



Report Reference Number: 2020/0155/S73

To: CEO Urgent Decision Session - Planning
Date: 6th May 2020
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0155/S73	PARISH:	Beal Parish Council
APPLICANT:	Harworth	VALID DATE:	13th February 2020
		EXPIRY DATE:	14th May 2020
PROPOSAL:	Section 73 application to vary condition 01 (approved plans) and 02 (use class of plots 1a and 2) of planning permission reference 2016/1343/OUTM for outline application including means of access (all other matters reserved) for the construction of an employment park up to 1.45 million sqft (135,500sqm) gross floor space (GIA) comprising of B2, B8 and ancillary B1 uses, ancillary non-residential institution (D1) and retail uses (A1- A5) and related ancillary infrastructure) granted on 06 February 2019		
LOCATION:	Former Kellingley Colliery Turvers Lane Kellingley Knottingley West Yorkshire WF11 8DT		
RECOMMENDATION:	MINDED TO GRANT SUBJECT TO COMPLETION OF A DOV		

This application has been brought before the Chief Executive Officer at the Urgent Decision Session - Planning as the application is a major application, which is recommended to be approved contrary to the requirements of the Development Plan. It is contrary to the requirements of the Development Plan (as was the original outline consent, reference 2016/1343/OUTM) insofar as the site, although in employment use for over 50 years, is not an allocated site and the proposal is for large scale development that will have an impact on the surrounding environment.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site, which has an irregular shape, covers an area of approximately 57 hectares. For many years it was home to the former Kellingley Colliery, the last deep coal mine in Britain, which officially closed on the 18th December 2015.
- 1.2 The majority of the buildings at the site associated with the former colliery use have now been removed, with only a small cluster of building to the north of the site remaining. It is understood that these buildings are used as substations that facilitate methane gas extraction. They are still in use and will continue to extract gas for approximately 6-7 years.
- 1.3 The only other active use of the site at present is that part of the former car park to the northern part of the site has been granted temporary planning permission (for up to 36 months) for the outdoor storage purposes (use class B8), under planning permission reference 2019/0805/COU.
- 1.4 To the northern boundary of the site is Weeland Road and a number of residential properties which front Weeland Road to the south side. To the east of the application site is a recreation ground, properties fronting The Oval, and Sudforth Lane. To the south of the application site is a solar farm (which has been built out following the grant of planning permission under reference 2015/0415/FUL) and the site of Southmoor Energy Farm (which has extant planning permission for an energy from wate centre under planning permission reference NY/2013/0128/ENV), and the canal. To the west of the application site are existing employment uses.

The Proposal

- 1.5 This application has been made under Section 73 of the Town and Country Planning Act 1990, and seeks to vary condition 01 (approved plans) and condition 02 (use class of plots 1a and 2) of extant planning permission reference 2016/1343/OUTM, which was an outline planning application including means of access (all other matters reserved) for the construction of an employment park up to 1.45 million sqft (135,500sqm) gross floor space (GIA) comprising of B2, B8 and ancillary B1 uses, an ancillary non-residential institution (D1), retail uses (A1- A5) and related ancillary infrastructure. This extant planning permission was granted on 06 February 2019.
- 1.6 The variation of conditions 01 and 02 are required to allow a reserved matters application to come forward from the Coalfields Regeneration Trust at plots 15, 16 and 17 (in the area to the north east of the internal roundabout), for B1, B2 and B8 units only. Under the extant outline planning permission, plots 15, 16 and 17 are required to be used for a mixed use A1-A5 or B1, B2, B8 and D1, which would not be the case in an application made by the Coalfields Regeneration Trust on these plots. The intention is that these mixed uses would be moved to another part of the site (in the area to the south west of the internal roundabout).

Relevant Planning History

- 1.7 The following historical applications are considered to be relevant to the determination of this application.
- 1.8 An EIA Screening Opinion (reference SCR/2016/0003) for the re-development of Kellingley Colliery was determined on 29 June 2016. The proposals were determined to not be EIA development.

