

Item Number: 14
Application No: 21/01505/FUL
Parish: Flaxton Parish Council
Appn. Type: Full Application
Applicant: Mr Stephen Walton
Proposal: Change of use of agricultural barn to office (Use Class E) including the installation of 4no. windows, 1no. door and installation of packaged treatment plant
Location: Land At OS Field No 0067 York Lane Flaxton North Yorkshire

Registration Date: 22 November 2021
8/13 Wk Expiry Date: 17 January 2022
Overall Expiry Date: 6 January 2022
Case Officer: Niamh Bonner **Ext:** 43325

CONSULTATIONS:

NYCC Natural Services	Suggests informative
Environmental Health	No response
Flaxton Parish Council	Objection
Highways North Yorkshire	Conditions

Representations: Mr John Nursey, Jonathan Charters-Reid, Mr Stephen Wynn- Werninck, Dr Stephen Axford,

SITE:

The application site known as ‘York Lane Farm’ is located within an agricultural field to the north of York Lane, approximately 1.75 kilometres to the west of Flaxton. The wider field under the ownership of the Applicant spans to 10.5 hectare (26 acres.)

The precise application site relates to a section of land within the field (0.12ha) which includes an agricultural building and surrounding hardstanding. It is noted in the Design and Access Statement that the agricultural building was constructed in 2014. This is a regularly shaped parcel of land which spans approximately 55 metres from east to west and approximately 22 metres from north to south. Consequently, the application site is surrounded by agricultural land to the north, east and west. Beyond the agricultural land, the site is directly adjoined by Strensall Common to the west which is a Site of Special Scientific Interest (SSSI). To the south of the site is the Woodland Farm complex, known as Flaxton Meadows and other residential properties.

The application site incorporates a partially landscaped boundary to south along York Lane. The access to the site is over a wide verge which is designated as Common Land. This is currently used for access to the agricultural building and is completed with a stone surfacing. This access over the common land is not indicated as falling within the red line boundary.

The building spans 18.3 metres by 9.1 metres in footprint, with an eaves height of 4.57 metres and a ridge height of 5.8 metres. It has been constructed with a steel frame with sheet cladding in olive green, above a concrete panelled base with corrugated roofing panels.

This site is outside development limits and is therefore categorised as falling within the ‘Wider Open Countryside, as designated in the Ryedale Plan, Local Plan Strategy.

PROPOSAL:

This application seeks permission for the change of use of the existing agricultural barn to office (Use Class E) including the installation of 4no. windows, 1no. door and installation of packaged treatment plant.

The proposed physical works to convert the building would include the installation of a fire exit door within the side northern elevation and 4 window openings at a maximum height of approximately 2.1 metres. These windows would have a horizontal form, spanning approximately 2.4 metres in width x 0.8 metres in height. These would be located on the northern, western and eastern elevations of the building.

The proposed floor plan illustrates an open plan office area, a utility/store room, toilets and an internal parking space, which the retained roller shutter door would provide access to. It is indicated on the plan that the site would be served by an underground package treatment plant and that surface water will continue to be discharged to soakaway.

The Applicant has indicated that they are willing to provide additional information in terms of landscaping, or moving/resizing windows if necessary.

HISTORY:

The following planning history is considered to be most relevant.

10/00734/FUL: Erection of an agricultural building for storage of farm machinery and produce. Refused. This was refused for the following reason:

“The proposed agricultural storage building is considered to warrant an unjustified visual intrusion into an area of undeveloped open countryside. The applicants have failed to demonstrate that the proposed isolated location for the building is essential or appropriate and the proposal is, therefore, considered to be contrary to ‘saved’ Policy AG2 criteria (i) of the adopted Ryedale Local Plan.”

12/00661/FUL: Erection of an agricultural building for storage of farm machinery, farm supplies and produce (revised details to refusal 10/00734/FUL dated 16.03.2012) Appeal submitted against non determination of application and allowed on the 14th June 2013.

This application was brought to Planning Committee and it was noted in the Officer’s report that *“this report will form the basis of the Local Planning Authority’s statement should Members be minded to agree with officer recommendation.”* The following reason for refusal was included within that report.

