



Report Reference Number: 2018/0562/FULM

To: Planning Committee
Date: 16 January 2019
Author: Mandy Cooper (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0562/FULM	PARISH:	Colton
APPLICANT:	Ibbotsons	VALID DATE: EXPIRY DATE:	06 June 2018 05 September 2018
PROPOSAL:	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 (New Red Line)		
LOCATION:	Ibbotsons Mill Hill Braegate Lane Colton Tadcaster LS24 8EW		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee having been called in by Councillor Musgrave who states “...that the core business of the site which has expanded exponentially over the last couple of decades, seems now to be food processing and storage as opposed to agricultural and therefore it should be assessed as such.” The proposals are also contrary to Policy SP13 of the Core Strategy.

1. INTRODUCTION AND BACKGROUND

1.1 Site and Context

1.2 The application site is located outside development limits to the south of Colton and west of Braegate Lane. For the purposes of planning the site lies in open countryside and adjacent to but not within the designated Green Belt. The A64 and Bilbrough Top

junction are to the north of the application site. The existing site comprises a potato storage, packing and distribution facility run by Ibbotson's Potatoes. The larger site comprises various buildings, the activities of which are associated with local farmers who grow potatoes on behalf of Ibbotson's who then store and pack potatoes for subsequent distribution.

- 1.3 Originally the application proposed the demolition of an existing general purpose agricultural building and its replacement with a modern and slightly larger building. The associated adjacent buildings were initially viewed as being in agricultural use as it was understood that all the potatoes being stored, bagged and distributed were produced by the owners of the site. Since the original submission however, it has now come to light that the potatoes are not produced on the farm but are transported to the site from other local farmers. Whilst the actual operations within the buildings have not altered, the Local Planning Authority have taken the view that because the potatoes are bought in, the use falls under class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (Storage & Distribution) and is in fact now a commercial use. The application has now been updated to reflect these changes, with an additional fee submitted. The proposal now relates to the use of the whole site encompassed within the amended red line plan.
- 1.4 Access is gained via two separate access, both of which are directly from Braegate Lane; one leading directly to the front loading area and the other being gated and leading to the offices with associated parking area. Improvements have recently been undertaken to the existing access, in conjunction with North Yorkshire County Council Highways Authority and for the purposes of transparency, has been included in the application description.
- 1.5 The site comprises a number of buildings, the majority being steel and timber frame; in addition to an office which is timber with brick cladding.
- 1.6 The boundary to the south west and north west adjoin land which was formerly associated with the site. The south east boundary adjoins open countryside which is in agricultural use; whilst the north east boundary abuts the public highway.
- 1.7 **Officer Note:** Due to the changes in the application description and new red line plan and in the interests of transparency, the proposal has been re-advertised via the press, site notice and appropriate neighbours (Overall expiry date is 11.12.2018). All statutory consultees have also been re-consulted. Additional comments have been received, which are referred to below.

2. The Proposal

- 2.1 The Proposal is for the 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 and improvements to existing site access.
- 2.2 The footprint of the proposed new building would be similar to that it would replace - other than the loading area, which is currently centrally located to the southeast elevation between the replacement building and two existing adjoining buildings (to be retained). This area would be covered as part of the redevelopment, in order to protect the produce from inclement weather.
- 2.3 The scale of the building would be as follows:

- Height to ridge: 9.35m
- Height to eaves:6.4m
- External width: 27.4m
- External length: 84.7m

and would comprise a portal steel structure over shallow pre-cast concrete plinth panels and a plastisol coated profiled steel roof.

3. Environmental Impact Assessment (EIA)

3.1 'Screening' is a procedure used to determine whether a proposed project is likely to have significant effects on the environment. If a proposed project is listed in the first column in Schedule 2 of the 2017 Regulations and exceeds the relevant thresholds or criteria set out in the second column the proposal needs to be screened by the local planning authority to determine whether significant effects on the environment are likely and hence whether an Environmental Impact Assessment is required.

The application was originally screened at submission on the basis of it being an application for agricultural development which fell within paragraph 7(b) of the first column (Food Industry – packing and canning of animal and vegetable products) and Officers concluded at this stage that an EIA was not required.

3.2 The application has now been changed from agricultural to commercial and although it is accepted that screening was not undertaken within 21 days of this change, it is considered that the scheme is not EIA development. The application still falls within paragraph 7(b) of the first column of Schedule 2. The proposed replacement building would exceed the threshold in the second column (1000 sqm) by 430.4sqm and as the proposal includes the full extent of the site it is far larger at around 6ha. It is therefore necessary to consider whether significant effects on the environment are likely and hence whether an Environmental Impact Assessment is required. [Whilst the use of the site is ongoing and has been for a number of years, officers have considered the impacts associated with the proposed development as a whole rather than additional impacts associated with the proposed new building only.

3.3 Much of the land is open, being used for circulation, storage and parking and therefore not occupied by buildings. The extent of buildings on site (including the new building, existing buildings; offices and staff facilities) would equate to 9507sqm. It is on this basis that the screening process has been undertaken, which considers the potential issues and impacts from the use of the site; in addition to categorising the development. This has concluded that the proposed development, because of its size, location (it is not in an area of environmental sensitivity)and the processes involved, would not, (subject to appropriate mitigation measures provided for in planning conditions), result in a development that is likely to have significant effects on the environment. In coming to this conclusion the relevant criteria in Schedule 3 of the 2017 Regulations have been taken into account.

