



PLANNING COMMITTEE

Wednesday 1 August 2018 at 6.00 pm

Council Chamber, Ryedale House, Malton

Agenda

12 Late Observations

(Pages 2 - 37)

Agenda Item 12

RYEDALE
DISTRICT
COUNCIL



Please Contact: Mrs Karen Hood
Extension 386
Email: karen.hood@ryedale.gov.uk

All Members of the Planning Committee
Council Solicitor
Head of Planning
Senior Customer Services Officer (Place)

Ref: Agendas/Planning/2018/2019

27th July 2018

Dear Councillor

Meeting of the Planning Committee – 1st August 2018

With reference to the above meeting I enclose for your attention the late observations received since despatch of the agenda.

Following a change in National Policy the report for Item 6 is being re-issued to reflect the relevant paragraphs of the NPPF

Yours sincerely



Mrs Karen Hood
Senior Customer Services Officer (Place)

**RYEDALE DISTRICT COUNCIL
PLANNING COMMITTEE**

SCHEDULE OF ITEMS TO BE DETERMINED BY THE COMMITTEE

PLANS WILL BE AVAILABLE FOR INSPECTION 30 MINUTES BEFORE THE MEETING

Item Number: 6
Application No: 17/01249/FUL
Parish: Norton Town Council
Appn. Type: Full Application
Applicant: BP Forward Planning
Proposal: Erection of petrol filling station with forecourt shop sales building, canopy, car parking, 3no. fuel pumps, below ground offset fills, air/water bay, trolley compound, goods in delivery bay, bin storage, site floodlighting and ancillary arrangements to forecourt and boundary.
Location: 5 Welham Road Norton Malton North Yorkshire
Registration Date: 1 December 2017
8/13 Wk Expiry Date: 26 January 2018
Overall Expiry Date: 24 July 2018
Case Officer: Alan Hunter **Ext:** Ext 276

CONSULTATIONS:

Parish Council	Recommend refusal
Designing Out Crime Officer (DOCO)	Recommend conditions
Building Conservation Officer	No objection with comments
Environmental Health Officer	No objection subject to conditions
Sustainable Places Team (Environment-Agency Yorkshire Area)	No comments
Archaeology Section	No objection
Countryside Officer	No objection
Sustainable Places Team (Environment-Agency Yorkshire Area)	Recommend conditions and informatives
Yorkshire Water Land Use Planning	Recommend conditions
Neighbouring Parish Council	Malton Town Council Recommend refusal
Head Of Emergency Planning	Mitigation condition
Flood Risk	Recommend conditions
Highways North Yorkshire	Recommendations and conditions

Neighbour responses: Mr K M Barker, Mr Clive Orrah, Mr & Mrs Robin Hughes, Mrs Jackie Fox, Mrs Stacy Naylor, Mrs Kathleen Youngson, Mr shaun dale, R Abram, Mrs D Horsley, Mrs Nichola Zanda, Mrs Margaret Woodings, Mrs Gail Denney, S Wall, Mrs M A Fenwick, Mr glynn clemit, Mr Roger Wilson, Mr & Mrs B Coning, John Simpson, Jacqui Anspach, Mr P J & Mrs E C A Compson, Rachael Thacker, Karen Callender, Lisa Lavery, Sara Lavery, Sally-Jane Colthup, J. J. Sheardown, G Gibson, M. Gwilliam, Mr Tony Boorman, Mr James Binns, Mrs Fiona Campion, WYG (Graham Connell), Fitzwilliam (Malton) Estate, Mr John Gelson, Mr Edward Button, Mr Nicholas Brooksbank, Mr Richard Williamson, Mrs Emma Brooksbank,

SITE:

The site of the proposed development is the former Dewhirst's Clothing Factory. The site is located on the east side of Welham Road, Norton approximately 30 metres to the south east of St Nicholas Street. The site covers an area of approximately 0.52 hectares. It is an irregular shape and measures approximately 106 metres in depth at its greatest, and 80 metres in width at its largest.

The site was previously occupied by a 3 storey red brick building fronting Welham Road with a single storey factory 'extension' running to the south. The site has now been cleared, and includes security fencing around its perimeters.

The site is bounded to the south by Springfield Garth, and to the north-east by dwellings on St Nicholas Street together with KM Barker's car sales on the corner of Welham Road and St Nicholas Street. Opposite the site is part of the Lidl store and No's 8-12 Welham Road. No 5a Welham Road adjoins the site, with the application site extending behind the rectangular shaped community office building. The Old Pottery (a dwelling) is located immediately to the eastern side of the application site and behind terraced dwellings on St Nicholas Street.

The Norton Conservation Area abuts the site along its north-eastern side. The site is also located within both an area of known archaeological significance, and within Flood Zone 3(a).

The site is currently identified as a commitment for a mixed use development comprising use Classes A1 and D1 in the Sites Document Published 2018.

PROPOSAL:

Planning permission is sought for the erection of a petrol filling station with a forecourt shop sales building, canopy, car parking, 3 no. fuel pumps, below ground offset fills air/water bay, trolley compound, goods in delivery bay, bin storage, site floodlighting and ancillary arrangements to forecourt and boundary.

The sales building will have a footprint of approximately 20m by 25m and be 9m at the ridge height taking into account the raised floor levels of approximately 1.2m. The building is proposed to have a brick 'slip' finish to give the impression of being brick built under a tiled roof, understood to be slate. The canopy area features a pitched roof design also with a tiled/slate roof being 7m at its highest point. The forecourt shop building is set back approximately 52m from Welham Road, and the canopy (covering the pumps) is located in front of the forecourt shop building, being 27m from Welham Road. There are two entrances to the shop forecourt building, one of the western side and one on the southern side. Given the levels changes, ramped access is available to the building.

The forecourt shop building will have a Gross Internal Area (GIA) of 495m² including an M&S shop and Wild Bean coffee establishment. Two ATM's are proposed on the front (western side) of the forecourt shop building.

It is proposed that deliveries are brought along the northern boundary to the rear of the forecourt building, where there is a designated delivery bay for goods vehicles to reverse into. The rear of the building also includes a trolley storage compound and the housing of various plant/machinery. 4no. parking spaces are proposed at the western part of the site facing Welham Road adjacent to an air and water bay, with underground storage tanks located between the canopy and Welham Road. The tanks each have a capacity of 80,000litres, or 123 tonnes of fuel in total. 11 no. parking spaces are proposed to the western (front) of the forecourt shop building with 24 no. spaces to the southern side of the shop building.

The supporting document states that the forecourt shop is a BP shop, operated by BP staff. It will sell M&S produce but is ultimately a BP forecourt shop. The shop will sell other produce to that supplied by

M&S. The shop will mainly sell convenience produce and top-up shopping. It is understood that this collaboration between BP and M&S has resulted in approximately 300 such stores nationwide. At 495m2 GIA (260m2 net), this proposed shop represents a significant use on its own, and a likely destination in its own right.

There is significant conifer planting on the boundary to Springfield Garth (southern boundary). This is shown to be outside of the application site and within the highway, no changes are proposed to this planting on this application.

The application is accompanied by:

- * A Design & Access Statement
- * Lighting Assessment
- * Flood Risk Assessment
- * Air Quality Assessment
- * Noise Assessment
- * Transport Assessment
- * Land Contamination Assessment
- * Details of the fuel engineering specification
- * Specification of plant and machinery

In accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the proposed development has been screened by the Local Planning Authority, and it has been confirmed that the proposal is not 'Environmental Impact Assessment' development, consequently there is no requirement for an Environmental Statement pursuant to those regulations.

HISTORY:

2014: Reserved Matters approval for the erection of 3 no. retail units (Use Class A1) and children's day nursery (Use Class D1).

2013: Outline planning permission granted for a mixed use development comprising 3 no. retail units (Use Class A1) and children's day nursery (Use Class D1) with associated vehicular access, parking and landscaping (site area 0.73 ha)/

2009: Erection of a food store (Use Class A1) and day nursery (use class D1) with associated vehicular access, parking and landscaping (site 0.73ha).

1999: Planning permission granted for the erection of two extensions to rear to form additional office space.

1999: Planning permission granted for the renewal of consent for the change of use of part of car park for temporary siting of a portable building to form a factory shop.

1997: Planning permission granted for the change of use of part of car park for the temporary siting of a portable building to form a factory shop.

1997: Advertisement Consent granted for the display of externally illuminated wall mounted directional sign.

1994: Planning permission granted for the change of use of part of a car park for the temporary siting of portakabin sections to form factory shop.

1981: Planning permission granted for the change of use of former clothing factory into a private social club at Welham Road.

LEGISLATION & POLICY:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires 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 development plan unless material considerations indicate otherwise.

In respect to the proposed development, the Development Plan for the area of Ryedale (not within the North York Moors National Park) consists of:

- The Ryedale Plan – Local Plan Strategy (2013)
- Yorkshire & Humber Plan (RSS) – Green Belt policies
- ‘saved’ policies of the Ryedale Local Plan (2002) and the 2002 Proposals Map

The main statutory duties on planning authorities relevant to this application are:

- Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that with respect to any buildings or other land in a Conservation Area, special attention should be paid to the desirability of preserving or enhancing the character and appearance of that area.
- Section 40(1) of the Natural Environment and Rural Communities Act 2006 (the ‘NERC’ Act), imposes a duty on public authorities in exercising their functions, to have regard to the purpose of conserving biodiversity.
- All public bodies are required to comply with the rights and freedoms of the European Convention on Human Rights under the provisions of the Human Rights Act (1998).

Development Plan

None of the remaining 'saved' policies of the Ryedale Local or the Yorkshire and Humber Plan are considered to be relevant to the assessment of this application.

The Ryedale Plan - Local Plan Strategy (LPS) provides the adopted development plan policies which are compliant with national planning policy (the National Planning Policy Framework – NPPF). The current Policies Map is the 2002 adopted Proposals Map. The Council has published a Sites Document which proposes amendments to some of the development limits and Town Centre Commercial Limits together with new allocations and commitments. The Sites Document is due to be examined in Autumn 2018. In accordance with the Sites Document the application site is identified as commitment for mixed use development of Use Class A1 and Use Class D1 in recognition of previous planning permissions on this site, although these have now lapsed.

The LPS contains strategic policies to manage development and growth across Ryedale to 2027.