“The proposed agricultural storage building is considered to warrant an unjustified visual intrusion into an area of undeveloped open countryside. The applicants have failed to demonstrate that the proposed isolated location for the building is essential or appropriate and the proposal is, therefore, considered to be contrary to ‘saved’ Policy AG2 criteria (i) of the adopted Ryedale Local Plan.”

21/01305/AGNOT: Erection of an agricultural barn for the storage of hay. Notification allowed.

This application falls under the same ownership and was submitted by the same Applicant as this current proposal. This building was proposed to the north eastern part of the site, adjacent to the boundary with Cross Lane at a distance of approximately 350 metres to the north east of the current application site. This building was justified as being required for hay storage, as the existing building within the site (the subject of this current application) was not of the necessary ventilated construction type and was required for the purposes of agriculture, amongst other supporting reasons. It was noted that this proposed was considered to meet the required scale, positioning and other requirements for a building allowable under the permitted development rights contained under Part 6 of the Town & Country Planning (General Permitted Development) Order 2015. This would not approve any existing or proposed new access although a field access appears to be present at this point.

However further detail had been sought on the proposed siting of the building due to the wider sensitivities, to ascertain if this could be grouped with the existing building, or if not, to secure appropriate additional landscaping along Cross Lane. It transpired that due to an administrative issue, this request was delivered to the Applicant after the statutory period has ceased and therefore these further details could not be requested. The Applicant has a period of 5 years in which to complete this building. They have however indicated that they are willing to agree landscaping with the Local Planning Authority.

POLICY:

Local Plan Strategy -Policy SP1 General Location of Development and Settlement Hierarchy

Local Plan Strategy -Policy SP6

Local Plan Strategy -Policy SP9 The Land-Based and Rural Economy

Local Plan Strategy - Policy SP16 Design

Local Plan Strategy - Policy SP17 Managing Air Quality, Land and Water Resources

Local Plan Strategy - Policy SP19 Presumption in Favour of Sustainable Development

Local Plan Strategy - Policy SP20 Generic Development Management Issues

National Planning Policy Framework

National Planning Practice Guidance

REPRESENTATIONS:

A number of representations were received in relation to this application. This includes one letter of support and 3 letters of objection, in addition to a letter of objection from the Parish Council. These are reported below.

Mr Charters Reid, on behalf of Charters Reid Surveyors Ltd (based at Woodlands Farm, Flaxton).2nd December 2021

"I fully support this application based on it being good for the local economy and the neighbourhood. Economic Multiplier. In my professional view it has no impact on the local streetscape."

Occupier of Forge Cottage, Main Street, Flaxton. 14th December 2021.

The proposed use of this building would require car parking facilities and hardstanding areas to be provided. Vehicular access would be over land designated part of Flaxton Village Green.

If a commercial activity is permitted and introduced on to this site there would inevitably be pressure for the field as a whole to be further developed for non-agricultural purpose. Such development of this field for commercial use would be inappropriate given its rural location, its immediate proximity to York Lane, and more particularly, to Strensall Common which is a Designated Area of Conservation (DAC) supporting substantial and varied wildlife.

Occupier of Fir Tree House 19th December 2021

The plans accompanying the application show an access to the site across the common land. However, no evidence is provided of a private right of access with a motor vehicle for the owner by the route shown. The field containing the building allows no other access that can be used with a motor vehicle without crossing the common land.

Defra guidance on Vehicular Access across Common Land and Town or Village Greens (2007) includes the following regarding common land: 'Section 193 of the Law of Property Act 1925 makes it an offence for a person without lawful authority to drive on certain commons with public rights of access under that Act. And section 34 of the Road Traffic Act 1988 (which reflects provisions first contained in section 14 of the Road Traffic Act 1930), also prohibits driving motor vehicles on any land without lawful authority, except where the vehicle is driven on land within 15 yards of a road for the

purpose of parking on that land.'

The Flaxton Green Gait owners have been determined to be both the registered commoners and the owners of the common land, but as they own it in undivided shares, the registered legal owner is the Public Trustee. Thus it would be unlawful for anyone without lawful authority given by the Public Trustee to pass across the common land to enter the site, unless they could demonstrate that a prescriptive personal right had been established by over 20 years of continual use without permission. Any grant of planning permission for this development with the inclusion of parking spaces on the site is tantamount to encouraging unlawful activities.