3.4 The planning officer remains of the view that the conclusions of the Screening Opinion are correct and that the proposal does not need to be accompanied by an Environmental Statement.

4. Relevant Planning History

4.1. The following historical applications are considered to be relevant to the determination of this application.

- CO/1985/1121 – Proposed erection of extension to existing general purpose agricultural building - Refused 31.05.1985
- CO/1985/1122 – Erection of extension to existing general purpose agricultural building - Refused 21.06.1985
- CO/1986/1226 – Proposed alterations to raise the roof height of existing potato storage building – Approved 24.11.1986
- CO/1986/1228 – Erection of extension to existing potato storage building – Approved 12.01.1993
- 2008/1118/FUL – Erection of an office building at Ibbotsons Potatoes, Braegate Lane, Colton, Tadcaster, LS24 8EP – Approved 24.11.2008

5. CONSULTATION AND PUBLICITY

5.1 The initial application as referred to in Section 1 of the report was advertised by site notice; press and neighbour notification letters.

5.2 A number of Objection letters have been received from four addresses stating the following concerns and general comments:

- Loss of amenity due to existing and future extent of goods vehicles
- Existing and continued impact on highway safety due to poor junction between the old Colton Lane and the realigned Colton Lane – lack of sight lines and vehicles turning are crossing onto opposite side of road causing major traffic safety issue when egress taken from our property
- Stated vehicle movements is inaccurate in regards to actual usage
- Plans misleading in regards to ownership and use of the larger site – major food processing site and external storage area are not shown on the plans
- HGVs use the road from 4.00am until 9.00pm every day and when dark this presents additional safety issues, particularly for pedestrians
- Vibrations to our house when lorries are passing and we now have settlement cracks appearing
- Destruction of the verges and breaking up of road – cracks and ruts
- Disturbance from workers playing music – normally on night shifts or at weekends; in addition to noise from high pitched vehicle beepers
- Landscaping is inadequate for such a huge site and visibly intrusive when looking north and some trees have been taken down which I believe form part of the original planning permission
- General noise pollution emanating from the site including horns and beepers from forklifts, shunters, lorries, vans
- Noise from engineering works; power tools carried out in the yard areas

- Reference made to the amount of high pitched bleeps from single shunter/trailer movement to the frontage area of the site when reversing into the distribution building and has included a type written record of noise incidents
- Four key areas where the sound is emanating from:
 - Yard nearest Braegate Lane
 - Yard to rear of the Front Pack House
 - Yard to the rear of the engineering works building
 - Yard to rear of the rear Pack House
- Noise from the 30 number refrigeration unit extractor fans on the buildings are monotonous, tedious and fatiguing - which operate 24 hours 7 days a week on an intermittent basis
- In an attempt to reduce the noise I have planted over 20,000 trees in the field adjoining the site
- Application appears to be materially deficient as no reference is made to the change of use of other buildings; outside storage or trailer parking areas
- Penetrating light pollution onto Lingfield – mostly flood lights from buildings to the frontage and rear and the yard areas

5.3 General Comments

- No objection in principle
- Acoustic barriers would reduce noise impacts to Lingfield if incorporated to the frontage near Braegate Lane, in addition to the rear along the ditch side and from Pack House to the new engineering works building
- Sound insulation should be incorporated to the interior walls and roof
- No artificial lighting to the Lingfield side or toward Lingfield
- High risk of fire near the trees from smoking areas – fire prevention barriers at 6-7m high would help
- 10m high acoustic barrier to whole boundary to Lingfield
- Effects of amended application not considered against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017
- Application altered since submitted such as the change in fee – which appears to have not been revisited
- No case or evidence put forward suggesting that the former agricultural buildings were in any way redundant prior to the change of use
- Proposal re-advertised but no mention of re-consultation with statutory consultees

- Application must be tested against full range of planning policies relevant if proposal had been applied for before development had commenced
- Primary issues in determining the application are:
 - Whether sufficient information submitted in support of application
 - Whether application in compliance with development plan policy
 - Whether proposal represents a sustainable form of development; and
 - Whether it is possible to safely access the site
- Proposal should include sufficient information allowing the Council and public to assess full impact of proposal – otherwise an unsustainable and potentially unsound decision taken
- None of documents and drawings provide sufficient information to robustly determine the application
- Lacks a thorough assessment of the following:
 - Ecology – increase in noise, dust, lighting and activity resulting from the proposal and full impacts of the development
- Highways Impact needs re-assessing – my response to all relevant information submitted with original application in regards to the amount of vehicle movements to and from the site on any day
- No safe access to the site; public transport provision or pedestrian facilities which could reasonably serve employees or visitors to the site and anyone on foot has to use the grass verges or the highway so site cannot be reasonably considered to be a safe location to which to travel
- HGV scale likely to be larger and movements to and from site likely to have increased since change from agricultural to commercial
- Transport Assessment and a Formal Travel Plan should be incorporated due to change in employee travel behaviour and in order that the Council has sufficient information to reach a determination
- Does not accord with specific Development Plan Policy which advise that development should be appropriate in scale and type to its location, or harm the character of the surrounding area and, ensure a good standard of amenity
- Commercial uses are exclusively within the settlements of Colton and Bilborough Top – no other large scale commercial uses in this area
- No attempt to demonstrate that the proposal makes any contribution to the rural economy through local employment opportunities
- Prior use of site would have involved a smaller number and different profile of employee which would have allowed staff to benefit from the occupation of dwellings subject to agricultural occupancy conditions with no such benefits now