- 1.9 An outline application (reference 2016/1343/OUTM) including means of access (all other matters reserved) for the construction of an employment park up to 1.45 million sqft. (135,500sqm) gross floor space (GIA) comprising of B2, B8 and ancillary B1 uses, ancillary non-residential institution (D1) and retail uses (A1- A5) and related ancillary infrastructure) was granted on 6 February 2019.
- 1.10 A non-material amendment application (reference 2019/0479/MAN2) to outline planning permission reference 2016/1343/OUTM - Outline application including means of access (all other matters reserved) for the construction of an employment park up to 1.45 million sq ft. (135,500sqm) gross floor space (GIA) comprising of B2, B8 and ancillary B1 uses, ancillary non-residential institution (D1) and retail uses (A1- A5) and related ancillary infrastructure) – was granted on 6 June 2019.
- 1.11 A change of use application (reference 2019/0805/COU) for the change of use of land for a temporary period of 36 months for storage (use class B8) and erection of a cabin was granted on 3 January 2020.
- 1.12 A reserved matters application (reference 2020/0123/REMM) including appearance, landscaping, layout and scale of approval 2016/1343/OUTM Outline application including means of access (all other matters reserved) for the construction of an employment park up to 1.45 million sq. ft. (135,500sq m) gross floor space (GIA) comprising of B2, B8 and ancillary B1 uses, ancillary non-residential institution (D1) and retail uses (A1- A5) and related ancillary infrastructure) is pending consideration.
- 1.13 A discharge of condition application (reference 2020/0109/DOC) for the discharge of conditions 08 (materials), 09 (proposed ground and finished floor levels), 11 (outdoor lighting), 13 (remediation strategy), 18 (surface water), 19 (foul water drainage) and 33 (construction method statement) of approval 2016/1343/OUTM Outline application including means of access (all other matters reserved) for the construction of an employment park up to 1.45 million sqft. (135,500sqm) gross floor space (GIA) comprising of B2, B8 and ancillary B1 uses, ancillary non-residential institution (D1) and retail uses (A1- A5) and related ancillary infrastructure) is pending consideration.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No response within statutory consultation period.
- 2.2 **NYCC Highways** – No response within statutory consultation period.
- 2.3 **North Yorkshire Highways And Transportation North Yorkshire** – No response within statutory consultation period.
- 2.4 **Yorkshire Water Services Ltd** – No comments.
- 2.5 **Danvm Drainage Commissioners Shire Group Of IDBs** – No comments.
- 2.6 **SuDS And Development Control Officer** – No objections, subject to conditions 17 and 18 of the previous outline planning permission being carried over.
- 2.7 **The Environment Agency (Liaison Officer)** – No comments.

- 2.8 **Environmental Health** – No objections to removing A and D uses from plots 15, 16 and 17. Noted that A and D uses to be moved to plots 3A and 3B, where there is no objection in principle. However, the design of these units should be considered in detail at the reserved matters stage to prevent loss of amenity to the residential properties on Weeland Road. The design should ensure that entry and exit points to the units, including deliveries, and ventilation, chiller units and other external equipment, do not face the residential properties. Where a unit is to be used for the cooking of food, such as a hot food takeaway, consideration will also need to be given to the treatment of the cooking odours.
- 2.9 **Conservation Officer** – No response within statutory consultation period.
- 2.10 **Historic England** – No comments.
- 2.11 **HER Officer** - Previous industrial use of the site is likely to have destroyed and archaeological remains that may have been present. No objections.
- 2.12 **Natural England** – No comments.
- 2.13 **County Ecologist** - As we understand it this application relates to the phasing of development and the location of retail units within the wider development, so does not raise any significant ecology matters.
- 2.14 **North Yorkshire Bat Group** – No response within statutory consultation period.
- 2.15 **Yorkshire Wildlife Trust** – No response within statutory consultation period.
- 2.16 **Public Rights Of Way Officer** – No response within statutory consultation period.
- 2.17 **Designing Out Crime Officer** – No comments.
- 2.18 **North Yorkshire Fire & Rescue Service** – No objections.
- 2.19 **Stephanie Porter Vale Of York CCG** – No response within statutory consultation period.
- 2.20 **National Grid** – No response within statutory consultation period.
- 2.21 **Northern Powergrid** – No response within statutory consultation period.
- 2.22 **Network Rail** – No response within statutory consultation period.
- 2.23 **HSE Web Consultation** - HSE does not advise, on safety grounds, against the granting of planning permission in this case.
- 2.24 **The Coal Authority** – No comments.
- 2.25 **Wakefield MDC** – No response within statutory consultation period.
- 2.26 **North Yorkshire County Council (CPO)** – No response within statutory consultation period.
- 2.27 **Education Directorate North Yorkshire County Council** – No response within statutory consultation period.

2.28 **Canal and River Trust** – No comments.

2.29 **Campaign To Protect Rural England** – Initial response dated 18.03.2020: Whilst the principle of the application has already been approved via the previous planning permission, these amendments would effectively relocate the proposed B2 and B8 uses to areas closer to existing residential properties than was previously approved. Whilst the applicant has produced plans identifying this, no supporting assessments of environmental impacts have been submitted justifying the requirement to move these uses. The Council should, therefore, require assessments and modelling scenarios of noise including vibration, emissions to air and lighting to be submitted prior to determining the application to vary the planning permission and bring these uses closer of existing residents. Without this information it will be impossible for the Council to rule out an unsatisfactory impact on the residential amenity of existing occupiers in line with guidance in the NPPF.

Further responses dated 07.04.2020: Clarification to previous comments, the variation would bring A1-5 and D1 closer to residential development along Weeland Road than approved via the outline consent, not B uses close to residential development. The impacts would differ greatly from the B class uses but the impacts may be of a different nature and cause a differing type of nuisance potentially.

2.30 **Department For The Environment, Food And Rural Affairs** – No response within statutory consultation period.

2.31 **Atkins Ltd Windfarm** – No response within statutory consultation period.

2.32 **Robin Hood Airport, Doncaster Sheffield** – No response within statutory consultation period.

2.33 **Leeds East Airport (Makin Enterprises)** - No response within statutory consultation period.