Although the Road Traffic Act 1988 would not prohibit parking on the common land within 15 yards of the road, that is no defence to the offence of trespass or interference with the rights of the commoners, and gives no right to disturb the surface, deposit materials, fence or otherwise restrict public access on foot across the common land. There are concerns expressed in the village that obstruction of the common land has caused people to walk in the road and there are now several instances of damage to the common land in Flaxton occasioned by vehicles parking or running across the common land illegally.

The Highway Authority Recommendation noted that no widening of the access is likely to be permitted due to its being Registered common land, but a suitable shoulder should be strengthened adjacent to the carriageway. However, these works would be regarded as restricted works under S.38 of the Commons Act 2006 and therefore require the consent of The Planning Inspectorate. Similarly, the digging of trenches for the installation of water and electricity services for the building would also require permission from the landowners and commoners and consent from The Planning Inspectorate.

Occupier of Fir Tree House 20th December 2021 (additional)

Thank you for acknowledging this. You have previously asked about the basis of my objection. In this case I responded as a 'neighbour' in that I am one of the Green Gait Owners, who are both beneficial owners of the common land and a commoner, whose rights could be infringed as a consequence of the development.

Occupier of Kiora House, Main Street, Flaxton 20th December 2021

I object to this application. This application smacks to me of development by the back door.

The Parish Council responded to note:

This application relates to change of use of a building that is already present on site to offices. It is described as a 'Change of use of (Agricultural) barn to Office and alterations adding 4 windows, rear door, and installation of packaged treatment plant.' However, the building does not appear to have been erected lawfully, as its erection did not comply with the Schedule of Conditions set by the Inspector in the Appeal Decision on APP/Y2736/A/12/2187916.

The Schedule of Conditions attached to the granting of the appeal were not complied with by the appellant. In particular:

Condition 4. Development shall not begin until details of the surfacing of the junction between the access and the highway have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the occupation or use of building hereby approved.

Comment - This related to the Highway Authority Recommendation about changes to the access to the site and parking spaces, along with an informative that as the proposals affect Registered Common Land that no works should be carried out until such time as consent has been granted (by The Planning Inspectorate).

Condition 5. Prior to the occupation or use of the building hereby approved the existing storage containers situated within the site shall be permanently removed from the site.

Comment – The storage containers were not removed from site until 2021 but there is no evidence that the building was ever occupied or used for agricultural purposes.

Condition 6. The building hereby approved shall not be occupied or used until space has been laid out within the site in accordance with drawing No GW5 for vehicles to turn so that they may enter and leave the site in forward gear and that area shall not thereafter be used for any purpose other than the turning of vehicles.

Comment – A storage container in the space identified in drawing GW5 prevented vehicles from entering and leaving the site in forward gear. The same would apply if 6 vehicles were to be parked in this space.

Conclusion - Since this building was constructed unlawfully and never brought into agricultural use, the application for change of use should not be allowed.

Since the agricultural building was constructed, a large-scale campsite has been opened on the opposite side of York Lane at Flaxton Meadows. The campsite is accessed by caravans, motorhomes, and other vehicles along a single-track. Vehicles entering and leaving the applicant's building would create an extra hazard along this stretch of busy, unrestricted speed road, which is used as a 'rat run' for local vehicles and also for drivers avoiding traffic issues on the single carriageway section of the nearby A64 that runs parallel to York Lane.

APPRAISAL

The main considerations within the determination of this application are:

- i. The Principle of Development
- ii. Character, Form and Landscaping
- iii. Impact upon Amenity
- iv. Access and Highway Safety
- v. Other matters, including consultation responses.

i. The Principle of Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) states:

'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.'