- No assessment by applicant of surrounding area and development's appropriateness in terms of scale, use or appearance and fails
- Application site adjoins the Green Belt and whilst outside it has the ability to harm the openness
- Clear that the proposal would have a harmful effect (due to its inappropriateness and the activities associated with the use particularly HGV movements and the effects of the operation such as flood lighting and noise)
- Location is remote from Selby District's main centres of population and falls within open countryside
- As the site was formerly agricultural it cannot be assessed as being Previously Developed Land (PDL) in accordance with the glossary in the revised NPPF
- Employment uses are trip generators by both employees and commercial vehicles travelling to and from the site, therefore should be located in sustainable locations
- Proposal would create significant new journeys which could otherwise be directed to locations which benefit from rail and bus services or co-located with residential uses that enable employees to cycle or walk to work
- No information available in regards to the number and location of employees and therefore unable to assess the travel patterns of workers
- Scant information with regard to sources of materials, distances from application site or frequency and therefore site is an unsustainable location
- Applicant needs to provide evidence with regards to the material considerations which may count in the balance in favour of the development proposal as there is none provided so far
- Buildings appear to be enlarged from those shown on earlier revised drawings
- Do not documents represent an entirely new application and will they go to full consultation
- Are there any conditions in regards to the use of horns, beepers, alarms, music etc
- What are conditions relating to hours of use on site
- Reference to road kill of hedgehogs on Braegate Lane between Bilbrough Lodge and site
- HGVs pass through Appleton village
- Complaint now made to Environmental Health Department in relation to noise and lighting (but now removed)
- Large building at the west end of the site does not appear to have had an application for consent to construct nor a planning decision

5.4 A letter of support has also been received from a local resident which states the following:

- Ibbotsons's trucks using Colton Lane is beneficial for a number of reasons
- Drivers are highly considerate and courteous of other road users, driving in a safe and controlled manner unlike the majority of car drivers who travel at ridiculous speeds
- I drive an HGV horse box and find it difficult to pull out of my drive because of the cars but the truck drivers who frequent Ibbotsons will allow me the time and room to manoeuvre safely and keep Colton Lane a safer road by sticking to the speed limit and forcing car users to do the same

6. Consultation Responses

Bolton Percy Colton & Steeton Parish Council

The following are the comments from the councillors of the above Parish Council.

- 1. This site is apparently not an agricultural site now, all this side of the business is being transferred to a building on Acaster Airfield.*
- 2. This site is mainly used as a potato processing and packaging plant which entails large amounts of potatoes being transported in high volumes by huge articulated lorries to and from the site along Colton Lane, connecting to the A64.*
- 3. Colton Lane is a narrow country road, with sharp bends and is not suitable for use of these wagons, which have been using it over the past years, but with the proposed implementation of yet more of this type of traffic. Planners must look seriously into straightening out the road and widening it before any further planning applications are granted.*
- 4. It must be noted that pedestrians have to use this road, which has no footpath on either side, together with local traffic which is making the road very dangerous, and councillors feel an accident waiting to happen.*
- 5. This site is a large industrial development, which has been expanded over the years, in the middle of open countryside and planners must look into how much further expansion should be granted in this open area.*

The councillors hope you will take into consideration the above concerns.

Local Highway Authority – Conditions to be attached to any permission granted.

Lead Officer Environmental Health and Housing – “Concerns have been raised by neighbouring receptors regarding light spill arising from the proposed development.” Planning condition is therefore recommended to control levels of lighting. (12.10.2018).

Principal Archaeologist (North Yorkshire County Council) - “I have no objection to the proposal and have no further comments [to] make.”

Ainsty (2008) Internal Drainage Board - No objection subject to a condition to secure a satisfactory drainage strategy.

Natural England - “Natural England has no comments to make on this application.”

Lead Local Flood Authority - No objection subject to conditions.

North Yorkshire Bat Group – No response within statutory consultation period.

Public Rights of Way – No response within statutory consultation period.

Yorkshire Water Services - No response within statutory consultation period.

Principal Landscape Architect - No objection provided that a detailed landscape scheme is provided. The amended 'hedge planting specification' is now satisfactory in respect of the species proposed along with the planting details. **NYCC Ecology** - Site is of low ecological value and consists predominantly of hard standings and existing agricultural buildings. Submitted Ecology Report concludes the grain store proposed for demolition does not provide roosting opportunities for bats and found no evidence of other protected species within the application site. The amended planting specification for the proposed replacement hedgerows is suitable for the site and will provide appropriate ecological enhancement

7. Site Constraints

- 7.1 The application site is situated within open countryside and **adjacent** to the green belt.
- 7.2 The application site is located in an area of potentially contaminated land the contaminant being from factory works but the use is not specified.
- 7.3 The majority of the application site is located in flood zone 1 with a low probability of flooding.