2.34 **Neighbour Summary** – All immediate neighbours have been informed by neighbour notification letter, a site notice has been erected and an advert placed in the local press. Two letters of representation have been received as a result of this advertisement of the application. The first raises concerns regarding the amount of revised planning applications in relation to the site; the potential for more vehicles entering the site and the associated increase in pollution; and the maintenance of the boundary hedge adjacent to properties fronting Weeland Road. The second raises concerns regarding the impact of the proposals on the environment and the standard of living of residents; and the potential for more vehicles entering the site and impact on existing infrastructure.

3 SITE CONSTRAINTS

Constraints

3.1 The application site is located outside the defined development limits of any settlements, adjacent to the development limits of Kellingley and the Green Belt.

3.2 The application site is located mostly within Flood Zone 1, with a small part of the site to the south located within Flood Zones 2 and 3.

- 3.3 The application site comprises potentially contaminated land from past industrial uses.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states *"if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*. This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

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

Selby District Core Strategy Local Plan

- 4.6 The relevant Core Strategy Policies are:

SP1 – Presumption in Favour of Sustainable Development
SP2 – Spatial Development Strategy
SP13 – Scale and Distribution of Economic Growth
SP14 – Town Centres and Local Services
SP15 – Sustainable Development and Climate Change
SP16 – Improving Resource Efficiency
SP18 – Protecting and Enhancing the Environment
SP19 – Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- ENV3 – Light Pollution
- S4 – Retail Development in the Countryside
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads
- CS3 – Children’s Nurseries
- CS4 – Community Halls and Places of Worship

5 APPRAISAL

5.1 The Town and Country Planning Act 1990 Section 73 allows for applications to be made to undertake development without complying with conditions attached to such an approval. Paragraph (2) of Section 73 states *“On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and —*

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.”

5.2 As such the only consideration of this application is in relation to the conditions of the approval and the impact the proposed variation would have. Therefore key to the determination of this application is whether a new planning consent for the development with the proposed variation of Condition 01 (approved plans) and Condition 02 (use class of plots 1a and 2) of outline planning permission reference 2016/1343/OUTM would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if these conditions were retained in their present form.

5.3 The previous outline planning permission including means of access (all other matters reserved) for the for the construction of an employment park up to 1.45 million sqft. (135,500sqm) gross floor space (GIA) comprising of B2, B8 and ancillary B1 uses, ancillary non-residential institution (D1) and retail uses (A1- A5) and related ancillary infrastructure) at the former Kellingley Colliery, Turvers Lane, Kellingley, was considered acceptable under reference 2016/1343/OUTM, subject to a Section 106 agreement, conditions and according with the relevant policies contained within the Selby District Core Strategy, Selby District Local Plan and the National Planning Policy Framework (February 2019). Since the determination of the previous outline planning permission, the policy context remains unchanged.

5.4 Condition 01 (approved plans) of outline planning permission reference 2016/1343/OUTM states:

“The development hereby permitted shall be carried out in accordance with the following approved plans:

*Phasing Parameter Plan 12098-104 Rev F
Land Use Parameter Plan 12098-105 Rev U
Building Heights Parameter Plan 12098-106 Rev N
Illustrative Plot Plan 12098107 Rev B
Access Drawings 10612-GA-02 Rev A
Secondary Access/Emergency Access 10612-GA/03 Rev B*

*Reason:
For the avoidance of doubt.”*

- 5.5 Condition 02 (use class of plots 1a and 2) of outline planning permission reference 2016/1343/OUTM states:

“The area known as Plots 1a and 2 on the Illustrative Plot Plan are to be used for B1 employment Use only. The heights of these buildings shall be capped at 15m (29mAOD), and they will be set back a minimum of 15m from the boundary line shared with the neighbouring properties along Weeland Road.

*Reason:
To protect the amenities of nearby residents having regard to Policy ENV1 of the Selby District Local Plan.”*

- 5.6 The application seeks to vary Condition 01 (approved plans) of outline planning permission reference 2016/1343/OUTM by substituting drawing no's. 12098-105 Rev U (Land Use Parameter Plan), 12098-104 Rev F (Phasing Parameter Plan) and 12098107 Rev B (Illustrative Plot Plan) with drawing no's. 019941-RPS-SI-XX-DR-A-105 Rev Z (Land Use Plan), 019941-RPS-SI-XX-DR-A-104 Rev L (Phasing Plan) and 019941-RPS-SI-XX-DR-A-107 Rev F (Proposed Plot Boundaries). The revised plans show the following amendments:

