivity and food supply, on balance there is insufficient information for the Local Planning Authority and its consultees to properly assess the impacts of the proposal.
- 6.10 Taking into account all of the above material planning considerations, Officers are of the view that the planning balance lies against of the proposal due to a lack of accurate and sufficiently detailed information and as such it is recommended that planning permission be refused.

7.0 RECOMMENDATION

Planning permission to be **REFUSED** for the following reasons:

1. Insufficient information has been provided for the Local Planning Authority to accurately assess whether the proposal would have an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. The proposal is therefore contrary to policies T1 and T2 of the Selby District Local Plan, EMP 9 of the Local Plan, Policy 1 and SP19 of the Core Strategy and Chapter 9 of the NPPF.
2. Insufficient information has been provided for the Local Planning Authority to properly assess whether the proposal will have a harmful impact on the character and appearance of the countryside. The proposal is therefore contrary to policy ENV1 and EMP 9 of the Selby District Local Plan, policy SP1, SP18 and SP19 of the Core Strategy and chapter 15 of the NPPF.

8.0 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.

9.0 Financial Issues

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

10.0 *Background Documents*

Planning Application file reference 2020/0149/FULM and associated documents.

Contact Officer: Diane Holgate (Principal Planning Officer)

Appendices: None