The following policies within the Local Plan Strategy are relevant to the assessment of the application:

Policy SP1- General Location of Development and Settlement Hierarchy

Policy SP7 - Town Centres and Retailing

Policy SP10 - Physical Infrastructure

Policy SP12 - Heritage

Policy SP14 - Biodiversity

Policy SP15 - Green Infrastructure Networks

Policy SP16 - Design

Policy SP17 - Managing Air Quality, Land and Water Resources

Policy SP18 - Renewable and Low Carbon Energy

Policy SP19 - Presumption in favour of Sustainable Development

Policy SP20 - Generic Development Management Issues

Policy SP22 - Planning Obligations, Developer Contributions and the Community Infrastructure Levy

The NPPF confirms that the purpose of planning is to contribute to sustainable development. Paragraphs 7-14 of the National Planning Policy Framework details how the presumption in favour of sustainable development is to be applied. Paragraph 12 of the NPPF makes it clear that:

“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”

Paragraph 11 specifically confirms that a presumption in favour of sustainable development is at the heart of the NPPF. It states that for decision- taking this means (unless material considerations indicate otherwise)

“-approving development proposals that accord with an up-to-date development plan without delay; or

- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

Policy SP19 of the Local Plan Strategy is consistent with the above national presumption but makes specific reference to the Local Plan and Neighbourhood Plans; working proactively with applicants and clarifies the application of the second bullet of the national presumption. It states:

‘When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the economic, social and environmental conditions of the area.’

The NPPF provides national planning policy and is accompanied by practice guidance. Both are significant material planning considerations in the decision making process.

Where specifically relevant to the application, the policies of the NPPF are considered against the proposed development:

- *Building a strong, competitive economy;*
- *Ensuring the vitality of town centres;*
- *Promoting sustainable transport;*
- *Achieving well-designed places;*
- *Meeting the challenge of climate change, flooding and coastal change;*
- *Conserving and enhancing the natural environment*

National Planning Policy Guidance (PPG) provides detailed guidance in the application of planning policy. Flood risk and retail policy are the central policy issues in relation to this proposal.

APPRAISAL:

The main considerations in relation to this planning application are:

- The principle of the uses proposed on this site;
- Flood risk and application of the sequential test;
- Application of the retail sequential test;
- The siting, design and appearance of the proposed development
- The impact upon the setting and views into and out of the Norton Conservation Area;
- Highway safety and the impact upon the surrounding highway network;
- Amenity impacts for surrounding occupiers;
- The impact of the proposal upon ground waters and potential contamination
- Drainage
- Biodiversity and ecological impacts
- The impact of the proposed development upon the Air Quality Management Area;
- Archaeology;
- Designing out crime; and,
- Other issues

This application was validated in December 2017. Due to the complexity of issues associated with this application additional information has been required from the applicant in regard to; a flood risk Sequential Test; a retail Sequential Test; highway related trip generation details; an Air Quality Assessment; neighbouring amenity information; and amendments to the design and appearance of the proposed development. Members will also note that one of the objections to this application is made on behalf of the landowner of the Malton Livestock Site (LMS) arguing that their site is sequentially preferable to the application site and that the proposed development should be located on that site. Officers have considered this application carefully and obtained both expert retail advice and expert Counsel advice to ensure compliance with the relevant statutory duties and planning policy requirements. This report is authored by the Case Officer, and reflects to collective views of relevant senior Officers. This matter is referred to Planning Committee to determine.

The principle of the uses proposed on this site

A petrol filling station is a sui generis use, which is a use on its own and not belonging to a defined Use Class. Given the size of the proposed forecourt shop, it is considered that it represents an A1 use. This site is located within flood zone 3(a) and in an edge of centre location. These two uses are coming forward together and case law confirms it is not possible to disaggregate these uses, and the application as a whole has to be considered.

As a result, in order to establish the principle of the proposed development, both a flood risk sequential test, and a retail sequential test will need to be met in order to confirm whether in principle, the proposed uses are acceptable.

WYG on behalf of the Fitzwilliam Estate have objected to the application on the basis of Malton Livestock Market (LMS) being suitable and available for the proposed development in both flood risk and retail terms (their comments can be viewed online). WYG on behalf of the landowner has confirmed that the site is available for the proposed development and they argue that this site is both available and suitable for the proposed use. Officers has asked WYG for details regarding its availability. WYG has confirmed that the site is available now, it can accommodate the proposed development; the landowner is willing to sell on a leasehold basis and begin negotiations immediately. WYG confirmed that the terms of the lease would be the subject of commercial negotiating between the parties to establish a viable solution for both parties.

Flood risk and retail sequential tests have been provided on behalf of the applicants (these can be viewed online). The case made on behalf of the applicants is also contained in their incoming emails, letters and with the aforementioned tests themselves (again these can be viewed online). The applicants case be summarised as:

- They argue the application site is the only available and suitable site;
- The LMS is not suitable for a petrol filling station because there is insufficient passing traffic. Their argument is supported by a letter from a Petrol Station site finder at Rapleys (agents for applicants) who also state that there is insufficient passing traffic and the local road network is not busy enough to support a petrol filling station. Mention is also made of the road network that crosses the LMS.
- M&S have confirmed their only interest in Ryedale currently is the collaboration with BP at the application site.
- The LMS is a recognised by the Council as a ‘key development opportunity’ for contributing to the majority of non-food retail space which is also reflected by the its proposed inclusion within the Town Centre Commercial Limits. The proposed development being located on the LMS would undermine both the Council and landowner’s efforts to deliver comprehensive, non-food retail-led development on the site, and fail to meet Ryedale’s requirements.
- The LMS has constraints in respect of heritage assets and given its closer location to the Air Quality Management Area (AQMA), it means the site is inappropriate.
- The ATS site has a very narrow road frontage that is not appropriate for a petrol filling station that requires an active frontage that is accessible to all motorists including HGV’s.
- The ATS is too constrained with residential development, a railway line and trees all in very close proximity making it inappropriate for the use proposed.
- The ATS site is 0.4 hectares in area;
- The limited access width of the ATS site will make it difficult for 2 – way traffic and risk pedestrian safety;
- The restricted frontage will mean any meaningful commercial signage will be very difficult to accommodate;
- The ATS site is located within a Conservation Area and such a proposal would not preserve or enhance the character and appearance of the Conservation Area. It is also located close to existing listed buildings.

The applicants have maintained that the LMS is not suitable for the proposed development. The main argument on behalf of the applicant is that the LMS does not have sufficient passing traffic (as outlined above). No evidence has been submitted to demonstrate what the traffic movements are to make it suitable for the proposed development; what the minimum number of daily movements are to make the development as proposed viable; and whether the scheme with a less amount of passing traffic can still be viable given the significant shop use within the scheme. Officers have obtained traffic count figures from NYYCC Highways to assist in the application of this test. The traffic count figures are:

- Application site entrance – January 2018 - 53,130 weekly vehicle movements.
- LMS – July 2017 – 25,448 weekly vehicle movements - at a location 25 metres to the south of the Spittal street junction and cattle pens on Horsemarket Road.

The traffic count figures obtained by the LPA clearly show that even in what could be regarded as a quieter month of January, the weekly vehicle movements exceed by more than 100% those vehicles movements in July at the LMS. Equally it may be argued that there are local vehicle movements along the adjoining roads that are not captured as part of this basic data. Nonetheless it supports the applicant’s case that the application site has more passing traffic. However, there is no information as to whether the passing traffic has any relationship to viability of the proposed development based on the traffic count figures for the LMS. It could be that more revenue is projected from the application site, but the profit projected from the LMS could still make the scheme viable. There is no breakdown on how the profit is separated between retail sales and fuel sales. It would not be unreasonable to expect retail sales to be comparatively higher on the LMS by virtue of its more central location than on the application site.

The report shall assess the application against the two tests below.

Flood risk and the application of the sequential test

The aim of the sequential test which is embodied in both National and Local Policy is to steer development to appropriate sites with the lowest risk of flooding. Para 155 of NPPF states:

‘Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.’

Paragraph 158 of NPPF states

‘The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.’

The application site is located within Flood Zone 3(a), and the proposed use is classed as ‘less vulnerable’ in accordance with the flood risk classifications contained in PPG. There has been some discussion as to whether the proposal should be included as ‘highly vulnerable’ given its petrol filling station use. In fact, one of the applicant’s flood risk supporting documents classed it as ‘highly vulnerable’. After further consideration and in the context of The Planning (Hazardous Substances) Regulations 2015, the applicant’s consultant has confirmed the use is to be classed as ‘less vulnerable’. The Environment Agency has also regarded the proposed use as ‘less vulnerable’. The use is not specifically listed in the land-use classifications for flood risk, and there is some degree of ambiguity here. The LPA has sought Counsel advice on this aspect, which has concluded that the use is to be regarded as ‘less vulnerable’. This approach is also consistent with how other such proposals have been considered by other Local Planning Authorities. In accordance with both NPPF para. 158 and PPG, the proposed development is required to pass the sequential test, but not the Exception Test.

When applying the sequential test, PPG advises Local Planning Authorities to take reasonable approach to the search area, which should be framed by local circumstances. PPG also advocates a pragmatic approach, proportionate to the development proposed when defining the search area. In this case the development proposed contains forecourt shop comprises 495m² of GIA, mainly to be used for retailing convenience food. When considering a reasonable search area for the proposed development, Officers are mindful of this significant town centre use aspect of the scheme. Officers have therefore considered the search area based on the following criteria.

- Proximity to the Town Centres of Norton and Malton;
- Accessibility;
- Sustainability.

The applicant has supplied a Flood Risk Sequential Test. This has assessed sites based on those submitted as part of the Local Plan Sites Consultation (2015), and the Local Plan Sites Document – Malton & Norton Background paper (October 2017). The applicant’s sequential test concluded that there are 9 alternative sites that were at a lower risk of flooding than the application site. These were all on the periphery of Malton and Norton and outside of the Towns development limits, there was no information on their availability. Examples of these sites include land in and around Brambling Fields junction and around the junction between the A64 and A169. The applicant’s sequential test concluded that all 9 alternative sites were unsuitable as they were Greenfield sites and Brownfield land at risk of flooding should be developed in preference. The applicant’s sequential test is considered to be wholly inadequate. Its search area is considered to be too wide given the significant town centre use component of the proposed development. Furthermore, their sequential test (flood risk) has failed to take account of

other sites in existing centres that have extant planning permissions for development.

The sequential test (flood risk) is for the Local Planning Authority to undertake, in conjunction with the Environment Agency, if appropriate. The Environment Agency has been consulted and made it clear that they are content for the LPA to consider the aspects of the sequential test. The EA advise the LPA, in accordance with para 158 of NPPF, not to permit the application if there are other reasonably available sites. Officers have excluded sites in locations out of town sites on the periphery of Malton and Norton, which are Greenfield sites, because of the significant retail component of the scheme. It is considered that these would be unsustainable locations with poor accessibility, for modes of transport other than a car, and be wholly inconsistent with the objectives of the retail sequential test and the Development Plan. Approaching the flood risk sequential test in this way, is also considered to be consistent with the sustainability objectives of NPPF.

Using the criteria above, Officers consider that there are three other possible alternative sites. The Officer level assessment of these two alternatives sites is:

Wentworth Street Car Park

Wentworth Street car park is owned by Ryedale District Council. It is understood to not be available, as it is proposed to be developed for a Public Sector Hub and town centre car park.