- The plans approved under the outline consent gave permission for A1-A5 or B1, B2, B8 and D1 uses in the area to the north east of the internal roundabout; the revised plans seek this area to be used for B1, B2 and B8 use only.
- The plans approved under the outline consent gave permission for B1 use only in the area shown in dark purple on the revised land use plan (drawing no. 019941-RPS-SI-XX-DR-A-105 Rev Z) and for B1, B2 and B8 uses in the area shown in light purple on the revised land use plan (drawing no. 019941-RPS-SI-XX-DR-A-105 Rev Z); the revised plans seek the dark purple area to be used for A1-A5 or B1 and D1 uses, and the light purple area to be used for A1-A5 or B1, B2, B8 and D1 uses.
- The revised plans show the total area of space which could be used to accommodate A1-A5 and D1 uses to be less than on the plans approved under the outline consent. However, it is noted that Condition 10 of the outline consent restricts the maximum floorspace of A1-A5 uses to 500sqm and the maximum floorspace of D1 uses to 50sqm and the total area of space which could be used to accommodate A1-A5 and D1 uses on the revised plans exceeds this, thus the maximum amounts of A1-A5 and D1 uses could be accommodated under the revised plans.
- As a result of the changes to the land use plan, the plot boundaries plan has been revised - Plots 2, 3 and 4 approved under the outline consent have been subdivided to provide plots 2, 3A, 3B, 4A and 4B on the revised plans.

- The phasing of the development has been altered on the revised plans in relation to the areas of the site to be development under phases B, C and D.
- The SuDS areas shown on the revised plans are different to those shown on the plans approved under the outline consent.

- 5.7 The application seeks to vary Condition 02 (use class of plots 1a and 2) of outline planning permission reference 2016/1343/OUTM by referring to what use classes can be permitted in plots 1a, 2 and 3a, as a result of plot 2 being split into plots 2 and 3a. It is proposed that plots 1a and 2 can be used for B1 employment use only, while plot 3A can be used for a mixed use B1 and D1 use or A1-A5. The height and set back of buildings within plots 1a, 2 and 3a will remain as specified in Condition 2 – height 15m (29mAoD) and buildings set back a minimum of 15m from the boundary line shared with the neighbouring properties fronting Weeland Road. This amendment is required as a result of the changes to the approved plans under Condition 1.
- 5.8 The amendments to the land use plan and plot boundaries plan are required to allow a reserved matters application to come forward from the Coalfields Regeneration Trust at plots 15, 16 and 17 (in the area to the north east of the internal roundabout), for B1, B2 and B8 units only. No A1-A5 or D1 units are to be proposed on those plots by the Coalfields Regeneration Trust. Provision for A1-A5 and D1 uses would instead be made in the area to the south west of the internal roundabout. The amendments to the phasing of the development plots has been updated as a result of the applicant's, Harworth, further consideration of how the development of the site would likely be brought forward over the coming years. Furthermore, the amendments to the SuDS areas has been updated to reflect the latest strategy.
- 5.9 In terms of the amendments to the land use plan and plot boundaries plan, these would not increase the maximum space available on the site from B1, B2 and B8 uses and would not bring B1, B2 or B8 uses into any closer proximity to residential properties than the existing outline consent. The amendments would continue to enable the maximum floor areas of A1-A5 or D1 uses to be provided within the site, however, there would be the potential for A1-A5 or D1 uses to be within closer proximity to neighbouring residential properties than under the existing outline consent. As a result of the consultation on the application, the Council's Environmental Health Officer and the Campaign for the Protection of Rural England have both picked up on the fact that there would be the potential for A1-A5 or D1 uses to be within closer proximity to neighbouring residential properties than under the existing outline consent. The Council's Environmental Health Officer has advised that the principle of A1-A5 or D1 uses in closer proximity to residential properties would be acceptable, but that the layout and design of this aspect of the development at the reserved matters stage would need to be given very careful consideration to ensure no adverse impacts on the residential amenities of neighbouring properties. In particular, the Council's Environmental Health Officer advises that at the reserved matters stage, careful consideration should be given to the entry and exit points to the units, including deliveries, and ventilation, chiller units and other external equipment, such that it does not face the neighbouring residential properties. Furthermore, the Council's Environmental Health Officer advises that if any units are to be used for the cooking of food, such as a hot food takeaway, consideration would need to be given to the treatment of the cooking odours to ensure no adverse impacts on the residential amenities of neighbouring properties. The Campaign for the Protection of Rural England has raised similar issues in terms of the potential impacts of A1-A5 or D1 uses in closer proximity to

residential properties, however, as the principle of the development only is for consideration at this stage, and the reserved matters of layout, scale, appearance and landscaping are considered to be able to be able to adequately deal with any potential impacts at the reserved matters stage, it is considered that the proposed amendments to the land use plan and plot boundaries plan are acceptable in terms of their impact on the residential amenities of neighbouring properties.

- 5.10 In terms of the amendments to the phasing of the development plots in relation to the areas of the site to be development under phases B, C and D, this is considered to be acceptable.
- 5.11 In terms of the amendments to the SuDS areas, which have been updated to reflect the latest strategy, the Local Lead Flood Authority have been consulted for comments and have advised that they have no objections to the proposed amendments subject to relevant drainage conditions from the outline planning permission being carried over to any planning permission granted under the current application.