The Aspirations and Strategy Section of the Ryedale Plan, Local Plan Strategy notes support within the Wider Open Countryside for “*economic diversification that complements the character of the landscape and surrounding activity.*”

Policy SP1 (General Location of Development and Settlement Hierarchy) of the of the Ryedale Plan, Local Plan Strategy notes that in all other villages, hamlets and in the open countryside development will be restricted to that *'which is necessary to support a sustainable, vibrant and healthy rural economy and communities.*

Policy SP6 (Delivery and Distribution of Employment Land/Premises) of the Ryedale Plan, Local Plan

Strategy notes support for “*small scale conversion of existing buildings or provision of new buildings to support appropriate rural economic activity in line with the provisions of SP9.*”

Policy SP9 (The Land Based and Rural Economy) of the Ryedale Plan - Local Plan Strategy is supportive of appropriate farm and rural diversification activity including innovative approaches and the conversion of existing buildings and provision of new buildings to support appropriate small-scale rural economic activity in line with Policy SP6

Furthermore the National Planning Policy Framework within Paragraph 84 notes that planning policies and decisions should

- 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;*
- b) the development and diversification of agricultural and other land-based rural businesses;*

Paragraph 85 of the NPPF continues to note “*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 supporting statement notes that “*York Lane Farm is a registered agricultural holding of 26 acres and lays to the West of Flaxton, adjacent to the City of York’s boundary. The barn was constructed in 2014 and has been in agricultural use since then. However following a change of ownership the holding now produces hay, mainly for the equestrian market. Hay is harvested by a contract farmer who has the large equipment necessary, and so the applicant is looking to generate additional income from the building” ... “The applicant researched alternative uses for the barn and discovered there is demand for out of town office space in the locality. Rural locations offer more attractive settings and promote the well-being of users. They also provide better value and amenity for some, including professionals such as surveyors and architects. This low impact proposal to convert the building to an open-plan office will result in approx 1,500 sq ft of office space.*”

Additional supporting information received on the 16th January 2022 noted:

The proposal is strongly supported by the policies in the Local Plan and NPPF when taken as a whole, and the benefits may carry substantial weight, including :

- Provide substantial income to the agricultural enterprise making it more sustainable*
- Provide local employment opportunities, which in turn can increase local wage levels, retain and attract young people (reducing ‘brain drain’), increase skills and prosperity, and support the ability to live and work in Ryedale.*
- Create a local workspace that can promote the wellbeing of users, add to the supply of workspaces available locally, perhaps for knowledge based workers or technology startups and diversify the economic mix to reduce dependence on vulnerable sectors*
- Given its position the site is well-placed to create links with York and it’s economy*

In summary, it would be difficult to deliver on policies that encourage to reuse of rural buildings and the development of rural businesses without having a visual impact. This proposal would fit in well given the site has been judged by the Planning Inspectorate to not be ‘unacceptably prominent or isolated’, and the surrounding uses. The benefits from this proposal outweigh any impacts and so the proposal is considered to be acceptable.”

It is highlighted (as detailed in the history section above) that the application site would benefit from permitted development rights for a new building applied for via an agricultural notification, which would provide storage for hay. Justification was given that this current building would not incorporate

the necessary ventilation for such a use and collection of hay from the site would be better managed from the new building along Cross Lane.

It is therefore acknowledged that the Applicant has indicated that this present building would consequently be underused/redundant. It is noted that if this current scheme was approved, this would take some land out of agricultural use, however this relates to a relatively small proportion of the wider overall land holding.

In many locations within the District, the Local Planning Authority can offer support for the reuse of existing agricultural buildings under Policy SP6 and SP9. This is particularly the case when a building is of traditional form, design and materials, and its reuse would help to secure the retention of a building reflective of the agricultural heritage and vernacular of the district. However, in principle, for a use such as office space, a building being of modern construction would not however preclude support for its conversion.

This proposal could potentially be in accordance with the requirements of Policy SP6 and SP9 where it offers support the conversion of existing buildings, however it is noted that this is on the basis that it is support for 'appropriate' rural development. What is currently proposed is considered to be speculative development rather than for a specific business or business type and there is no information that any future business would accord with the policy requirement for "appropriate" small scale rural activity. This would be a generous level of office space that once approved, could be occupied by any business type or range of businesses. In addition, the nature of the office use is unclear in whether this relates to one business, many businesses or hot desking. The Planning Application Form notes in Section 18 that there are 3 full time and 1 part time employees proposed, but this is not expanded upon within the Planning Statement and as no specific business has been put forward at this stage this is taken to be indicative. However, if approved, given the available floor space, the intensity of use and number of staff that could be accommodated within the site could range from an individual to a large number of persons commuting to the site. It is considered that if this were approved, the intensity of use could not be reasonably controlled by planning condition.