ATS

The ATS site is located in flood zones 1, 2 and 3. Technically this site could be regarded as sequentially preferable in flood risk terms as part of it is at a lower risk of flooding. However, the site is smaller than the application site (0.4 hectares compared with 0.52 hectares) and it has a narrow frontage that would make accessibility very difficult for larger vehicles. Pedestrian safety is also likely to be a factor for those using Commercial Street. Furthermore the site is located within the Norton Conservation Area and in close proximity to listed buildings. The restricted frontage and lack of opportunity for commercial advertising are also considered to make the site unsuitable for the proposed development. This site also has an extant planning permission for residential development and there is no information that the site is available for the proposed development. This site is not considered to be suitable or available for the development proposed.

LMS

This site is located in flood zone 1, representing the lowest possible risk of flooding. This site is considered to be sequentially preferable to the application site in terms of flood risk.

The LMS at 0.9 hectares can accommodate the proposed development. It is noted that the extant scheme included changes to the existing road network to allow a larger developable area. Whilst the site is constrained to an extent by being in close proximity to several Grade 2 listed buildings and adjoining the Conservation Area boundary, Officers do not see this as a reason why in principle the development could not be located on the LMS. A carefully and sensitive scheme would need to be prepared but this is not considered to be unduly challenging. It is noted that the site is identified for retail uses and non-food uses, however it is considered that site could still accommodate such uses if the proposed development were to be located on the site. The assertions about the AQMA are unproven by the applicant, some vehicles accessing the LMS from the south would need to pass through the AQMA, but the actual effect of this has not been shown to be a significant upon the AQMA.

Summary

In view of the above assessment it has not been demonstrated to the LPA that the LMS is not reasonably available as an alternative location for the proposed development. The LMS is at a much lower risk of flooding than the application site, consequently the development of the application site for the proposed development has not met the sequential test (flood risk).

The application of the retail sequential test

Para. 86 of NPPF advises Local planning authorities of the following:

'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'

In regard to applying the retail sequential test PPG states:

'It is for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission). Wherever possible, the local planning authority should support the applicant in undertaking the sequential test, including sharing any relevant information. The application of the test should be proportionate and appropriate for the given proposal. Where appropriate, the potential suitability of alternative sites should be discussed between the developer and local planning authority at the earliest opportunity.'

The checklist below sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test:

- *with due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.*
- *is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.*
- *if there are no suitable sequentially preferable locations, the sequential test is passed.*

In line with paragraph 90 of the National Planning Policy Framework, where a proposal fails to satisfy the sequential test, it should be refused. Compliance with the sequential and impact tests does not guarantee that permission is granted – local planning authorities will have to consider all material considerations in reaching a decision.

How should locational requirements be considered in the sequential test?

Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case, and land ownership does not provide such a justification.

How should viability be promoted?

The sequential test seeks to deliver the government's 'town centre first' policy. However as promoting new development on town centre locations can be more expensive and complicated than building elsewhere local planning authorities need to be realistic and flexible in terms of their expectations.'

To summarise, the scheme proposed relates to an area of approximately 0.52 hectares of land including a Petrol Filling Station, forecourt shop of 495m² GIA on an edge of centre site.

PPG advises it is a proportionate and appropriate approach should be taken when applying the sequential test. In the circumstances it is considered that the search should be limited to the centres and edge of centres of Malton and Norton, using the guidance within PPG.

Whilst disputing its requirement, Rapleys (planning agents for the applicant) submitted a retail Sequential Test that concluded that there was no available and suitable sites on either Malton or Norton that should be developed in preference to this site.

Officers consider that the same three alternatives sites (shown on an attached plan), and analysed above for the flood risk sequential test, should also be used in the consideration of this retail sequential test.

WSCP site

For the reasons outlined above, this edge of centre site is not considered to be available for the proposed development.

ATS

Part of the site (southern side) is located within the Town Centre Commercial Limits. In this respect the site can be regarded as sequentially preferable to the application site, which is located wholly outside the Town Centre Commercial Limits. The same site constraints stated in the above flood risk sequential test are considered to apply, and for reasons relating the size of this site, its configuration, limited frontage, heritage constraints, and highway safety matters, the site is considered to be unsuitable for the proposed development. Furthermore, as stated above the site has an extant planning permission for residential development and there is no information to confirm that the site is available.

LMS

This site is located immediately to the north of Malton's Town Centre Commercial Limits, however the site has an extant planning permission for retail development and a car park. The published Sites Document identifies the site as a commitment for retail development and proposes to include the site within the Town Centre Commercial Limits. The Sites Document is due to be examined in Autumn 2018 and there have been no objections raised to the changes within the Sites Document for the LMS. Against these circumstances it is considered that significant weight can be attached to the emerging Sites Document, to the extent that the LMS can be considered to represent a Town Centre site, and consequently it is sequentially preferable to the application site. Whereas the application site is identified as a commitment in the emerging Sites Document for mixed use development (Use Class A1 and D1). This proposed commitment is reflective of its previous two planning permission on the site for a food store (A1) and a children's nursery (D1); and 3 no. retail units (A1) and a children's nursery (D1). However, those two planning permissions have now lapsed and it is unclear at this point if the commitments on the application site will be taken forward within the examination into the Sites Document.

The LMS at 0.9 hectares can accommodate the proposed development. The above assessment in relation to AQMA issues; potential heritage issues; conformity with its retail use, and the size of the site has confirmed that there are considered to be significant issues at this stage that would suggest that the site was not suitable or capable of accommodating the proposed development.

Whilst BP are the owners of the application site, the guidance in PPG states that such ownership is not necessarily a relevant consideration when applying the retail sequential test.

Summary

On the basis of the above assessment, the LMS is considered to be sequentially preferable to the application site and no compelling information has been submitted that demonstrates that the LMS is not suitable or available as an alternative site for the proposed development.

The siting, design and appearance of the proposed development

Policies SP16 and SP20 of the Local Plan Strategy place great weight upon ensuring a high quality design that respects the character and appearance of the surrounding context.

Following negotiations, the applicants have revised the design and appearance of the forecourt shop building and canopy. The Canopy now features a hipped slate roof, and the forecourt building will have a brick external finish under a slate roof.

Officers were concerned at the appearance of the canopy and asked whether it is essential. The applicants are particularly keen to retain the canopy for protection from the elements. Officers are keen to achieve an outcome that enhances the character and appearance of the site. Accepting the need to have a canopy, it is considered the slate hipped roof design approach is considered to be acceptable. Furthermore the amendments to the forecourt shop building are considered to represent a significant improvement to the original submission, such as the pitched roof and materials proposed. It is considered that Officers have secured an acceptable design solution that respects the surrounding context of development, including views into and out of the Conservation Area. The exact finishes, including ground surfacing materials would be the subject of detailed conditions.

The illumination of the site is considered to be necessary for safety reasons, when there is reduced or no day lighting. There is a plan showing the amount of illumination and any indirect light spillage. It is considered that the locations proposed are broadly acceptable and subject to the condition mentioned below, there will be no unacceptable illumination or light trespass into the surrounding area or to surrounding occupiers.

The impact upon the setting and views into and out of the Norton Conservation Area;

The southern extent of the Norton Conservation Area boundary is located along the northern boundary of the site, and part way along the eastern boundary. There will therefore be views into the application site from within the Conservation Area. That said, the majority of these views would be from rear private gardens, with limited views from Welham Road. The proposed development has been advertised as Development affecting the setting of a Conservation Area.

S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Policy SP12 of the Local Plan Strategy also seek to prevent new development that would result in harm to the significance of heritage assets.

The site is cleared and includes security fencing around its outer perimeter. The scheme has been re-designed following discussions with Officers. The Conservation Specialist has confirmed no objection to the proposed development in view of the existing mix of buildings type, uses, and forms and the presence of the car sales garage. The Conservation Specialist had however expressed preference for the canopy to be deleted from the scheme. Those comments were made before the design revisions to the scheme including the pitched slate roof to the canopy. Following re-consultation no further views have been received. In view of the above, it is considered that the proposed development will not result in harm to the heritage assets (which can be considered as a neutral effect to the existing situation), and the character and appearance of the Conservation Area will be preserved.

Highway safety and the impact upon the surrounding highway network;

The application proposes to use an access directly onto Welham Road. A new right-hand turn lane is proposed for vehicles approaching the site from the south, together with a new pedestrian crossing across Welham Road also to the south. The main road network between Norton and Malton is located to the north of the site, and includes a railway crossing and a bridge (Country Bridge) over the River Derwent. The main route between the twin towns is via Castlegate to a crossroads, known as 'Butcher

Corner', which forms an interchange between Castlegate, Wheelgate, Yorkersgate and Old Malton Gate. This junction together with the four roads leading to and from it are within a designated Air Quality Management Area. The area is typified by tall street frontage buildings with relatively narrow road ways thereby restricting the dispersal of petrol and diesel emissions.

The immediate locality contains the York- Scarborough Railway line, which has currently has one train in either direction an hour. It is also noted that there are intended to be 2 trains in each direction shortly, meaning the barriers will in operation possibly twice as long as currently, in each hour. This has the potential to add to congested movements in the locality. St Nicholas Street runs parallel to the northern boundary, and opposite the site is a Lidl Store. There has recently been a junction priority change, with Welham Road becoming the main thoroughfare from County Bridge to the south. Previously the junction priority meant that traffic would be sent along Church Street in an easterly direction with a junction onto Welham Road. This has resulted in an increase of vehicles using St Nicholas in preference to the right turn from Church Street.

Many of the objections raised included reference to highway safety and increased vehicles movements in what this existing busy area. The Highway Authority considered that the application as originally submitted did not contain sufficient information to assess the impact of the proposed development upon the local highway network, in particular they sought the following information:

- Details of trip generation based on trips from similar stores instead of TRICS data
- Junction movement information, to support the applicant's assertion that only 10% of the trips to the site would be new, and the other 90% would be passing traffic or traffic with a short deviation.
- That a high end store could be a destination in its own right for traffic.

These views are shared by Officers who also consider that an M&S branded shop has the ability to become a destination in its own right. The applicants submitted further information in support of their proposal, however, this did not address the concerns of the Highway Authority. A second Trip Generation Report was submitted. The views of the local Highway Authority on this information is contained below:

'As you are aware, the applicant has submitted a second revised Trip Generation Note dated 7 June 2018, following my concerns raised in my letter dated 18 May 2018. This Note has assessed the traffic generation in two parts as described in the report, and applying those figures to the baseline existing traffic figures obtained by the turning count survey undertaken by the applicant on 20 February 2018.

The local highway authority (NYCC) has also obtained traffic volume data in the locality during January 2018 and, whilst it does not include all turning traffic movements, it provides a useful comparison of traffic volumes using the roads close to the site and the ability to scrutinise the figures provided in respect of through traffic flows and therefore confirm or otherwise, their acceptability to incorporate in the report to determine the impact of new/diverted/pass-by trips formulated in Section 3 of the earlier Note dated 16 March 2018, and shown in Figures 3 to 8 of the current Note.