6 CONCLUSION

- 6.1 Having had regard to the policy context and amendments to the proposed scheme, it is considered that the proposed variation of Condition 1 (approved plans) and Condition 02 (use class of plots 1a and 2) of outline planning permission reference 2016/1343/OUTM are acceptable. The revised proposal would not have any significant adverse impact in respect of the main issues for consideration beyond those accepted under the original approval.
- 6.2 Conditions 21 and 36 both refer to plans which have been amended under the variation of Condition 1 and as such these conditions have been updated to reflect the revised plans. Condition 6 refers to the timing of the submission of the reserved matters applications and the timing of the commencement of the development and has been updated to reflect the timing set out under the outline planning permission, as a Section 73 application cannot be used to extend time limit within which a development must be started.
- 6.3 The aforementioned changes to the conditions have been highlighted in the recommendation below for clarity.
- 6.4 A Deed of Variation to the Section 106 agreement attached to the existing outline planning consent will be required to ensure the requirements of that Section 106 are applicable to any new planning permission granted under this Section 73 application.

7 RECOMMENDATION

This application is recommended to be MINDED TO GRANT subject to the expiration of the consultation period with no new material considerations being raised, the completion of a Deed of Variation to the original Section 106 agreement, and the following conditions:

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

Land Use Plan 019941-RPS-SI-XX-DR-A-105 Rev Z
Phasing Plan 019941-RPS-SI-XX-DR-A-104 Rev L

Proposed Plot Boundaries 019941-RPS-SI-XX-DR-A-107 Rev F
Building Heights Parameter Plan 12098-106 Rev N
Access Drawings 10612-GA-02 Rev A
Secondary Access/Emergency Access 10612-GA/03 Rev B

Reason:

For the avoidance of doubt.

02. The area known as Plots 1a and 2 on the Proposed Plot Boundaries Plan (drawing no. 019941-RPS-SI-XX-DR-A-107 Rev F) shall be used for B1 employment Use only, while the area known as Plot 3a on the Proposed Plot Boundaries Plan (drawing no. 019941-RPS-SI-XX-DR-A-107 Rev F) shall be used for a mixed use A1-A5 or B1 and D1. The heights of the buildings within Plots 1a, 2 and 3a shall be capped at 15m (29mAOD), and they will be set back a minimum of 15m from the boundary line shared with the neighbouring properties along Weeland Road.

Reason:

To protect the amenities of nearby residents having regard to Policy ENV1 of the Selby District Local Plan.

03. The total amount of development floorspace authorised by this permission shall not exceed 135,500sqm (GIA) and any reserved matters application (s) pursuant to Condition 1 shall be limited to this maximum in total.

Reason:

The impacts of the development on existing infrastructure and the surrounding Green Belt have been assessed on the basis on this maximum in total, having regard to Part 13 of the National Planning Policy Framework.

04. No development shall take place within Flood Zone 2 as shown on the Environmental Agency Flood plan (drawing number RFI:21096) set out in the Flood Risk Assessment.

Reason:

To ensure that the proposal is carried out in accordance with the design parameters on which the outline application has been assessed and in the interests of flood risk having had regard to Part 14 of the National Planning Policy Framework.

05. Details of the access, appearance, landscaping, layout and scale of each development plot or phase approved pursuant to Condition 1 shall be submitted to and approved in writing by the Local Planning Authority before any development of that plot or phase begins and the development shall be carried out as approved.

Reason:

To ensure that all necessary details are acceptable.

06. Applications for the approval of reserved matters on any part of the site referred to in Condition No. 3 herein shall be made by 6 February 2034, and the development to which this permissions relates, on that part of the site, shall be begun not later than the expiration of two years from the final approval of the reserved matters pertaining to that part of the site, or in the case of approval on different dates, the final approval of the last such matter to be approved. The first application for approval of reserved matters shall be made to the local planning authority no later than 6 February 2022.

Reason:

In accordance with the requirements of section 51 of the Planning and Compulsory Purchase Act 2004.

07. The Reserved Matters applications to be in accordance with the principles set out in paragraphs 14.1 to 21.9 of the Design and Access Statement Rev G, dated March 2017 and received on the 22 March 2017.

Reason:

For the avoidance of doubt.

08. No development shall commence on any individual building until sample panels of the materials to be used in the construction of its external surfaces has been submitted to and approved in writing by the local planning authority. The panels shall show the proposed combination of external materials to be used. The development shall be constructed in accordance with the approved samples.

Reason:

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

09. Prior to the commencement of development of each individual development plot or phase full details of the existing and proposed ground and finished floor levels of the buildings, roads, associated structures within that associated development plot or phase, shall have been submitted to and approved in writing by the local planning authority. The approved development shall be constructed in accordance with the approved levels.

Reason:

In order to safeguard the character and appearance of the area having regard to Policy ENV1 of the Selby District Local Plan and Policy SP19 of the Selby District Core Strategy.

10. The total floorspace within Uses Classes A1, A2, A3, A4 and A5 hereby approved shall not exceed 500 sqm (GIA) in total. No individual unit within use classes A2, A3, A4 and A5 shall be larger than 50sqm (GIA). No individual unit in use class A1 shall exceed a maximum of 350 sqm (GIA). Floorspace within Uses Classes D1 hereby approved shall not exceed 50 sqm (GIA) in total.

Reason:

To ensure the development carried out does not exceed the maximum approved and to ensure the quantum of floorspace keeps within the parameters assessed in relation to the approved development having had regard to Policy S4 of the Selby District Local Plan and Policy SP14 of the Selby District Core Strategy.