8. National Guidance and Policy – National Planning Policy Framework (NPPF)

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that "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. 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.

8.2 Selby District Core Strategy Local Plan

- 8.3 The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP3	Green Belt
SP13	Scale and Distribution of Economic Growth
SP15	Sustainable Development and Climate Change
SP18	Protecting and Enhancing the Environment

8.4 Selby District Local Plan

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

This application has been considered against the 2018 NPPF.

Annex 1 of the NPPF provides as follows:-

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

8.6 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development

ENV2 - Environmental Protection and Contaminated land

ENV21 - Landscaping Requirements

EMP7 - Employment Development in the Countryside

EMP9 - Expansion of Existing Employment Uses in the Countryside

T1 - Access to Roads

9. APPRAISAL

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

- Principle of Development
- Visual Impact on the Green Belt and Locality
- Impact on Residential Amenity
- Highway Matters
- Drainage
- Biodiversity
- Other Matters

9.2 Principle of Development

9.3 Relevant policy is contained both in the Core Strategy (SDCS) and the Local Plan (SDLP) and policy SP1 (SDCS) states that *‘when considering development proposals the Council will take a positive approach which reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.’*

9.4 Policy SP2 (SDCS) is concerned with the spatial development strategy in the district and states that development in the open countryside and outside development limits shall be limited (amongst other things) to the replacement or extension of existing buildings and well-designed new buildings of an appropriate scale which would

contribute toward and improve the local economy and enhance and or maintain the vitality of rural communities in accordance with policy SP13. Additionally, criterion c) supports the re-use of existing buildings (preferably) for employment purposes. The proposal includes the continued re-use of existing agricultural buildings in addition to the replacement of a further building.

- 9.5 Policy SP13 (SDCS) positively promotes the development and revitalisation of the local economy and criterion c) states that development which brings sustainable economic growth in rural areas through (amongst other things) the re-use and expansion of businesses and infrastructure of an acceptable scale and under criterion d) would not harm the character of the area, with no adverse impacts on amenity and appropriate to its location, would be encouraged. The revised NPPF supports the principles referred to in the above policies (paragraph 83) and paragraph 84 adds that *“policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements”* – subject to the same aforementioned criteria as policies SP2 and SP13 of the Core Strategy. Whilst a new development of this nature might not **strictly** accord with policy SP13 in this location; the Local Planning Authority (LPA) has taken a balanced view in regards to the nature and use of the existing site and the processes which have taken place here for a number of years. In addition to the sites accessibility to major road networks and therefore sustainability. These are site specific issues, which would justify a departure from the requirements of policy SP13. Apart from the replacement building, there are no actual changes to the activities taking place on site or within the buildings. Furthermore, the application site is located less than 2 kilometres from the A64 and is therefore classed as sustainable in this regard.
- 9.6 Policy EMP9 (SDLP) allows for the expansion of businesses outside development limits, subject to accordance with set criteria. This includes no significant adverse impact on the character of the area achieved through a high standard of design which would be very similar to the existing adjacent buildings along with the use of similar (and colour) materials, which would complement existing buildings. Additionally, criterion 4) adds that the development must be well related to existing development. The proposal would replace an existing building within a well-established group, with a small extension which would encompass existing working areas within the confines of the site boundaries.
- 9.8 The proposed development comprises the demolition of an existing 60 year old building which is no longer fit for purpose due to the internal arrangement and degrading of the existing internal and external materials. It is proposed to be replaced with a larger building which includes a central covered loading dock and fan housing which would enable more efficient processing; better movement around the site and the protection of goods. Furthermore, a condition would be included which requires full details of the above equipment to be submitted and approved by the LPA, prior to installation.
- 9.9 Questions have been raised in regards to the actual use of the site and that it appears to be more of a commercial activity than an agricultural unit. The submitted Design, Access and Planning Statement advises that there has been major growth in terms of the customer base which includes a number of major retailers as well as food processors. The existing plans also indicate that a larger building which is adjacent to the proposal to the west is used for the storage, grading and bagging of the potatoes. The adjoining building to the south, is used for storage and loading.

There are no other processes taking place on or within the site other than those stated above.

- 9.10 In order to establish whether the unit should be classed as commercial or agricultural, confirmation was requested as to where the potatoes came from. The agent, following discussions with the applicant, confirmed that potatoes are no longer grown by Ibbotson's and local farmers (within 30 miles of proposal site) grow set varieties and set amounts which are then bought, stored, packaged and distributed from this facility. On the basis of the above information, it has been established that the facility is classed as a commercial (B8) concern and no longer falls under an agricultural use.
- 9.11 This is an established business which has had a positive impact on the local economy through the provision of more than 100 jobs. This development would allow for the improvement and small expansion to an established, business. On this basis, the principle of the proposal is acceptable, subject to all other matters being satisfactory.

9.12 Visual Impact on the Green Belt and Locality

- 9.13 Comments submitted by neighbours and the Parish Council are acknowledged with regards to the development proposal.
- 9.14 Paragraph 143 and 144 of the NPPF provides that inappropriate development within the green belt should not be approved except in very special circumstances. Paragraph 144 adds that local planning authorities (LPA) should ensure that substantial weight is given to harm to the green belt unless any harm is clearly outweighed by other considerations. Paragraph 145 states that the construction of new buildings in the green belt are inappropriate. Exceptions to this are (amongst other things) buildings for agriculture and forestry and that the replacement of a building is not materially larger than the one to be replaced.