In both respects, only data recorded during the peak a.m. & p.m. traffic periods has been directly compared with. The applicants' traffic turning count survey was undertaken on a weekday, and therefore the NYCC data has been similarly assessed on that basis, given that it was collected over 7 days. The variation in traffic volume figures provided by both surveys averages within the range of 8 to 9.5%, with (for example) the traffic flows recorded travelling along Welham Road being under 3%.

Given the 7 day collection period, the NYCC results are able to indicate the daily fluctuation in traffic flows over different days of the week. The data for Saturdays and Sundays tend to show slightly lower overall traffic volumes than within the working week, and consequently it is considered that the applicants' own data is not un-representative of the typical existing traffic through flows and

consequent turning movements, and can therefore be considered acceptable to use as the baseline figures that then shows the additional impact of the new/diverted/by-pass vehicle trips in total as given in the current Note at Figures 7 & 8.

Section 4.3 of the Note details the change in traffic flows as a consequence of applying the additional trips. The highway authority notes that information and in respect of Welham Road the re-distributed trips represent the highest increase, with totals of 27 (new and re-distributed) vehicle trips towards St. Nicholas Street / Church Street junctions in the AM peak hour and 47 (new and re-distributed) vehicle trips in the PM peak hour. These need to be considered against the daily peak-hour fluctuations of traffic volumes on Welham Road in the same area and same direction as picked up in the NYCC survey data, which are 88 vehicle trips in the AM peak hour and 128 vehicle trips in the PM peak hour. As the new and re-distributed vehicle trips are well within these figures it is not considered that the traffic impact provides a defensible reason for refusal on the grounds that the impact is severe as stipulated in Paragraph 32 of the National Planning Performance Framework (NPPF).

With respect to the off-site highway works proposed, I would recommend that an alternative position is sought for the pedestrian island crossing point as indicated on the latest Site Layout Plan, as it would potentially block delivery vehicle access to the terraced properties opposite the site, and the alleyways through the buildings. An alternative pedestrian crossing point position further south should be agreed with the local highway authority in consultation with the local planning authority and a condition has been included as a recommendation as follows.'

Based on this detailed assessment of the impact upon the local highway network and pedestrian facilities there are considered to be no defensible reasons for refusal on highway grounds. The impact of the scheme upon existing junctions and the congestion issues relating to the wider movement of vehicles between the twin towns have been considered by the local highway authority as part of their assessment on this application.

After receiving the Highway Authority's recommendation, the applicants have amended their layout plan to include existing civil rights of access to the properties along the northern boundary. This plan has been sent to the Highway Authority to ensure these changes are acceptable in terms of highway safety. A condition to control the management of these areas was proposed by the applicant and accepted by the local Highway Authority, and should be imposed on any decision if approval is granted.

Amenity impacts for surrounding occupiers:

Along the north-eastern boundary are mainly terraced dwellings, with a detached dwelling (The Old Pottery) to the rear of the site (south-eastern side). There are also residential properties located on the opposite side of Welham Road, with residential development on the western side, some of which are separated by Spring Field Garth roadway. No 1 Spring Field Garth is located to the south of the site and is separated from the application site by land within the blue line. A community based office is located in front of part of its western frontage. KM Barker garage is adjoins the site to the north eastern side also having a frontage onto Welham Road.

Residential dwellings are considered to be the key sensitive receptors to the impacts of the proposed development. The impact can be from potential noise and disturbance, from the operation of the filling station, movements to and from the forecourt shop, including deliveries and the operation of the ATM. There could also be unacceptable light pollution by the illumination of the site. A filling station has the potential to create noise and disturbance through waiting vehicles, engines starting, and car doors opening and closing noise from customers etc. The ATM can also attract vehicle movements, although it is not envisaged the noise from its operation would cause any significant impacts.

Policy SP20 of the Local Plan Strategy states:

'New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue

of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence.

Developers will be expected to apply the highest standards outlined in the World Health Organisation, British Standards and wider international and national standards relating to noise.

New development proposals which will result in an unacceptable risk to human life, health and safety or unacceptable risk to property will be resisted. Developers will be expected to address the risks/potential risks posed by contamination and/or unstable land in accordance with recognised national and international standards and guidance.

All sensitive receptors will be protected from land and other contamination. Developers will be expected to assess the risks/ potential risks posed by contamination in accordance with recognised national and international standards and guidance'

A Noise Assessment has been undertaken and submitted with the application to take account of the potential noise and disturbance from the proposed development and how this can affect the amenities of the surrounding occupiers. Members may also wish to note that planning permission has already been granted for 3no retail units on this site in 2013, and also for a food store earlier in 2013. The impacts from the operation of those uses was not considered to have a material adverse effect upon the amenities of surrounding occupiers subject to the imposition of appropriate conditions.

Many of the objections received have raised concerns regarding the potential impact from the proposed development upon the amenities of surrounding occupiers.

The Environmental Health Specialists, after initially raising concerns regarding the proposal, have confirmed that they have no objection to the operation of the proposed development, subject to conditions. These condition are:

- Opening hours of the filling station and forecourt and ATM's limited to only between 06:00hrs – 22:00hrs
- Deliveries to the site limited to only between 07:00hrs – 20:00hrs
- Lighting design and specification should be agreed with the Local Authority. This should include linking lighting levels with opening hours and delivery times so as to ensure the health safety and welfare of people at work and to protect the amenity of nearby residents.

In view of the above response from the Environmental Health Specialists (and subject to the conditions recommended) there are considered to be no sustainable objections to the proposal in terms of potential residential amenity impacts.

The impact of the proposal upon ground waters and potential contamination

A Land Contamination Report has been submitted and considered by the Council' Environmental Specialist. Given the end use proposed and the hard landscaping there is no objection to the proposed development.

An incoming document from the agent describes the specification of the tanks, and the sophisticated leak detection systems, together with the double lined tank. The 3 no. pumps are to be served by 2 no. 80,000 storage tanks (holding unleaded, diesel, ultimate unleaded and ultimate diesel). The tanks are to be double walled steel tanks with an anti-corrosive coating. They are to have active pressure monitoring systems to detect a leak from the tanks themselves or from surface water penetration into the tanks.

The application site is located within a Secondary A Aquifer consisting of Alluvian Drift. The site is not within a Source Protection Zone or a Drinking Water Protection Area. Technical mitigation has been proposed to mitigate its potential risk to groundwater. The Environment Agency has been consulted and considered the risk of the proposed development to ground water and has raised no objection. The EA has recommended an informative to advise the developer of several sources of information to help mitigate any risks. It is considered that this mechanism of control falls outside of the planning system.

Drainage

Both foul and surface water is proposed to be drained to the mains. The surface water system is proposed to be attenuated on site with allowance for climate change and discharge at a rate of 1 litre a second in to the mains sewer. Petrol/diesel interceptors are required for the surface water drain to prevent discharge into the public sewers. The LLFA has considered the revised details and is content subject to conditions that such a scheme can work. Satisfactorily one of the LLFA's comments is to ensure the FFL are 300mm above the 1 in 100 year storm event plus 40% climate change. This was calculated to be 19.15 AOD. This is 0.1m above the level shown on the proposed plans. If this application is considered favourably, this minor change could be controlled through condition. The LLFA has also questioned whether sufficient underground storage will be available based on the applicant's calculations in the event of a storm event. Again, the detailed design of the surface water drainage scheme could be addressed through condition, as it appears the broad drainage strategy is workable. The LLFA also suggest a condition in respect of exceedance flows.

NYCC'S Emergency Planning team has been consulted after recommendations from the Environment Agency and the LLFA, they have confirmed that they no objection to the proposal, subject to (which can be included as informatives should permission be granted):

- That BP 'sign up' to receive EA Flood warnings and have procedures in place to know what to do when one is received.
- That measures should be in place to close the filling station if there is an imminent risk of flooding.

Yorkshire Water has no objection to the proposed development subject to two conditions. One of these conditions requires the use of interceptors, as mentioned above for areas near to the pumps and areas used for washing vehicles. A condition is also recommended to ensure that there is no piped discharge of surface water from the site until the surface water drainage system has been installed.

In view of this, it is considered that the site can be satisfactorily drained subject to appropriate conditions.

Biodiversity and ecological impacts

The Countryside Specialist has been consulted regarding the potential impacts upon protected species and local ecological impacts. The Countryside Specialist has stated:

'I have no concerns regarding the impact of this development providing the system minimise spills and separate and process the runoff from the drainage system is instituted to ensure that no pollutant finds its way into the nearby watercourse and thereby the River Derwent SAC.'

Surface water is proposed to be drained into the combined mains, via interceptors. If approval were to be granted conditions could be imposed to control the above points mentioned by the Countryside Specialist. Hence, no adverse effects from the discharge of surface water is envisaged upon nearby protected sites of ecological importance or protected species.

The impact of the proposed development upon the Air Quality Management Area

At the request of the Environmental Health Officer, an Air Quality Impact Assessment has been undertaken to assess the impact of the proposed development upon the Air Quality Management Area (AQMA).

The Council's EHO has stated:

'The predictive modelling contained within the comprehensive Air Quality Assessment submitted by Wardell-Armstrong dated March 2018 shows that the proposed development would have negligible impact on Nitrogen dioxide levels in and around the Malton's Air Quality Management Area (AQMA). Based on this information I consider the effects on Nitrogen dioxide concentrations not to be significant I would however advocate the provision of two Electric Vehicle Charging Points within the 40 bay car park to promote the use of low emission vehicles and to promote sustainable transport.'

In view of the above assessment, there is considered to be no objections to the proposal in terms of its impact upon the AQMA, subject to conditions requiring two electric charging points on the proposed development.

Archaeology

Policy SP12 requires the Local Planning Authority to assess the impact of development heritage assets. The site is located within an area of known archaeological importance. The County Archaeologist initially requested a condition known as a 'watching brief' for the site, to agree a written scheme of investigation once site works commence. The applicant subsequently submitted details of trial trenching at the site, and the County Archaeologist has stated:

'The developer has provided a report on the excavation of three additional archaeological trial trenches along the frontage of the site. This has provided some useful information on the former course of the Mill Beck and an interesting sample of local pottery and bottles from a rubbish tip.

However I agree with the conclusion of the report that no further archaeological work is necessary based on these results (and previous mitigation to the rear of the site).'

Consequently there is no identified harm to any heritage assets and there are no objection raised in regard to archaeology. The requirements of Policy SP12 of the Local Plan Strategy are considered to be met in this regard.

Designing out crime

NPPF (paragraph 95) aims to create developments with a safe and accessible environment where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In addition Section 17 of the Crime & Disorder Act 1998 requires all Local Authorities to exercise their functions with due regard to reducing crime and disorder.