11. Prior to the erection or installation of any outdoor lighting associated with the development of an individual building or development plot, a detailed outdoor lighting scheme applicable to that plot and associated building/s shall be submitted to and approved in writing by the local planning authority. The scheme shall specify the method of lighting (including details of the type of lights, orientation/angle of the luminaires, the spacing and height of lighting columns/fixings), the extent/levels of illumination over the site and on adjacent land and measures to be taken to contain

light within the curtilage of the site. The scheme shall be implemented in accordance with approved details and shall thereafter be maintained as such.

Reason:

In the interests of visual amenity and to ensure that the development will not result in unacceptable light pollution having had regard to Policies ENV1 and ENV2 of the Selby District Local Plan.

12. In the event that the foundations of any building require piling, prior to any piling taking place in association with that building, a method statement shall be submitted to and approved in writing by the local planning authority detailing the type of piling to be used, potential noise and vibration levels at the nearest noise sensitive locations in accordance with British Standard 5228 - Part 4 and mitigation measures to be undertaken in order to safeguard the amenity of adjacent residents. The piling mitigation shall be carried out in accordance with the approved details.

Reason:

To protect the amenity of nearby residents/occupiers having had regard to Policy ENV1 of the Selby District Local Plan.

13. Prior to the commencement of development of each individual development or phase approved by this planning permission a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. The specification needs to reflect the specifics set out in the WPA Contaminated Land Assessment.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason:

To ensure that the site is safe for its use having regard to Policy ENV2 of the Selby District Local Plan.

14. Prior to the occupation of each individual development plot, building or phase a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason:

To ensure that the site is safe for its use having regard to Policy ENV2 of the Selby District Local Plan.

15. Prior to the submission of the first reserved matters application a site wide Nature Conservation Management Plan shall be submitted to and approved in writing by the local planning authority.

The plan shall include the following details:

Specific provision of measures to promote Biodiversity and Bio-Diversity Action Plan targets including: the provision of accommodation for the Peregrine Falcon, the provision of bat and bird boxes on buildings and on trees around the site; the provision of other nesting features for bird species such as bird ledges; reptile hibernacula including small log and rubble piles; the creation of new aquatic habitats where possible within permanent areas of open water of minimum depth 0.5m; the provision of wetland margins and habitat islands; the management of grassland that reflects the principles set out in the Habitat Survey Report (Phase 1), the Design and Access Statement and Planning Statement.

The plan should set out the implementation timescales of provision in relation to the phasing of development on the site, and the measures will be implemented accordingly.

Reason:

To ensure that the development of the site conserves and enhances ecology having regard to Part 15 of the National Planning Policy Framework.

16. Any reserved matters application shall demonstrate how it accords with the aims and objectives of the Nature Conservation Management Plan and shall detail which specific ecological measures are proposed and the timing for their delivery. The ecological measures shall be carried out in accordance with the approved details and timing of delivery.

Reason:

To ensure that the development of the site conserves and enhances ecology having had regard to Part 15 of the National Planning Policy Framework.

17. Prior to commencement of each development plot or phase, a detailed design and associated management and maintenance plan of surface water drainage for those respective plots or phases based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage design should demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement for that document).

Reason:

To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity having had regard to Parts 10 and 11 of the National Planning Policy Framework.

18. Prior to the commencement of development of each development plot or building, details relating to the disposal of surface water shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, no piped discharge of surface water from the development plot or building shall take place until the works to provide a satisfactory outfall, other than the local public sewerage, for surface water have been completed.

Reason:

To ensure satisfactory drainage of the site having regard to Part 14 of the National Planning Policy Framework.

19. Prior to the commencement of development of each development plot or building details of the proposed means of disposal of foul water drainage for the respective development plot or building, including but not inclusive to details of any balancing works (to include the peak pumped discharge rate), off-site works and phasing of the necessary infrastructure, shall have been submitted to and approved by the local planning authority. No development plot or buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason:

To ensure satisfactory drainage of the site having regard to Part 14 of the National Planning Policy Framework.

20. Provision for Electric Vehicle charging points is required for each phase commensurate with the size of parking facilities. Prior to their installation, details of the charging points shall be submitted to and approved in writing by the Local Planning Authority, and thereafter shall be provided in accordance with the

approved details before occupation of the buildings and subsequently retained for that purpose.

Reason:

To ensure that provision is made for the parking and charging of powered cars and mobility scooters having regard to Policy T1 and T2 of the Selby District Local Plan and Part 9 of the National Planning Policy Framework.

21.A. At the time of submission of the first Reserved Matters a Structural Landscape Strategy and Management Plan for the proposed structural landscaping areas, including the boulevard and access point, as shown on the approved parameter plans listed in condition 1 shall be submitted to and approved in writing by the local planning authority.