It is acknowledged that there would be some economic benefit to this proposed development and in the reuse of a redundant/underused building creating an income stream for the farming enterprise. However there has been no clear evidence submitted to confirm on the level of demand/interest for this type of development. It is therefore not considered appropriate to attach significant weight to this in the planning balance. It is noted that if there a more significant level of detail, this may not in itself be sufficient to overcome other concerns outlined within this report.

Officers also have concerns with the location of the development in terms of sustainability in relation to Policy SP1, as the site is not served by any public transport links, nor does it have amenities for office workers nearby. This would not align with the aims and spirit of the Ryedale Plan, Local Plan Strategy, whilst it is noted that the NPPF does not consider this a specific barrier, as highlighted in Paragraph 2 of the NPPF, decisions must be undertaken in accordance with the development plan. The sustainability of a site is frequently a consideration when assessing the conversion of more isolated rural buildings, that will be factored into the planning balance. It is not considered in this site specific situation that there are significant benefits to this proposal that would help to outweigh this potential discordance with Policy SP1.

Fundamentally, the Aspirations and Strategy Section of the Ryedale Plan, Local Plan Strategy which as highlighted above notes support within the Wider Open Countryside for "*economic diversification that complements the character of the landscape and surrounding activity*" and this is given significant weight, This wider consideration of the proposal in terms of form and impact upon landscape character and the sensitives of its surroundings will be assessed in the section below.

The points raised by the Parish Council in relation to compliance with Conditions 4, 5 and 6 of the 2012 permission are noted and their view that the building was constructed unlawfully, which is a basis on which they contend the change of use should not be allowed.

The site is now under new ownership. It is noted that Conditions 5 and 6 have now been complied with

and although this was not prior to the occupation of the building, no enforcement action is considered appropriate at this stage. Condition 4 of this permission related to improvements to the access and surfacing, whilst not specifically discharged through the submission of a discharge of conditions application does appear to have been further discussed with the Highways Authority at the time. The current Highways Officer dealing with the site reported to the Case Officer that it appeared their view at the time was that the Highway Authority could not insist on this common land being hard surfaced as it fell outside of their jurisdiction.

A further check will be made with the Council's Enforcement Officer and any update on this condition compliance will be reported to Members. It is considered unlikely however that Officers would take the position that this building did not have a lawful agricultural use. The Applicant in response to these points raised by the Parish Council has provided case law which highlights that existing alleged breaches of planning control relevant to a planning application are not material planning considerations in a planning judgement.

ii. Character, Form and Landscaping

In addition to the policies highlighted above, the following additional policies are considered relevant:

Policy SP13 of the Ryedale Plan - Local Plan Strategy requires that development proposals should contribute to the protection and enhancement of distinctive elements of landscape character that are the result of historical and cultural influences, natural features and aesthetic qualities including:

- *The distribution and form of settlements and buildings in their landscape setting*
- *The ambience of the area, including nocturnal character, level and type of activity and tranquillity, sense of enclosure/exposure*

Policy SP16 of the Ryedale Plan - Local Plan Strategy states that 'Development proposals will be expected to create high quality durable places that are accessible, well integrated with their surroundings and which:

- *Reinforce local distinctiveness*
- *Provide a well-connected public realm which is accessible and usable by all, safe and easily navigated*

Policy SP20 Generic Development Management Issues of the Ryedale Plan - Local Plan Strategy notes that

- *Proposed uses and activity will be compatible with the existing ambience of the immediate locality and the surrounding area and with neighbouring land uses and would not prejudice the continued operation of existing neighbouring land uses*

The site is situated within relatively flat land and incorporates some landscaping along the southern boundary along York Lane where the most direct views of the building could be gained from. At present, during the Officer's site visit in January, this landscaping directly to the south of the site was not in leaf and it appeared open. However, it is acknowledged that in the Planning Statement, the Applicant notes they proposed further landscaping, details to be agreed with the Council.