North Yorkshire Police's Designing Out Crime Officer (DOCO) has been consulted and considered the risks of crime from the proposed scheme. The DOCO has no objections to the scheme but has made recommendations about:

- Consideration of CCTV installations in accordance with the relevant regulatory requirements;
- Intruder alarm system;
- ATM security systems; and,
- Provision of secure cycle storage areas for staff and employees.

Subject to conditions to cover the above aspects, it is considered that the planning policy and legislature requirements have been met.

Other issues.

Norton Town Council recommend the application be refused due to the proposed development being in close proximity to residential development that could be adversely affected by noise and disturbance, particularly early on a morning and late at night; its location in the flood plain and possible leakage or seepage into the local environment; suggest a peripheral location for a Petrol Filling Station; and they suggest they would object to any road layout changes on Welham Road to accommodate the proposed development. Malton Town Council has also objected for similar reasons, these being; the close proximity of the application site to residential development; early morning and late evening noise and disturbance; suggest an edge of centre location is the preferred site; and they would not want to see a change to parking on Welham Road that would result in a loss of car parking. These issues have all been appraised in detail above.

There have been four letters of support received and 35 responses raising objection/concerns. All these responses can be view online under the application reference number. The support for the application mainly relates to the benefits of developing this site and improving its appearance.

The areas of objection/concerns include;

- Traffic and highway implications including congestion;
- Potential noise and disturbance and the impact upon surrounding occupiers;
- Anti-social behaviour;
- Flood risk implications with diesel and petrol in the floods in 2000;
- Need for an additional filling station;
- Civil rights of access;
- Views into and out of the conservation area;
- Reduced size of the area means it is not 'Major' development (less than 1 hectare);
- Air Quality implications;
- Contamination;
- Pile foundations;
- Contention that the forecourt shop is indeed a significant convenience store;
- That the LMS site is sequentially preferable in flood risk and retail sequential tests; and
- That the description should comprise a mixed use development and not a forecourt shop.

The majority of these issues have been addressed in detail in the appraisal above. The civil rights of access to adjoining properties falls outside the consideration of this planning application. In the event that this application is approved, no such approval would alter such civil rights relating to access. This is a matter between the respective landowners. The agents have amended the drawings (as mentioned above) to accommodate the existing rights of access, these amendments have been forwarded to the Highway Authority who are content with these changes in highway safety terms.

The LPA has a duty to process applications that are submitted to it in accordance with legislative processes and consider them against national and local planning policies, together with other relevant material planning considerations. The application is to be determined by Planning Committee and the LLFA have been consulted on this submission. Whether the application is regarded as a 'Major' application is not considered relevant.

Regarding construction disturbance, if planning permission is granted a condition could be imposed regarding a Construction Management Plan to ensure surrounding residential amenities are protected. The concerns regarding the seepage of fuels, and any additional risk of such during a flood, along with potential contamination to ground waters are noted. The applicant has provided their technical solutions to this issue in their submission (outlined above). The Environment Agency has no objection on these grounds and separate regulatory controls will address these aspects. There are considered to be no sustainable planning objections in this respect.

The objection regarding the description of the proposed development being amended to include a mixed use development referring to the shop use was passed to the applicants. They did not wish to change the description their application and considered that as described it reflects what they are proposing. It is considered that the suggested change is somewhat academic, as the above assessment has considered the scheme in detail and acknowledges that the shop use can be a significant use and a destination in its own right.

The proposed development would not be chargeable to CIL. This is because the retailing element is below 500m2.

Summary:

In the absence of information for the LPA to conclude that the flood risk sequential test has been met, together with the inadequate information submitted regarding the retail sequential test, the recommendation is that the application is refused planning permission.

RECOMMENDATION: Refusal

- 1 It has not been demonstrated through the submission of sufficient evidence that the Malton Livestock Site (Horsemarket Road, Malton) which is at a much lower risk of flooding (Flood Zone 1) and sequentially preferable in flood risk terms to the application site (Flood Zone 3 (a)) is not a suitable and appropriate site to accommodate the proposed development. Consequently the flood risk sequential test required by paragraph 158 of the National Planning Policy Framework 2012 and Policy SP17 of the Local Plan Strategy has not been met in respect of the application site. The approval of this application would result in a development being located in an area at a higher risk of flooding than is necessary. The proposed development is therefore contrary to the requirements of Policy SP17 of the Local Plan Strategy and contrary to paragraphs 155 and 158 of NPPF.

- 2 It has not been demonstrated through the submission of sufficient evidence that the retail sequential test has been met. The Malton Livestock Market (Horsemarket Road, Malton) is considered to be sequentially preferable to the application site in terms of it being regarded as a Town Centre site in the Published Sites Document 2018. No compelling arguments have been made as to demonstrate why the Malton Livestock Site is not suitable or available for the development proposed. Consequently the proposed development is contrary to the requirements of paragraph 86 of the National Planning Policy Framework 2012.

Item Number: 7
Application No: 17/00685/MFUL
Parish: Weaverthorpe Parish Council
Appn. Type: Full Application Major
Applicant: Vellco Tyre Control
Proposal: Erection of 2no. industrial units (Use Class B8) for tyre storage together with formation of a landscaped buffer to the northern, eastern and southern boundaries, additional parking spaces and cycle parking.
Location: Vellco Industrial Park Ropery Lane Weaverthorpe Malton North Yorkshire
Registration Date: 6 June 2017
8/13 Wk Expiry Date: 5 September 2017
Overall Expiry Date: 6 August 2018
Case Officer: Alan Hunter **Ext:** Ext 276

CONSULTATIONS:

Parish Council	Object
Environmental Health Officer	No objection recommend conditions
Highways North Yorkshire	Recommend conditions
Lead Local Flood Authority	Recommend conditions
North Yorkshire Fire & Rescue Service	No objection
Countryside Officer	Comments
Archaeology Section	No objection
Sustainable Places Team (Environment-Agency Yorkshire Area)	Recommendations
Neighbouring Parish Council	Concerns
Building Conservation Officer	Objection

Neighbour responses: Jacqueline Taylor, Tracy Chapman, Penny & Jeff House, Maria Fusco & Andy Brown, Miss Kirsty Steele & Mr James Bedson, Trevor & Susan Thompson, Dr Peter Wilson, Jeff & Penny House, Ted & Silvia Johnson, Mrs Rebecca Sails, Cheryl Wilson, Stephen Milner, Tracy Chapman, Phillip Woodall & Sarah Thorsby, Mrs Rachel Fletcher, Mr Adam Davies, Maureen & John Lake, Trevor & Sue Thomson, Mr David Raine, Mrs Vicki Rowland, P Potter, Ms Patricia Lake, Andy & Julie Thompson, Stuart & Lora Lane, Jacki Hildreth, Karyn Harper, Sally Hudson,

SITE:

The application site comprises 3.4 hectares of land to the south of Main Street Weaverthorpe, which is accessed from Ropery Lane via a bridge over the Gypsy Race. The site comprises an existing tyre storage and distribution business, Vellco Tyres. The existing business and hardstanding areas comprise an area of approximately 1.7 hectares, with vacant land of approximately a similar size (1.7hectares) to the eastern side which is proposed to form the expansion area for the business which is central to this application. The site at present is derelict and partly cleared, and contains a group of mature planting in its centre.

The application site measures 217 metres by 170 metres at its greatest, with the area of proposed expansion approximately measuring 100 metres by 170 metres. A significant part of the application site is within the village's development limit, which mainly comprises the existing buildings and hardstanding areas. A small part of the proposed expansion area to the south of Rarey Farm (Main

Street) is also within the Village development limit. The area is washed over by the Yorkshire Wolds Area of High Landscape Value designation. The current buildings and operations (confined to the area already developed) is a designated industrial/business area. However, the majority of the site for the proposed expansion on this application is not designated for industrial/business use, as such it is located within the open countryside.

Weaverthorpe is a Wolds village characterised by its linear form and the Gypsy Race running to the southern side of it's main road through the village (in an east- west direction). As a result of its close proximity to the Gypsy Race, a large part of the application site is located within flood zone 3.

Rarey Farm which adjoins the site to the northern side is a Grade 2 listed Building. Beyond the site the other listed buildings in Weaverthorpe are; Church of St Andrews – Grade 1 listed, which is located on rising land immediately to the north of the village along with an effigy at the same Church which is a designated Grade 2 listed structure.

PROPOSAL:

Planning permission is sought for the erection of 2no. Industrial units (Use Class B8) for tyre storage together with the formation of a landscaped buffer to the northern, eastern and southern boundaries, additional parking spaces and cycle parking.

The proposed development features a rectangular shaped building immediately to the east of the existing buildings and a 'U' shaped building along the northern western and southern boundaries.

The 'U' shaped building will have width of 20.5 metres and measure 77 metres along the northern boundary, 80 metres along the southern boundary and extend 130 metres along the eastern boundary. It will measure 4.8 metres to the eaves height and 7.1 metres to the mono pitched roof height.

The rectangular shaped building will have a footprint of 40 metres by 49 metres and a maximum height of 8.9 metres.

The buildings are proposed to be constructed of profiled metal cladding.

The following information has been submitted in support of the application and can be viewed online:

- Design and Access Statement
- Ecology Assessment
- Archaeological Assessment
- Tree Survey
- Flood Risk Assessment
- Noise Assessment
- Transport Assessment
- Heritage Statement
- Planning Statement

HISTORY:

Relevant planning history for the application site includes:

2015 – Planning permission granted for alterations to existing vehicular access, demolition of existing dwelling and erection of 3 No. four bedroom dwellings, 2 No. three bedroom dwellings and 3 No. two bedroom dwellings, to include a replacement dwelling and associated garages, parking spaces and amenity areas together with use of land to the south as a paddock area (land South of Rarey Farm).

2011: Planning permission granted for the erection of a building to provide weighbridge office and drivers restroom to replace existing building.

1995: Planning permission granted for the erection of entrance lobby together with external and internal

alterations to form offices.

1995: Erection of a replacement office entrance lobby, reception, waiting area and kitchen.

1994 – Listed Building Consent refused for demolition of farmhouse stables to facilitate the erection of 17 dwellings. Refused 11.5.95. Appeal Dismissed 17.1.96 (Rarey Farm)

1994 – Planning permission refused for demolition of farmhouse stables and erection of 17 dwellings together with associated access and roadworks. Refused 19.05.95. Appeal Dismissed 17.1.96 (Rarey Farm)

1993: Planning permission granted for the change of use of part of stores/packing building to house enamelling plant.

1991 – Planning permission refused for the erection of a bungalow with integral garage at land adjoining Rarey Farm Main Road Weaverthorpe

1990 – Outline planning permission approved for the erection of 7 dwellings and garages and construction of access road at land adjoining Rarey Farm Main Road Weaverthorpe

1990 – Planning permission granted for the erection of two new dwellings garages and change of use and alteration of barns to form two dwellings and barns adjoining Rarey Farm Main Road Weaverthorpe

1986: Planning permission granted for the erection of portakabin office accommodation.