B. Prior to the commencement of development of each phase a structural landscaping scheme for that respective phase, shall be prepared in accordance with agreed structural landscaping strategy and management plan (as referred to in condition 21A above), and shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the long term treatment, including landscaping, boundary treatment, management responsibilities and maintenance schedules for all common areas within that phase of development situated outside of the defined development plots (as shown on the Proposed Plot Boundaries 019941-RPS-SI-XX-DR-A-107 Rev F received 09/04/2020). The scheme shall also include grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed grading and mounding to existing vegetation and surrounding landform. The scheme shall include a programme for implementation and should be implemented in accordance with the approved details. Full details of planting plans and written specifications, including cultivation proposals for maintenance and management associated with plant and grass establishment, details of the mix, size, distribution, density, levels and types of all trees/hedges/shrubs to be planted and the proposed time of planting. The scheme shall include following:

- a) Details of the entrance feature/public art and landscaping enhancements along the main entrance on Weeland Road.
- b) Internal Spine Roads, as shown on plans listed under condition 1.
- c) Landscape strip connecting to the tow path as shown on plans listed under condition 1.
- d) Structural perimeter landscaping
- e) Identified publicly accessible areas on the Land Use Plan 019941-RPS-SI-XX-DR-A-105 Rev Z (received 09/04/2020)
- f) Main Access Roads and boulevards shown on the Land Use Plan 019941-RPS-SI-XX-DR-A-105 Rev Z (received 09/04/2020) - will be planted with Standard Trees at a maximum 23a of 7.5m intervals.

The scheme shall be carried out in accordance with the approved details and in accordance with the approved implementation programme.

Reason:

In order to mitigate the visual impact of the proposed development on the setting and of the area, the Green Belt, and surrounding open countryside having had regard to Policy SP18 of the Selby Core Strategy and Part 13 of the National Planning Policy Framework.

22. Any reserved matters application for the erection of a building shall include an accompanying landscaping scheme for the associated development plot. The landscaping scheme shall include full details of planting plans and written specifications, including cultivation proposals for maintenance and management associated with plant and grass establishment, details of the mix, size, distribution, density and levels of all trees/hedges/shrubs to be planted and the proposed time of planting. No development within the development plot for which reserved matters approval is sought shall commence until the landscaping scheme has been approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.

Reason:

In order to mitigate the visual impact of the proposed development on the setting having had regard to Policy SP18 of the Selby Core Strategy.

23. All planting, seeding or turfing comprised in the approved structural landscaping scheme shall be fully carried out in the first planting and seeding seasons following the commencement of development of any building, or in accordance with a landscaping phasing plan that is submitted to and approved in writing by the local planning authority. Any trees or plants shall be maintained for a period of 2 years from implementation and any trees, shrubs or plants that are removed or become seriously damaged or diseased, shall be replaced within the 5 year period thereafter during the next planting season with others of similar size and species as those originally planted, unless the local planning authority gives written consent to any variation.

Reason:

In order to mitigate the visual impact of the proposed development on the setting and of the area, the retained Green Belt, and surrounding open countryside having regard to Policy SP18 of the Selby District Core Strategy and Part 13 of the National Planning Policy Framework.

24. Reserved matters applications for each individual development plot or building shall include full details of hard landscape works associated with that respective plot or building. These works shall be carried out as approved prior to the occupation of any part of the building hereby approved. These details shall include: proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures; furniture; refuse and on-site storage facilities for trade waste or other storage units; signs; any proposed public art.

Reason:

In the interests of visual amenity and to ensure that suitable hard landscape is provided as part of the development having regard to Policy SP18 of the Selby District Core Strategy.

25. There shall be no excavation or other groundworks associated with each individual development plot, except for investigative works or the depositing of material on the site, until the following drawings and details relating to that particular development plot(s) have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:

- the proposed highway layout including the highway boundary
 - dimensions of any carriageway, cycleway, footway, and verges
 - visibility splays
 - the proposed buildings and site layout, including levels
 - accesses and driveways
 - drainage and sewerage system
 - lining and signing
 - traffic calming measures
 - all types of surfacing (including tactiles), kerbing and edging.
- b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
- the existing ground level
 - the proposed road channel and centre line levels
 - full details of surface water drainage proposals.
- c. Full highway construction details including:
- typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
 - when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - kerb and edging construction details
 - typical drainage construction details.
- d. Details of the method and means of surface water disposal.
- e. Details of all proposed street lighting
- f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.
- g. Full working drawings for any structures which affect or form part of the highway network.
- h. A programme for completing the works. The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority with the Local Planning Authority in consultation with the Highway Authority.

Reason:

In the interests of highway safety having had regards to Policies T1 and T2 of the Selby District Local Plan.

26. No part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access shall be constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before any part of the development is brought into use.

Reason:

In accordance with Policies T1 and T2 of the Selby District Local Plan and to ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of prospective users of the highway.

27. There shall be no access or egress between the highway and the application site associated with the development hereby permitted by any vehicles other than via the main access with the public highway at Weeland Road as identified on plans listed in Condition 1.

The access shall be maintained in a safe manner which shall include the repair of any damage to the existing adopted highway occurring during construction. The entrance point along Sudforth Lane is only to be used in the case of emergency only and will be controlled by a barrier. The entrance points of Weeland Road which connect up with Southmoor Energy Centre are to be used for this purpose only.