The Planning Statement contents "*it was previously established that the views of the site are filtered by the current landscaping, that it is physically and visually related to the group of buildings opposite and that it is not unacceptable prominent or isolated in the open countryside.*"

This relates to the view of the Planning Inspector who in the appeal decision for 12/00611/FUL made that assertion. The Inspector concluded in relation to what then a proposed new building "*However the appeal scheme would be sited close to a group of buildings situated on the opposite side of the road. The appeal scheme would physically and visually relate to these buildings rather than be perceived as a building erected in an isolated location within a field. The substantial group of trees to the north would*

screen the view of the proposed building from this direction. The vegetation around and close to other field boundaries, including York Lane, would also filter views of the proposed building. Overall, by reason of siting the appeal scheme would not be an unacceptably prominent or isolated for of development within the verdant countryside.”

The Inspector also noted that the proposed development by virtue of its agricultural appearance would “*not unacceptably harm the character and appearance of the surrounding area.*”

This is noted. Whilst the Local Planning Authority maintained fundamental concerns about the development approved under this previous scheme, the judgement of the Inspector was accepted. It is however recognised and highlighted that this judgement was for a modestly scaled agricultural storage building, to serve an identified agricultural storage need and this location, within the context of the wider agricultural land could therefore be justified. However, notwithstanding the Inspector’s view, Officers maintain that this building does occupy an isolated position and that this is readily apparent now the building is in situ. It is noted that these buildings opposite the site to the south of York Road include residential properties well set back from the roadside and a holiday park development, behind which a sensitively located office building is located. These referenced developments are well set back from the roadside and are well landscaped, not appearing incongruous in the wider landscape. Officers are of the view that this building currently under consideration (the only to the north of York Road at this point) does not benefit from strong visual grouping with these highlighted existing developments in landscape terms from the most prominent view which is taken from York Lane itself, where the road bisects and separates the two areas. It is not considered that additional landscaping would serve to mitigate the identified harm in this specific location by virtue of the proposed development.

Officers consider that this proposed scheme, although it would involve relatively limited physical alterations to the building, would relate to potentially harmful impacts upon the character of the locality and landscape character, by virtue of the proposed change of use of the building and consequential alterations to the character of the site that this would entail and how this site would then be used. The conversion of disused agricultural buildings is not specifically ruled out for new office space in policy terms, however this precise location and context, within an agricultural setting in a broadly undeveloped field, adjoining Strensall Common on the western side of York Lane, is a generally undeveloped naturalist landscape.

The proposed change of use to office space is in the view of Officers, likely to lead to the quasi ‘industrialisation’ of this area, at odds with and this would result in harmful visual impact in terms of the immediate and wider landscape character, creating an anomalous and incongruous appearance.

Whilst limited physical works may be needed to the building itself, this would undoubtedly require and lead to a level of associated development/activity that cannot be fully controlled by the Local Planning Authority, ie. lighting, bins, signage, increased car parking and levels of visits to and from the site that would serve to urbanise the character of this rural setting in what is a visually prominent and sensitive location.

The Agent in an email dated 16th January noted “*The existing site is currently used for parking vehicles. The proposal will bring improvements from removal of farming paraphernalia. Additional landscaping is suggested to further shield views of the site.*” Whilst there was only one small trailer on site during the Officer’s site visit, it is acknowledged that there would be a lawful right to store items associated with agriculture externally. However, critically, Officer would not considered this to be at odds with the lawful site use or likely to detract from the character of the locality. This is therefore in Officer’s view, not a basis on which to justify the proposed change of use.

It is considered that this proposed change of use would have consequentially adverse impacts upon the ambience and character of the area and additionally, that this change of use wouldn’t reinforce the local distinctiveness of this prominent agricultural setting and the building that was only considered acceptable to serve the justified agricultural need at the time.

It is Officers view that this proposed new office development should be located in a more suitable, less sensitive location and that the proposed development by virtue of its urbanising effect of a low key,

modest agricultural building within a broadly undeveloped agricultural land abutting Strensall Common would have harmful impacts upon the character and ambience of the locality in discordance with the highlighted elements of Policies SP1, SP13, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

iii. Impact upon Residential Amenity

This proposed change of use would be located at a sufficient distance from neighbouring properties so that it would not cause a material impact upon residential amenity. Should this be recommended for proposal, a condition relating to hours of occupancy could be recommended in line with those recommended in the application form, between 7am and 7pm Monday to Sunday.

iv. Access and Highway Safety

North Yorkshire Highways had provided formal comments and a recommended condition on this scheme in a consultation response dated 20th January 2022. This relates to parking provision within the site, which was considered to be of an acceptable level for the proposed use.