1978: Planning permission granted for the construction of an extension to existing warehouse.

POLICY:

Section 38(6) of the Planning & Compulsory Purchase Act 2004 states that application should be considered against the adopted Development Plan unless there are other material planning considerations that indicate otherwise.

The relevant policies within the Development Plan in regard to this application are considered to be:

Policy SP1 – General Location of Development and Settlement Hierarchy

Policy SP6 – Delivery and Distribution of Employment Land & Premises

Policy SP9 – The Land-based and Rural Economy

Policy SP12 - Heritage

Policy SP13 - Landscapes

Policy SP14 - Biodiversity

Policy SP16 - Design

Policy SP17 – Managing Air Quality, Land and Water Resources

Policy SP19 – Presumption in favour of Sustainable Development

Policy SP20 – Generic Development Management Issues

Policy SP22 – Planning Obligations, Developer Contributions and the Community Infrastructure Levy

The ‘saved development limits’ of the Ryedale Local Plan 2002.

In addition, the proposed development should also be considered against the following national policy:

National Planning Policy Framework (NPPF) 2018 (Revised)

National Planning Policy Practice (NPPG) 2014

APPRAISAL:

The main considerations in relation to this application are:

- The principle of expanding the existing business onto this application site;
- The siting, scale and design of the proposed extensions;
- Whether the proposed development will have an adverse effect upon the amenity of the occupiers of surrounding properties;
- The impact of the proposed development upon the local road network and highway safety matters;
- The impact of the proposed development upon the surrounding area;
- The impact of the proposal upon the setting of nearby heritage assets;
- Flood risk and Drainage;
- Archaeology;
- Ecology, biodiversity, trees and landscaping;
- Developer contributions; and,
- Other issues.

The application was originally validated in June 2017. There has been significant Officer concerns with the proposal, together with objections from Environmental Health Specialists and the Highway Authority. There have been two revisions to this scheme, which have all been the subject of re-consultation with interested parties that has taken place. The applicants were invited to withdraw their application and re-submit an amended scheme, however they chose to continue with this proposal and request extensions of time. Officers have continued to try and engage with the applicant to establish if there is a possible solution to all areas of concerns/objections.

The application is a ‘Major’ application and in that respect has to be determined by Planning Committee. The proposal seeks significant expansion to a tyre storage and distribution business, Vellco Tyres.

The principle of expanding the existing business onto this application site

In addition to this site, the applicants (Vellco Tyres) have sites nearby at Hunmanby, Burton Fleming and Wold Newton. It is understood that the other sites are used for storing tyres. This results in additional movements to the Weaverthorpe site as the main operating base for deliveries and distribution. The applicants would like to consolidate their operations on this site, which they state will reduce the amount of movements to the other sites at present and make their current operation more efficient. The proposed extensions are significant at approximately 6,800m², not least because of their location in this non-service village location. It is also understood that this application has been prompted by Regulations administered by the Environment Agency regarding tyre storage.

At present, Vellco’s Weaverthorpe site considered by the applicants to be inefficient due to its layout that does not provide sufficient and appropriate storage space for the tyres or a one-way system for vehicle flow. The additional storage buildings will allow for the tyres to be stored in a more efficient manner and easily viewed and managed whilst also allowing for safer vehicle movements around the site following the introduction of a one-way system. It is understood that the inefficiencies of the current Weaverthorpe site are putting a strain on the business as it is not possible to appropriately store, manage, and redistribute the tyres therefore additional on-site work is required to constantly keep moving the tyres around in order to gain access to those tyres that are needed on any particular day. This generates additional work including increased management and forklift truck movements and is therefore done at an increased cost to the business. The applicants main reasons for seeking planning permission for the proposed development are:

- The proposed development would improve the efficiency and scale of operations of the tyre facility, supporting the growth of a local business and providing further employment opportunities for the local area and increases in business rates.
- The highway and access arrangements are improved following the introduction of a new one way system that will remove the current need for vehicles to reverse around the site and sometimes on to Ropery Lane. This not only improves safety on Ropery Lane but reduces noise.
- The noise assessment and tests confirm that noise at the residential properties will actually reduce following the construction of the buildings as they provide a stronger buffer than is currently at the existing site.

- Significant new planting is added to the site to provide visual, ecological and arboricultural benefits.
- The new conditions will be applied to the whole site and therefore allow for a reduction across all operations. Vellco do not presently have any planning restrictions in that regard.
- The proposals also improve the parking provision at the site to the benefit of safety and to reduce the potential for on-street parking.
- The proposals will improve fire safety at the site.
- Air quality may be improved as the reversing manoeuvres that currently take place at the site will be largely removed for more efficient vehicular circulation.
- The extension land has long since been an unkempt piece of land and this will allow for better management of the site with a reduction in fly tipping.

NPPF (2018) recognises the importance of economic development. Paragraph 80 states:

‘Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.’

Paragraph 83 states:

‘Planning policies and decisions should enable:

- a) *the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;’*

In determining such proposals paragraph 84 states:

‘Planning 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, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.’

The above recent statement of national policy demonstrates strong support for the expansion of existing businesses in village locations and acknowledges the important re-use of previously developed land in or adjacent to existing settlements for such purposes. National Policy also recognises the importance of highways safety. It specifically encourages the use of land that is physically well-related to existing settlements.

Policy SP6 of the Local Plan Strategy recognises that within the open countryside there is a need for expansion land for existing/major employers/established business. Policy SP6 also states that new employment uses for Use Class B8 on non-allocated sites will be supported providing the use is an appropriate scale to its surroundings; suitable access and highway arrangements can be made; and the proposal satisfies Policies SP12, SP17 and SP18 of the LPS.

The site proposed for expansion is mainly within the open countryside (designated as an Area of Landscape Value). Planning permission has previously been granted on part of the site for residential development. There are residential dwellings along the northern and eastern boundaries of the site. Given the significant support for expansions of existing businesses in both national and local planning policy on such sites, there is considered to be no objection to the proposal in principle, subject to the relevant development management issues associated with this application being satisfactorily addressed.

The siting, scale and design of the proposed extensions

The proposed new buildings are sited adjacent to the existing buildings at the Vellco site. Officers have tried to ensure a tighter group of buildings and requested that the applicant reduce the footprint of the buildings as much as possible. Due the requirements relating to movements around the site and between existing buildings, the proposed layout represent the optimum solution for the applicants.

The design of the buildings includes shallow dual and mono pitched roofs and reflects the utilitarian nature of the buildings. The cladding proposed is similar to that used on other modern agricultural buildings in the District, and the exact finishes would be the subject of a planning condition.

There will be views of the proposal through gaps in-between existing buildings on Rarey Drive and Main Road, however, these will be of only part of the proposed building and will be mitigated to some extent by proposed planting.

The scale of the proposed buildings is large, and the cumulative size of the buildings on the site is considerable. The site is not identified for industrial/business growth, and it represents a significant addition to the village. Weaverthorpe comprises mainly street frontage development with the exception of a few cul-de-sacs to the south of Main Road. The form of the village is generally linear. The development of the Vellco site into this area will elongate this industrial use. However, given that the site is surrounded on three sides by existing development, and the limited view points of the entire site as a whole, it is considered to be difficult or raise objections to the scale of the proposed development.

Whether the proposed development will have an adverse effect upon the amenity of the occupiers of surrounding properties

The proposed use relates to two large buildings for Use Class B8 (storage). In particular, this proposal relates to the storage of tyres. The storage use on its own does not generate noise, it is the movements to and from the proposed buildings, operation of plant and machinery, and wider movements at the site that creates the possibility of noise and disturbance to surrounding properties.

A Noise Assessment has been submitted with the application, along with updated noise statements following requests from Environmental Health Specialists.

In this case there are sensitive receptors along the western, northern and eastern boundary. This include mainly residential dwellings and a glamping site (western side). The Highway Authority (comments below) has stated that the scheme would generate a 100% increase in HGV movements to 5.2 per hour. Many of the objections raised include concerns about current and proposed operations at the site. Particularly the impact of HGV's leaving the site in the early hours of a morning, and vehicles being unable to pass on Ropery Lane. Concerns have also been expressed at Vellco's current operations on site. Members will appreciate that the current operations on site have been the result of post war organic development without planning controls on hours of operations or limiting vehicle movements at the site. The red line for the application includes the entire site, therefore it is possible with the agreement of Vellco to impose conditions on both current and proposed operations to try and address the concerns locally and to protect the amenities of the occupiers of surrounding properties. The applicants have stated that they are prepared to accept such conditions in relation to the current operations at the site. In regard to residential amenity, Policy SP20 of the Local Plan Strategy states:

'New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence

Developers will be expected to apply the highest standards outlined in the World Health Organisation, British Standards and wider international and national standards relating to noise'

Officers have managed to negotiate a greater separation between the proposed 'U' shaped building with

a minimum separation distance of 35metres between the building and existing dwellings on both Rarey Drive and properties on Main Road. The buildings are designed with blank walls facing the existing dwellings and the 'U' shape is designed to act as an acoustic barrier itself to protect the amenities of the occupiers of the existing properties. On the outer sides of the 'U' shaped building, a maintenance track and palisade fence is proposed with planting proposed between that the outer perimeter boundary. The planting is to be conditioned, and it is noted that many residents would prefer low level hedge planting instead of substantial tree planting.

The Environment Specialist in his final assessment of this proposal has raised no objections, subject to a condition restricting operations and vehicle movements to between the hours of 7am – 7pm (Monday – Friday) and 8am – 1pm (Saturdays) with no working on Sundays and Bank Holidays. The widened access onto Ropery Lane will also help two HGV's pass each other and alleviate the existing problems. In view of the response of the Environment Specialists there are considered to be no sustainable planning objections to the proposal in respect of noise and disturbance.

Officers also consider that given the concerns raised regarding the current operations, there is an opportunity through this application to consider whether the current operations can be addressed and controlled on this proposal. Officers consider, in addition to the hours of use condition mentioned above (that condition will also prevent HGV movements to or from the site outside the operating times) further conditions should be imposed regarding:

- After completion of the proposed development there shall be no outside storage of tyres,
- A Construction Management Plan;
- A condition to require a management plan for all existing and future operations at the site to be agreed with the LPA. This will allow a plan to be developed about how vehicles arrivals and departures will be managed; outside working; machinery operations. It will also allow any significant changes in operations to be considered and a way of any future complaints about the operations at the site to be addressed.

In view of the above, it is considered that subject to the conditions recommended the proposal is not considered to have a material adverse effect upon the amenities of the surrounding occupiers.