Reason:

In accordance with Policies T1 and T2 of the Selby District Local Plan and in the interests of both vehicle and pedestrian safety and the visual amenity of the area.

28. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 70m measured along both channel lines of the major road Weeland Road from a point measured 2.4m down the centre line of the access road. The eye height will be 1.05 and the object height shall be 0.60m. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Policies T1 and T2 of the Selby District Local Plan and in the interests of road safety.

29. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements

- a. The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason:

In accordance with Policies T1 and T2 of the Selby District Local Plan and in the interests of road safety.

30. During construction works there shall be no:

- a. Light Goods Vehicles exceeding 3.5 tonnes
- b. Medium Goods Vehicles up to 7.5 tonnes
- c. Heavy Goods Vehicles exceeding 7.5 tonnes

permitted to arrive, depart, be loaded or unloaded on Sunday or a Bank Holiday nor at any time, except between the hours of 7:30am 17:30pm on Mondays to Fridays and 8:30am and 12:30pm on Saturdays.

Reason:

In accordance with Policies T1 and T2 and to avoid conflict with vulnerable road users.

31. There shall be no HGVs brought onto the site until a survey recording the condition of the existing highway has been carried out in a manner approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason:

In accordance with Policies T1 and T2 and in the interests of highway safety.

32. Details of the routes to be used by HGV construction traffic shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of development. Thereafter the approved routes shall be used by all vehicles connected with construction on the site. HGVs shall not use Whitefield Lane at any time.

Reason:

In accordance with Policies T1 and T2 of the Selby District Local Plan and in the interests of highway safety.

33. No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The statement shall provide for the following in respect of the phase:

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- e. wheel washing facilities
- f. measures to control the emission of dust and dirt during construction
- g. a scheme for recycling/disposing of waste resulting from construction works
- h. details of site compound

Construction will be permitted between the hours of 7:30am - 17:30pm on Mondays to Fridays and 8.30am - 12.30pm on Saturdays and is not permitted on Sundays or a Bank Holiday unless otherwise agreed in writing with the Local Planning Authority.

Reason:

In order to comply with Selby District Local Plan Policies ENV1, T1 and T2 and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

34. The cycle provision should be agreed with the local planning authority. The cycle provision should be in line with the cycle parking standards set out in North Yorkshire County Council's 'Interim Guidance on Transport Issues, 2015' or the adopted standards at the time of submission of the reserved matter application'.

Details of the storage facilities will be agreed as part of any reserved matters application.

Reason:

To ensure that the proposed level of cycling provision is appropriate to the nature of the proposed building and its use having had regard to Policies T1 and T2 of the Selby District Local Plan.

35. The submission of any reserved matters application for approval of any building shall include an estimation of the total number of staff and visitors that will visit the building in a typical day. The on-plot car parking provision should be in line with the parking standards set out in set out in North Yorkshire County Council's 'Interim Guidance on Transport Issues, 2015' or the adopted standards at the time of submission of the reserved matter application'.

Reason:

To ensure that the proposed level of cycling provision is appropriate to the nature of the proposed building and its use having had regard to Policies T1 and T2 of the Selby District Local Plan.

36. Prior to the occupation of the first building constructed as part of the development hereby approved, the temporary cycle path as shown on the Land Use Parameter Plan listed in condition 1, shall be laid out in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Once laid, the temporary cycle route shall be retained and maintained until such time that the reserved matters application (s) associated with plots 07A and 18 (as shown on Proposed Plot Boundaries 019941-RPS-SI-XX-DR-A-107 Rev F) are submitted for approval. At which point, a scheme for the final alignment and specification of the permanent route shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be installed prior to the occupation of and buildings on plots 07A and 18 and shall remain throughout the lifetime of the development.

Reason:

To ensure that the transport improvements are delivered having had regard to Policies T1 and T2 of the Selby District Local Plan.

37. As part of any relevant reserved matters application, a plan specifying the exact location and appropriate 'no-build' zones of influences for the recorded mine entries on site must be submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that the site is safe for its use having had regard to Part 15 of the National Planning Policy Framework.

38. A strategy for the branding and signing of the site to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason:

In the interests of visual amenity of the area and having had regard to Policy ENV1 of the Selby District Local Plan.

39. Any application for the approval of Reserved Matters for any development plot or phase within the development hereby approved shall be accompanied by a Local Employment Statement for that development plot or phase. The statement shall be developed in accordance with the principles set out in the agreed Local Employment Framework, dated 27 March 2017. No part of the development should be occupied until the statement and the process of implementation has been agreed in writing with the local planning authority.

Reason:

To ensure that Local employment benefits are addressed as part of the submission and ensure compliance with the Developer Contributions SPD and the NPPF.

40. The development hereby permitted shall be carried out in accordance with the agreed Travel Plan (dated June 2018, Revision 5). The agreed Travel Plan (dated June 2018, Revision 5) shall be implemented upon first occupation of the site and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

Reason:

In accordance with Policies T1 and T2 and to establish measures to encourage more sustainable non-car modes of transport.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

Planning Application file reference 2020/0155/S73 and associated documents.

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Appendices: None