The first point to note is that the proposal is not within but adjacent to the Green Belt so the specific controls on inappropriate development within the Green Belt and the need to establish very special circumstances do not apply. Having said this, officers have considered the possible impacts associated with the development on the adjacent Green Belt, particularly in terms of any impact on openness. With this in mind, the character of the proposed new building is essentially agricultural in respect of its form, scale and materials. Furthermore, the building would not be a stand-alone structure but would be situated within an existing group of buildings on an established site.

- 9.15 Policy SP3 relates to the Selby area Green Belt and its protection (amongst other things) from inappropriate development, with its main function being the protection of its open character and to prevent the coalescence of settlements. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The site is not within the Green Belt but is situated adjacent to it. There are no physical changes to the application site, other than the construction of a replacement building, which would sit amongst other adjacent buildings and would not therefore directly impact upon the views and openness of the adjacent Green Belt.
- 9.16 The development would require the removal of some self-seeded trees and scrub. These are impacting on the stability of the buildings and causing damage to the

existing drainage run. The field adjoining the site to the north has been planted with a large number of species of trees, most of which are approximately 2m in height.

- 9.17 An important element in delivering a fully integrated development in this location is the implementation of a high quality landscaping scheme which succeeds in complementing the buildings and reduces the impact on the countryside and adjacent green belt. In order to mitigate the loss of existing boundary treatment, a mixture of mostly indigenous replacement trees and shrubs would be planted along this boundary. Planting would include Hawthorn, Blackthorn, Buckthorn, Hazel, Field Maple; Holly, Guelder Rose; Spindle and Crab Apple. Both the Landscape Architect and the NYCC Ecologist have advised that the planting specification is acceptable. This would be an improvement to the existing poor quality/condition screening currently in place and would incorporate a variety of indigenous species and would be in accordance with criterion 4 of policy EMP9 (SDLP).
- 9.18 External dimensions of the proposed building would be 84.7m long by 27.4m wide; height to eaves would be 6.4m (max) and to ridge 9.3m (max) and with a net gain of 294 sqm additional internal floor space. The proposed new building would be higher than the existing to be removed but no higher than the adjoining building to the south and equal in height at eaves level.
- 9.19 Materials for the proposed building would comprise a plastisol coated profile steel composite roof and wall panels, both in goosewing grey and over shallow precast concrete plinth panels. The proposed loading entrances would comprise insulated roller doors and the personnel doors would be steel faced in a grey finish. This aspect of the development therefore accords with criterion 2 and 3 of policy EMP9 (SDLP).
- 9.20 The development would be within an active site where the character is already established and would not present a different character type or impact on the adjacent agricultural land to the west and surroundings, or the adjacent Green Belt to the east. When viewed as a group, the new building would be seen in context with the existing buildings as a backdrop. In addition, the materials would be similar and of the same colour, which would ensure that the proposal would sit comfortably within the existing group as a whole and therefore would not be visually dominant in regards to the adjoining and wider landscape. In this regard the proposal specifically accords with all the criterion (1 - 4) contained within policy EMP9 (SDLP) in respect of the sites redevelopment and expansion
- 9.21 The development would be acceptable in regards to its visual impact and therefore in accordance with the provisions of Policies ENV1 (SDLP) and Policies SP13, SP18 and SP19 (SDCS) and the provisions of the revised NPPF.

9.22 Impact on Residential Amenity

- 9.23 The proposed replacement building is on an existing established site and would be situated close to the northern boundary. There are no residential properties immediately adjoining the site but the heavily landscaped (trees) land adjoining to the north is attached to the domestic curtilage of a dwelling situated 125m north of the site.

Noise

- 9.24 One objection letter suggests that a 10m high acoustic barrier be installed to the northern boundary facing his residential property; also to the rear of the site;

acoustic barriers to the site frontage and fire prevention barriers also at 6-7m high to the northern boundary. There are no plans to incorporate any form of fencing to the site and whilst these comments are acknowledged by the local planning authority, given that the EHO has not raised concerns with regards to noise and has not included any conditions in his response, it would be not be justified, or reasonable to impose conditions requiring this level of mitigation.

- 9.25 Given that the application site is situated in open countryside, barriers of such a scale would have an unacceptable and detrimental visual impact both in regards to the site as well as the adjacent landscape. Furthermore, the installation of the barriers to the site frontage would not only be visually dominating and impact significantly on the adjacent Green Belt but would reduce visibility in respect of access to and from the site and therefore impact on highway safety.
- 9.26 In response to comments from an objector regarding restrictions on the use of the site, there is a condition which states machinery can be only be used between the hours of 7.00am to 7.00pm, during week days *'nor at any time on Sundays*. Other than this there appear to be no restrictions on the use of the site.
- 9.27 One objection refers to cigarette butts being found on his Land where there are multiple trees and concerns regarding the adjacent smoking shelter which immediately adjoins the southern boundary of the land attached to Lingfield. The shelter has now been fitted with Perspex screens to the north side and has a number of sand filled ashtrays and buckets, along with a fire extinguisher.
- 9.28 The objector refers to noise from the rear yard, which is the yard which would, as a result of the proposed development become a covered area and thereby minimising any potential noise impact. There is also a suggestion that the proposed building should be insulated in order to prevent additional noise. Given that the doors would need to be opened for loading; unloading and ventilation, imposing such a condition would be unreasonable.
- 9.29 An official complaint was logged with the Environmental Health Officer (EHO) by one of the objectors, in regards to noise. The EHO advised that he would investigate the complaint which relates to existing activity on the site and added that he does not foresee as being made worse should planning consent be granted. An update has been received from the Environmental Health Officer who advises that he wrote to the complainant on 12th November 2018. The complainant responded the following day in writing and stated he did not wish to make a formal complaint. As such there are no further concerns from an EH perspective.