The impact of the proposed development upon the local road network and highway safety matters

The Highway Authority previously objected to the application due to the insufficient width of Ropery Lane to accommodate the proposed development. Consequently the applicants have proposed a significant widening of the access and have shown swept paths of HGV's accessing and leaving the site to demonstrate that these can take place the same time. There has been third party traffic data provided that disputes the data within the Transport Statement. It is important to point out that all the third party responses and information raised regarding highway safety have been made available to the local Highway Authority Officers. Further information has sought from the agents in regard to highway impacts and movements. The Highway Authority has stated that they conclude the proposed development will have 5.2 HGV vehicle movements per hour, which is a 100% increase in the current projections. In regard to the latest consultation, the local Highway Authority has stated:

'It is noted that the revisions take on board the gist of my comments in my earlier consultation dated 17 March 2017. Notwithstanding that there may still be an issue with amenity along the lane allied to the activities at the site and revised access arrangements, the proposal now submitted increases the existing access width at the site and provides carriageway widening over a section of highway verge that is now capable of passing two HGVs either on the highway or at the access as illustrated on the Proposed Site Layout Plan. Whilst the amended position is not totally clear of the existing glamping site entrance, it does give a reasonable separation such that any conflict is unlikely to be significant.'

The Highway Authority are consequently not objecting to the proposed development and recommend conditions in respect of the new vehicle access and verge crossing, that parking remains available at the site, and for a condition survey of the bridge and culvert over the Gypsy Race. In making this assessment, the Highway Authority has acknowledged that the situation on Ropery Lane is not ideal but

they conclude that there are no sustainable planning objections that can be raised from a highway safety perspective. Their assessment has considered the impact and condition of the proposed development upon the wider local highway network from increased usage from the proposed development.

The impact of the proposed development upon the surrounding area

The application site is located mainly within the open countryside, designated as an Area of High Landscape Value, being the Yorkshire Wolds. Policy SP13 of the Local Plan Strategy requires special care to be taken when considering development proposals to ensure the special scenic qualities of the landscape are not compromised. Paragraph 170 of the (2018) NPPF requires development to protect and enhance valued landscapes and recognises the intrinsic character and beauty of the countryside.

The site has development on three sides; existing residential development to the northern and eastern side; and the existing Vellco tyre buildings to the western side. To the southern side there is rising open countryside. The site in broader terms is located at the bottom of a valley with much higher land to the north and south. The rolling hills in this area is a key characteristic of the Yorkshire Wolds. As such the impact of the proposal is considered to be localised with no significant wider landscape impacts.

The approach to Weaverthorpe from the north does not afford clear views of the entire application site, as existing buildings and trees obscure such views. To the south west of the application site, a public footpath leads south onto higher ground. With the substantial landscaping on the field boundary to the east of the footpath, there are no significant public views of the application site from the public footpath. With the Main Road running through the village (east – west) occupying low and relatively level land, the application site is seen in the context of existing buildings, with only glimpsed views between existing buildings.

In view of the above assessment the proposed development is not considered to have an adverse effect upon the special scenic qualities of the surrounding area of High Landscape Value or to conflict with Policy SP13 of the Local Plan Strategy.

The impact of the proposal upon the setting of nearby heritage assets

S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In addition Policy SP12 of the Local Plan Strategy also seeks to protect the significance of heritage assets.

In this case there are three nearby listed heritage assets:

1. The Church of St Andrew – Grade 1 listed
2. Rarey Farm - Grade 2 listed
3. Effigy at the above church – Grade 2 listed

A Heritage Statement has been submitted that considers the impact of the proposed development upon the significance of the heritage assets. The Conservation Specialist has considered the impact of the proposal and objected. The harm upon the heritage assets has been assessed by the Conservation Specialist as ‘less than substantial’. In accordance with Policy SP12 of the Local Plan Strategy and paragraph 196 of NPPF any harm to the setting of heritage assets needs to be considered alongside the public benefits of the scheme. The Conservation Specialist has stated:

‘I would disagree with the submitted Heritage Statement that views between the application site and the church are restricted. In my opinion the view looking south from the Grade I church of St Andrew’s would be affected by the proposed development. The application site is directly across the valley from the front porch of the church and views from the front door of the church line up with the proposed development. In addition, the view of the proposed development would be framed within the Grade II listed footgate arch.

In my opinion the proposed development would exacerbate an atypical and negative form of development in the village and result in a large scale modern and distracting element. The position of the development would affect key views from the church and churchyard and appear alien in this village context. The position of the development close to Rarey Farm, would also affect the setting of that listed building by developing a large industrial building closer to the farmhouse. This is a village farm predominantly surrounded by traditional domestic properties and agricultural functions.

I consider that harm will be caused to the setting of the identified listed buildings. This development proposal is a large scale permanent industrial unit much closer to the farmhouse. The works however will not directly affect the listed building and the setting already includes the existing large scale Vellco units. For these reasons, the degree of harm to the significance of Rarey Farm can be assessed as 'less than substantial'.

I also consider that harm will be caused to the setting of the Grade I listed Church of St. Andrew. In my opinion the degree of harm to the significance of St Andrew's can be assessed as 'less than substantial'. The works will not directly affect the church itself and it is c. 350m distant. In addition, the setting already includes the existing large scale Vellco units. It is however a large and permanent anomalous industrial unit lined up within key views from the church.

It should be noted that recent case law directs that 'less than substantial' harm does not equate to a less than substantial planning objection and that great weight should be given to an assets' conservation. In my opinion this development would not preserve the setting of the listed buildings and harm would be caused. '

The views of the Conservation Specialist have been given careful consideration by the the case officer. In regard to Rarey Farm, it is noted that only part of the proposed northern elevation of the new building would be visible. This is commensurate with the height and materials of a modern farm building, some of which do appear in the locality behind other properties. The view from the Church of St Andrew is noted, and there is viewpoint with the entire site (existing and proposed areas). However, the view is looking down from an elevated viewpoint, and shows the proposal located between existing built forms of development. Whilst its scale is significant, it is considered that the landscape is 'large' with a backdrop of rising land and the meandering valley. It is considered that in the whole landscape, the proposal would not be an over-dominating feature.

In this case, the public benefits of the proposal in addition to those outlined above in the earlier section, can be summarised as:

- Allowing controls to be imposed on an existing operation that has and is generating complaints locally that can be enforced through planning controls.
- The economic benefits of permitting the expansion of an existing business, and its consolidation in Ryedale.
- A widened access to the site that has a significant chance of improving the existing situation in terms of large vehicles accessing and existing the site.

On balance, it is considered that there is sufficient public benefit associated with the scheme to overcome the harm to the setting of the heritage assets. In which case, it is considered the policy and legislative requirements are met in this respect.

Flood risk and Drainage

A large part of the application site is located within Flood Zone 3(a). Paragraph 155 of NPPF states:

'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. '

Paragraph 158 provides guidance on how proposed developments should be considered, it states:

'The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.'

Policy SP17 of the Local Plan Strategy reflects national guidance and also seeks to prevent unnecessary development from being located in such areas.

The proposal represents an extension to an existing business. The Weaverthorpe site is the headquarters of Vellco, and for key operational reasons the applicants state that they need to expand their operations at the site. As this is an expansion to an existing business that is anchored on the site and has been for some years, it is not considered to be reasonable to expect the applicants to consider other sites for the proposal given their existing operational commitments at the site. This is also consistent with the application of sequential test to other extensions to existing sites. In this case, the sequential test is considered to be met due to the proposal representing an extension to the existing site. The storage of tyres is not a sensitive end use and the Environment Agency has raised no objections to the proposal subject to the buildings being built in accordance with the submitted Flood Risk Assessment. A condition in this respect is recommended.

In addition, the Environment Agency has advised that the site has an existing permit for the deposit, storage and treat of waste tyre casing. The Environment Agency previously advised that it is considering conditions to minimise fire risk. No update to this has been provide although the LPA has separately consulted North Yorkshire Fire & Rescue who have stated that they have no objection to the proposed development. The Environmental Permitting regulations are a separate regulatory control to the planning system.

Foul water is proposed to be drained via the mains sewer. Yorkshire Water has no objection in principle to this method of drainage.

Surface water drainage is proposed to be drained via soakaways. The LLFA has requested additional information in relation to percolation tests and surface water drainage details. Upon receipt of this information the LLFA has confirmed that surface water can be drained via infiltration (soakaways). The LLFA has provided a technical response to the proposal, which has recommended conditions to control the exact surface water drainage details.

Archaeology

The application site lies within an area of known archaeological significance. An archaeological evaluation of the site has taken place including trial trenching. The results of the evaluations have found no evidence on the site of any significant archaeology. The County archaeologist has confirmed that there is no objection to the proposed development and no conditions are recommended.

Ecology, biodiversity, trees and landscaping

The application was accompanied by an Ecological Appraisal. The Council's Countryside Specialist has considered the submitted report and initially concluded the following:

'Ecological survey indicates that ash trees in the northern end of the central woodland strip do have potential for bat roost habitat (target note 2) however these trees are to be retained. Much of the rest of the habitat of plantation trees, semi improved grassland, hedge, orchard, scrub and tall herb has been or is due to be removed as part of this development.'

None of the existing habitats recorded are specifically protected but their removal would constitute or net loss of biodiversity in the locality, which is contrary to the local plan policy SP14 biodiversity.

The removal of much of the established plantation against the existing works site would be noticeable from Main Street Weaverthorpe. There are proposals for some landscaping around the perimeter of the site.

I therefore recommend that the following condition... ‘

Following the final revision to the scheme the Countryside Specialist has stated:

‘The loss of the western plantation woodland is significant in landscape terms and will also remove a locally valuable habitat entirely. However this will be offset by the retention and reinforcement of the landscaping strips to the South, North and East. I am satisfied that the inclusion of the following condition in any planning approval would ensure there would be a net gain in suitable habitat in the longer term. The ecological report indicated a group of trees TN2 that has potential bat roosting habitat. It is not clear whether these trees are also to be removed if they are the ecological report did recommend further bat survey to be undertaken and the inclusion of a number of bat boxes to offset the loss of the potential roost Have you any further information on this?’

It appears the second response contradicts the earlier condition recommended. However, in view of the combined responses, and subject to conditions it is considered that there are no objections to the proposal and the requirements of Policy SP14 and the relevant legislative requirements are considered to be met. In making this assessment, the Countryside Specialist is content that the submitted surveys are fit for purpose and do not need to be updated.

Developer contributions

The proposed development is not chargeable to Community Infrastructure Levy.

Other issues

The Parish Council has objected to the proposed development and raised the following issues; arrival of HGV's out of hours; Movement of HGV's out of hours; Tree Survey; Construction Phase; Entrance and existing of the site; hours of operation; and outside storage of tyres;

and the traffic survey. Luttons Parish Council (neighbouring Parish Council) has raised concerns regarding the local highway network and condition of some of the roads.