It was noted that the access to the site would be undertaken over common land which is currently treated with loose stone. It was acknowledged by North Yorkshire Highways that although Condition 4 of 12/00661/FUL does not appear to have been formally discharged, discussions had been ongoing in relation to this previously. The Highways Officer reviewed previous files pertaining to the site and noted: *“The applicant is correct regarding the access, we were unsuccessful previously in getting a tarmacked surface due to the verge being Common Land”*

Further discussions were undertaken with NYCC to seek if there were any concerns about highways impacts as a result of the potentially increased use of the existing access. At a neighbouring site 20/00598/MFUL in a similar situation, a condition was recommended to install kerbing on the highway, to lessen the likelihood of stones being dragged of the site as Highways would have no jurisdiction over the surfacing of this access. It is noted that at this site, there is already however kerbing on the highway.

On the advice of the Highways Officer, the Case Officer sought confirmation from the Applicant if there were any measures they intended to put *“in place on this area of land to limit this if permission were granted? I wonder if some limited compaction/mixing of finer materials could be undertaken – bearing in mind whether this may or may not require specific permissions relating to common land.”* The Applicant responded to note in an email dated 3rd February 2022 *“In relation to the loose stones, these tend to compact naturally over time. The access was recently re-surfaced so they are fairly loose right now. Before resurfacing it was compacted with very little loose. You can't lay any solid surfacing without specific permission relating to common land, it must be loose stone, but I'd be open to laying finer/smaller stone if you think that would help.”*

The Highways Officer was advised of this and at the time of writing, has asked for no further condition beyond that originally recommended. He did however note that if this were to be approved, even notwithstanding there being no specific planning condition relating to this, the Applicant would have a duty under the Highways Act to prevent hazards on the highway and the Highway Authority would be prepared to take enforcement action if necessary. If this were to be approved, this requirement for compliance under the Highways Act would be noted by way of a Planning Informative.

Accordance with the requirement of legislation pertaining to common land would not be a matter in which the Local Planning Authority could become specifically involved in and if permission was granted, the Applicant would have to satisfy themselves that could comply with this and hold any relevant separate permissions.

v. Other Matters, including consultation responses

North Yorkshire Ecology confirmed in their consultation response dated 29th November 2021: *“If this is a modern, steel-framed building with sheet cladding, the likelihood of protected species being present is low and no protected species surveys are required.”*

Should Ryedale District Council be minded to approve this application, we suggest an Informative that the applicant should ensure they are complying with protected species legislation. As the proposed development is within the footprint of the existing barn, we have no wider concerns.”

It is considered appropriate to highlight that this current agricultural building would currently incorporate no permitted development rights under Part 3 Class Q of the Town and Country Planning (General Permitted Development Order) 2015 (GPDO) for housing, nor Part 3 Class R of the Town and Country Planning (General Permitted Development Order) 2015 (GPDO) for flexible commercial use.

It is considered that this speculative office development should be not be located in a sustainable location and that by virtue of its positioning in a visually sensitive location the proposed development would incorporate a harmfully urbanising effect on the modest agricultural building, which is positioned within a broadly undeveloped agricultural land abutting Strensall Common. It is considered that this would have harmful impacts upon the character of the locality in discordance with the highlighted elements of Policies SP1, SP13, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy and Paragraph 85 of the National Planning Policy Framework which is not outweighed by other material considerations

The proposal is therefore considered to be contrary to the requirements of this aspect of Policy SP13, SP16 and SP20 of the adopted Ryedale Plan Local Plan Strategy relating to character and landscape impacts.

RECOMMENDATION: Refusal

- 1 The development proposed would have an urbanising effect on the immediate rural setting of this isolated rural building and would contribute to an urbanising and erosion of the rural setting of the natural landscape of Strensall Common. The resulting increase in activity at the site, which is considered to be in a less sustainable location, together with the external parking of vehicles and paraphernalia associated with the proposed use would result in harm to the character of the locality in discordance with the highlighted elements of Policies SP1, SP13, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy and Paragraph 85 of the National Planning Policy Framework which is not outweighed by other material considerations