Light Pollution

- 9.30 The application proposes the inclusion of external lights which would be low power LED flood lights. These would be wall mounted over access points and aimed at the yard surface area and therefore not cause direct glare to the neighbouring residential property to the north of the site.
- 9.31 Objections have been received in regard to existing high light levels within the site. The EHO has stated that they only have powers to deal with light where it gives rise to a Statutory Nuisance. Given the large separation distances, light from the development is not likely to give rise to a Statutory Nuisance and as such EH would not take any action. If the development gives rise to light pollution that is not a Statutory Nuisance such as light spill and sky glow then the impacts are more likely to be ecological and should have been considered in the ecological appraisal.

- 9.32 A condition would be included (should permission be granted) which would restrict the candela (brightness) level of the lights in order to prevent light pollution to the adjacent open countryside and the adjacent neighbour as a result of the proposal.
- 9.34 Subject to a specific condition to protect the amenity of the nearby residents limiting light levels, the scheme can be considered acceptable. The development is therefore in accordance with policy ENV2 (a) (SDLP) and SP19 (SDCS) and with the provisions of the NPPF.

9.35 Highway Matters

- 9.36 Paragraph 108 (point b) of the NPPF stipulates that planning decisions should take account of whether:

'Safe and suitable access to the site can be achieved for all users.'

Paragraph 109 adds that Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 9.37 Policy T1 (SDLP) advises that (amongst other things) development proposals will only be permitted where *"existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer."* The development includes improvements to the existing areas within the site frontage and also includes the widening of the existing internal access within the site. Criterion 1 of policy EMP9 requires proposals to *'not create conditions prejudicial to highway safety..'*
- 9.38 The development comprises of a replacement building which would be larger than the existing but is for the improvement to, rather than expansion of operations. The existing layout and height of the building is unsuitable being structurally unsound and internally the floor surface is (due to an uneven waffle effect timber floor) unacceptable for loading of vehicles and raises health and safety issues.
- 9.39 The replacement building proposes an additional covered area to the south side, as produce is currently being stored outside due to lack of appropriate space within the existing building. In addition, the existing yard layout is causing some congestion within the site from the internal movement of loading vehicles. The proposed new building would ensure that no produce is left outside as is the current scenario and it would assist in improving the flow around the remainder of the site.
- 9.40 Objections have been received to the proposal, particularly highway safety, due to the extent of HGVs frequenting the site and the hours of use. Having looked at the site history there is no evidence of a restriction on the timing of HGVs using the site.
- 9.41 The submitted Design and Access Statement advises that the traffic flow would remain at existing levels with no increase and the aims are to improve the traffic flow within the site by reducing the pedestrian traffic mix. In addition, the proposal includes widening of the existing access to raise site safety by further separating the HGVs accessing the storage buildings, from cars parking within the office car park.
- 9.42 Following the changes to the red line plan; the application description and objections relating to the requirement for a Travel Plan and Transport Plan a full re-consultation was undertaken. The Highways Officer has responded stating that

based on the fact that the existing traffic flow would remain unchanged; the number of employees; development site area and the upgraded access, his original observation of 'no objections' remains as on the previous response.

- 9.43 Furthermore, The Highway Officer, following comments relating to highway safety, conducted an incident search over the last five years within the local area, which showed three recorded collisions over the period. These were due to driver error and not as a result of the access, road or HGV related.
- 9.44 The adjacent neighbour has advised that the stated vehicle movements to and from the site do not reflect the actual usage. The Design, Access and Planning Statement includes the extent of vehicle movements to and from the site each day and states that this level would not increase. Such submitted information is taken as being correct as it would not be in the applicant's interests to knowingly submit incorrect information.
- 9.45 A letter of support received from another, neighbour states that the HGV drivers frequenting the site are always courteous and polite and drive at slow speeds which also assists in keeping speeds down by other road users.
- 9.46 It is noted that one objector refers to vibrations from the HGVs and destruction of the highway verge. The road is used by all traffic including cars and potentially other HGVs and it would be difficult to specify which vehicles are responsible for damage resulting from traffic along Braegate Lane.
- 9.47 The application is within 2km (approximately) of the major road network with direct access from the site.
- 9.48 Based on the evidence supplied by the Highway Officer in relation to accidents and that traffic flows remaining at current levels, the proposal is considered to accord with policies (criterion 1) EMP9, T1 and ENV1 (SDLP) and the relevant advice in the revised NPPF. The Highway Officer has also requested three pre-commencement conditions which relate to the highway improvements but as these works have already been undertaken and inspected by NYCC Highways Officers, it is considered that it would not be reasonable or necessary to include them on any consent granted.