One resident has written to support the proposal and there have been 27 objections from local residents, including one from the Chairperson of the CPRE. The application has been supported because the proposal is considered to represent a beneficial use, the supporter has also suggested S106 contributions be made towards improvement works to Ropery Lane and the bridge over the Gypsy Race. The support is noted, but given the response of the highway authority there is considered to be no requirement for such S106 contributions. A condition is recommended regarding highway matters including a survey of the bridge and culvert over the Gypsy Race.

The issues mentioned in the objections are:

- Views of the proposed development;
- The proposed landscape buffer to the rear gardens of existing properties and a preference for an easily maintained hedge;
- The impact upon heritage assets;
- The site is not allocated for the proposed use;
- Plan discrepancies between existing and proposed plans;
- Local employment benefits disputed; and current employees disputed;
- Whether tyres are hazardous waste;
- Transport Statement errors;
- Highway safety implication particularly movements along Ropery Lane;
- Tree survey is outdated and suggests a new survey;

- Ecological survey is outdated and again suggests an updated survey;
- That the development is out of scale with the village;
- Residential amenity concerns;
- Landscape impact;
- Impact upon protected species;
- Increased likelihood of flooding;
- Contrary transport movement data submitted;
- The impact of the proposed development upon the nearby glamping site (opposite the access to the site);
- Photographic evidence submitted showing vehicles trying to access the site and waiting vehicles in the highway;
- Hours of operation;
- Property devaluation;
- The content of pre-application discussions;
- The intentions regarding Ropery Lane bungalow;
- Fire safety;
- Increased noise levels;
- The applicant does not contribute to the local community;
- Vibration to properties by vehicles using the highway;
- Vehicle movements;
- The scale of the extensions;
- Suggest a reduction in the size of the buildings;
- Machinery operating on the site;
- Loss of landscaping;
- Lack of communication from Vellco to the village community;
- The condition of the bridge over the Gypsy Race;
- Lack of planting behind properties to the northern side.

The majority of the issues raised have been addressed in the appraisal above. Property devaluation, private views, vibration from traffic using the existing public highway, the applicants alleged lack of contribution to the community; the intentions regarding Ropery bungalow (outside the application site); and the content of pre-application discussions are not considered to be material planning considerations on this application. The conditions recommended by the Countryside Specialist will address the landscaping to be retained, ecological surveys, and additional planting. The Council's Countryside Specialist considered the tree and ecology information to be adequate, and has conditioned any further relevant information.

Tyre storage can be a serious fire risk, Officers have considered Fire safety very carefully. The applicants have left space around the perimeter of the buildings for access for small fire appliances. North Yorkshire Fire & Rescue has been consulted and stated that they have no objections at this stage. They will consider the proposals further at Building Control stage. The Environmental Permit will also consider this aspect more closely.

The information and comments regarding highway safety have all been passed to the Highway Authority for their consideration. The comments regarding employment at the site are noted. Ultimately, providing an expanded employment site in this village has the potential to help local employment opportunities and help consolidate existing employment.

The comments regarding the proposed planting will be addressed through the conditions recommended by the Countryside Specialist.

Conditions are recommended to prevent no outside storage of tyres; to control vehicle movements and operations on both the existing and proposed development; a management plan for operations on the site which can be reviewed and implemented; and a construction management plan. It is considered that these conditions will help alleviate some of the concerns together with providing a greater degree of

control of the current unfettered operations at the site. It is anticipated that this will provide substantial benefits to some of the current problems with the existing site operations.

The glamping site opposite the entrance is noted. The proposal includes a significantly widened access to the application site, with the proposed development being at the other side (eastern side) of the existing Vellco buildings. The additional vehicle movements and operations are not considered to give rise to a material adverse effect upon the glamping operations. It is noted that the glamping site was developed relatively recently and alongside the application site.

Summary

In view of the above, and subject to the conditions recommended this application is recommended for approval.

RECOMMENDATION: Approval

1 The development hereby permitted shall be begun on or before .

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

2 Before the development hereby permitted is commenced, or such longer period as may be agreed in writing with the Local Planning Authority, details and samples of the materials to be used on the exterior of the building the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policy SP20 of the Ryedale Plan, the Local Plan Strategy.

3 Before preparation of any groundworks and foundations on site for the development hereby approved, a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out in accordance with the approved details. These details shall include proposed boundary treatments and planting, proposed finished levels and contours, car park layouts, other vehicle and pedestrian access. The information shall also include indications of all existing trees and hedgerows on the land including those to be retained, together with measures for their protection which shall comply in full with BS5837-2012. Recommendations, in the course of development, together with a scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted as part of the scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants- noting species (which should be native provenance), planting sizes and proposed density.

Reason: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to SP13, 14, 15 and NPPF.

4 The development hereby permitted shall be carried out in accordance with the following approved plan(s):

- 1702 PL 02 B
- 1702 PL 03 L
- 1702 PL 05 C
- 1702 PL 07 D
- 1702 PL06 D
- 1702 PL 09 C

Reason: For the avoidance of doubt and in the interests of proper planning.

- 5 Unless otherwise approved in writing by the Local Planning Authority, 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 existing access shall be improved by widening and the adjacent carriageway to the north along the application site frontage shall be improved by widening in accordance with submitted Drawing no. 1702 PL 03 L and constructed in accordance with the specification of the highway authority and Standard Detail drawing numbers: ACCESS - E7m (with Stone Mastic Asphalt surface/wearing course) & CARRIAGEWAY WIDENING - HAU.1a (construction) & dev.4959/2/spec (channel block design).

Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway. All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

INFORMATIVE

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

Reason: In accordance with Policy SP20 OF THE Local Plan Strategy and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

- 6 Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on Drawing Number 1702 PL 03 L for parking spaces, turning areas and access shall be kept available for their intended purposes at all times.

Reason: In accordance with Policy SP20 of the Local Plan Strategy and to ensure these areas are kept available for their intended use in the interests of highway safety and the general amenity of the development.

- 7 Unless otherwise approved in writing by the Local Planning Authority, there shall be no HCV brought onto the site in association with the development being brought into use until a survey recording the structural condition of the existing highway culvert bridge under Ropery Lane at the junction with Main Street has been carried out in a manner approved in writing by the Local Planning Authority in consultation with the Highway Authority. At the expiration of 24 months of the development being brought into use and within a period of 3 months thereafter a further structural survey shall be undertaken in a similar manner and any identified deterioration of the culvert bridge shall be made good at the applicants' expense in agreement and in accordance with the due process required for working within the public highway to the satisfaction of the local planning authority in consultation with the highway authority.

Reason: In accordance with Policy SP20 of the Local Plan Strategy and in the interests of highway safety and the general amenity of the area.

- 8 Development shall not commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. Principles of sustainable urban drainage shall be employed wherever possible. The works shall be implemented in accordance with the approved phasing. No part or phase of the development shall be brought into use until the drainage works approved for that part or phase has been completed.

Reason: To ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk and to satisfy Policy SP17 of the Local Plan Strategy and NPPF.

- 9 Development shall not commence until a scheme detailing storage volume has been evaluated to accommodate the minimum 1 in 100 year plus climate change (40% or 30% CC plus 10% Urban Creep) critical storm event.

Reason: To mitigate additional flood impact from the development proposals and ensure that flood risk is not increased elsewhere and to satisfy Policy SP17 of the Local Plan Strategy and NPPF.

- 10 No development shall take place until a suitable maintenance of the proposed SuDS drainage scheme arrangement has been demonstrated to the local planning authority. Details with regard to the maintenance and management of the approved scheme to include; drawings showing any surface water assets to be vested with the statutory undertaker/highway authority and subsequently maintained at their expense, and/or any other arrangements to secure the operation of the approved drainage scheme/sustainable urban drainage systems throughout the lifetime of the development.

Reason: To prevent the increased risk of flooding and to ensure the future maintenance of the sustainable drainage system and to satisfy Policy SP17 of the Local Plan Strategy and NPPF.

- 11 No development shall take place until an appropriate Exceedance Flow Plan for the site has been submitted to and approved in writing by the Local Planning Authority. Site design must be such that when SuDS features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site. This is achieved by designing suitable ground exceedance or flood pathways. Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30 year event. The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100 year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site.

Reason: to prevent flooding to properties during extreme flood events and to mitigate against the risk of flooding on and off the site and to satisfy Policy SP17 of the Local Plan Strategy and NPPF.

- 12 No development shall take place until an ecological/landscape restoration scheme addressing tree, bat roost, hedge/woodland habitat protection, replacement and enhancement has been submitted to and approved by the local planning authority.

The replacement/restoration strategy shall include the following:

- Purpose and objectives for the works
- Review of site potential and constraints
- Detailed designs and working methods
- Extent and location of proposed works
- Timetable
- Responsible person

- Details of aftercare and long term maintenance
- Monitoring and remedial measures
- The strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: In order to take full account of protected species, and landscaping and to satisfy Policy SP13, SP14 and SP20 of the Local Plan Strategy.

- 13 The hours of operation at the application site (the entire Vellco Tyres site including existing buildings) shall be restricted to 7am - 7pm inclusive Monday - Friday and 8am - 1pm on Saturdays. The site shall be closed on Sundays, Bank Holidays and outside of these times. This includes no deliveries or HGV movements to or from the site outside of these prescribed times.

Reason: In order to protect the residential amenities of the surrounding occupiers and to satisfy Policy SP20 of the Local Plan Strategy.

- 14 The development shall be undertaken in accordance with the submitted Flood Risk Assessment prepared by BWB.

Reason: To prevent the risks of flooding and to satisfy Policy SP17 of the Local Plan Strategy and NPPF.

- 15 Upon completion of the development hereby approved there shall be no outside storage of tyres at the application site.

Reason: In order to protect the character and appearance of the area and to satisfy Policy SP13 and Policy SP20 of the Local Plan Strategy.

- 16 Prior to any such installation precise details shall be submitted to and approved in writing by the Local Planning Authority regarding any external lighting.

Reason: In order to protect the character and appearance of the area and to satisfy Policies SP13 and SP20 of the Local Plan Strategy.

- 17 Prior to the commencement of the development a management plan for the site shall be submitted to and agreed in writing for all operations on the site and movements to and from the site. The management plan will detail all measures to ensure HGV and larger vehicles movements are managed in a way that prevents vehicles waiting in Ropery Lane or being unable to access or leave the site. The plan will also control all outside activities and the operation of plant and machinery and provide details of how any complaints from local residents will be addressed. Once approved, the management plan shall be adhered to and regularly reviewed in consultation with the Local Planning Authority where there is any significant change in activity at the site.

Reason: To ensure the proposed development does not have a material adverse effect upon the amenities of surrounding occupiers and to satisfy Policy SP20 of the Local Plan Strategy.

- 18 Prior to the commencement of the development a construction management plan for the development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect the amenity of the surrounding occupiers and to satisfy Policy SP20 of the Local Plan Strategy.