9.49 Drainage

- 9.50 The site is in Flood Zone 1 (low probability of flooding) and as such it is not at risk from flooding. The Environment Agency's flood maps indicate however, that a small portion of the site close to the loading area is affected by some low level flooding from surface water. However, the submitted information advises that drainage channels have been added to minimise this.
- 9.51 There is no requirement for foul drainage and surface water run-off would be to an existing surface water dyke. In addition, all rainwater pipes would be sealed at ground floor level in order to prevent contamination of the surface water drain and dyke.
- 9.52 Both the Internal Drainage Board (IDB) and the Lead Local Flood Authority (LLFA) have made comments on the proposal. The LLFA have advised that the submitted information is limited but consider that risk can be controlled by suitable conditions. They also refer to the fact that the rainwater pipes will be sealed at ground level to prevent contamination entering surface water drains and the dyke and state that the

applicant needs to advise “*what these contaminants are and what steps are being or will be taken to prevent them entering the watercourse network with surface water from the yard areas.*” In response, the agent has submitted a brief statement advising that since receiving advice from the Environment Agency all rainwater pipes are sealed in any new agricultural or industrial development he has submitted. He adds that this prevents the tipping of any type of liquid contaminant (including milk) and also prevents vermin from entering, which is critical on a site storing food.

9.53 The IDB’s comments are noted but the proposed new building would not result in additional areas of hardstanding and the building would utilise existing drainage and providing the surface water run-off is discharged at the greenfield rate of 1.4 litres per second per hectare, it is considered to be acceptable.

9.54 Subject to no further comments from the LLFA and the inclusion of relevant conditions, it is considered the proposals are acceptable in respect of flood risk and drainage and therefore accord with policy ENV2 (b) (SDLP) and the advice within the NPPF.

9.55 Biodiversity

9.56 Protected Species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.

9.57 Relevant policies in respect of nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy.

9.58 The site and its immediate surroundings are not included in any designation for nature conservation interest. There are no European or nationally designated sites within 2km of the survey site. No impacts to designated sites are therefore anticipated.

9.59 A phase 1 Ecological Appraisal was submitted with the application. The Ecology Officer however, requested a more thorough survey report, which takes account of all the impacts of the development to be addressed.

9.60 The updated report advises that there are low roosting opportunities for bats and therefore a survey is not required. It adds that as there are trees to the site boundary, there may be some use and therefore recommends that a number of bat boxes be fitted to trees around the site.

9.61 There are two lagoons within 70m of the site which are unsuitable for Great Crested Newts as the water is regularly disturbed. The lagoons do not contain suitable aquatic plants or any other native amphibians.

9.62 No nesting birds were seen during the survey (and no evidence of badgers – referred to in initial report) and that site clearance should take place outside the nesting season (outside February to August).

9.63 The revised ecology report and design statement refers to ‘*flora*’ within and beyond the site being of poor ecological value. The recommended mitigation/ecological enhancement shall be to plant a species rich hedgerow along the northern boundary, which would create a long lasting ecological enhancement and comprise mixed native species. It is confirmed that none of the existing trees have bat roost

potential. This proposal is acceptable as it will maintain a potential foraging corridor for bats and other wildlife.

9.64 Subject to a condition requiring the proposed development to be carried out in accordance with the mitigation and compensation measures; method statement and recommendations for ecological enhancement contained within the updated Ecological Impact Assessment undertaken by Yorkshire Ecology Surveys and dated 26th November 2018; in addition to the amended Planting Specification as received on the 17th December 2018 - which have been accepted by the NYCC Ecology Officer and the Principal Landscape Officer. It is considered that the proposal would not detrimentally impact upon nature conservation interests and therefore complies with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

9.65 Other Matters

9.66 An objector has stated that the application does not make reference to the buildings and areas of the site which have already changed use in previous years. In addition to the proposed replacement of the building to be demolished and replaced with a larger, building, the application now proposes a change of use of the whole site in order to regularise the site's use.

9.67 The change of use applies to the whole of the site and includes ancillary buildings; hard standings; working areas and parking which are all encompassed within the red line plan and therefore the application site. These would have formed part of the site when it was classed as an agricultural facility and there is no change in the operations taking place other than the source of the potatoes which are no longer grown by the applicants. It is this which goes to the heart of the planning application, with all other uses being ancillary to the original use of the site.

9.68 An additional fee has now been paid by the applicant to the local planning authority in regards to the changes to the application from agricultural to commercial.

9.69 The description of the application now reflects what has been applied for and the submission of updated plans which now include the whole of the site. The proposal has been re-advertised and all of the statutory consultees have now been re-consulted in regards to all amendments.

10. CONCLUSION

10.1 Having assessed the proposal against the relevant policies, the proposal is considered to be an acceptable form of development in this location and in respect of the principle of such development. The impact on the character and appearance of the immediate and wider area; flood risk; surface water drainage and climate change; residential amenity; highway safety; landscaping; biodiversity and protected species.

11. RECOMMENDATION

That the Planning Committee is minded to **approve** this application subject to the following conditions:

1. The development must be begun not later than the expiration of three years from the date of this permission.

Reason: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This permission relates to the following plans and documents:

1259.1 Rev. B – Location plan as received on 23.11.2018
1259.2 Rev. B – Wider site location plan as received on 23.11.2018
1259.3.1 Rev. B – Part existing site/building plan as received on 23.11.2018
1259.3 Rev. B – Existing site plan as received on 23.11.2018
1259.4 Rev. B – Existing part site/building plan as received on 23.11.2018
1259.5 Rev. A – Existing elevations as received on 23.11.2018
1259.6 Rev. B – Part/proposed site/building plan as received on 23.11.2018
1259.7 Rev B – Part proposed site/building plan as received on 23.11.2018
1259.8 Rev. A – Proposed elevations as received on 23.11.2018
1259.9 Rev. A – Proposed sections as received on 23.11.2018
1259.10 Rev. A – Proposed roof plan as received on 23.11.2018
Amended Ecological Appraisal as received on 26.11.2018
1259 Rev. C - Shrub & Tree Planting Specification as received on 17.12.2018
1259 Rev. A - Design, Access & Planning Statement as received on 23.11.2018

Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the Selby District Council Core Strategy; saved policies in the Selby District Local Plan and the provisions of the National Planning Policy Framework.

3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- i the parking of vehicles of site operatives and visitors;
- ii hours of construction working;
- iii loading and unloading of plant and materials;
- iv storage of plant and materials used in constructing the development;
- v the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi wheel washing facilities;
- vii measures to control the emission of dust and dirt during construction;
- viii a scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: In accordance with policy ENV1 of the Selby District Local Plan and in order to minimise detrimental effects to the neighbouring amenities, the

amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the demolition and construction phase.

4. 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 and shall account for the following:
 - The flowrate from the site shall be restricted to green field runoff rate and/or a minimum 30% reduction of the existing positively drained runoff rate for the 1 in 1, 1 in 30 and 1 in 100 year rainfall events.
 - Storage volume should accommodate a minimum of a 1:100 year plus climate change critical storm event.
 - A 30% allowance for climate change should be included in all calculations and a further 10% for urban creep for the lifetime of the development.
 - The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme have been completed.
 - The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

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.

5. The premises shall be used for the storage, packing and distribution of potatoes and for no other purpose (including any other purpose in Class B8) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: In accordance with policies SP2 and SP13 of the Selby District Core Strategy and EMP13 of the Selby District Local Plan as the proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

6. No industrial processes shall be carried out, or plant/machinery/power tools used within the building(s) or within the curtilage of the site outside the following times:

7.00am – 7.00pm Monday to Friday

8.00am – 1.00pm Saturday

nor at any time on Sundays and Bank/Public Holidays

unless previously agreed in writing by the Local Planning Authority.

Reason: to comply with Policy ENV1 of the Selby District Local Plan and to ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

7. No fixed mechanical ventilation or refrigeration /air conditioning plant shall be installed until full and precise details have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be constructed and installed in accordance with the approved scheme and shall thereafter be maintained in accordance with the approved scheme. Details will include the following:
 - Full noise specification including sound power levels and frequency analysis for the equipment to be installed
 - Details of noise mitigation measures to be utilised to prevent the proposed system from causing disturbance to immediately adjacent premises
 - A scale plan showing the positioning and orientation of the equipment in relation to adjacent premises.

Reason: This condition is imposed in accordance with policy ENV1 of the Selby District Local Plan and in order to safeguard the amenities of the area in which the development is located.

8. All soft landscaping comprised in the approved plans and in the amended Shrub & Tree Planting Specification (1259 Rev. C) shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of **five** years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

Reason: In accordance with policy ENV21 (A) of the Selby District Local Plan and because a well-designed landscaping scheme can reduce the impact of the development on the amenities of existing residents and help to integrate the development into the surrounding area.

9. The development hereby permitted shall be implemented in strict accordance with the amended Phase 1 Ecological Appraisal (Report: 180054) dated 26th November 2018 and prepared by Yorkshire Ecology Surveys and any variation thereto shall be agreed in writing by the Local Planning Authority before such change is made.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010.

10. Artificial lighting to the development must conform to requirements to meet the Otrusive 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 adjacent residential occupants and prevent light pollution to the surrounding open countryside.

Informatives

Wildlife

Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, certain species such as the Barn Owl are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they have dependent young. Offences against birds listed in Schedule 1 of the Wildlife and Countryside Act are subject to special penalties. An up-to-date list of the species in Schedule 1 is available from Natural England <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/speciallyprotectedbirds.aspx>. Further information on wildlife legislation relating to birds can be found at www.rspb.org.uk/images/WBATL_tcm9-132998.pdf.

Surface Water to Adjacent Watercourse

The Applicant states that surface water is to be discharged to an adjacent watercourse. The condition and ability of this watercourse to accept this flow should be determined by the Applicant prior to works commencing, in order to ensure that the receiving watercourse is capable of accepting the increased discharge without detriment to other users.

12. Legal Issues

12.1 Planning Acts

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

12.2 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.

12.3 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.

13. Financial Issues

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

14. Background Documents

Planning Application file reference 2018/0562/FULM and associated documents.

Contact Officer: Mandy Cooper, Principal Planning Officer

Appendices: None