

**Item Number:** 8  
**Application No:** 22/00026/MFUL  
**Parish:** Huttons Ambo Parish Council  
**Appn. Type:** Full Application Major  
**Applicant:** Mr Sean Harrison (DH Group)  
**Proposal:** Erection of a building comprising 14no. units for Class E, B2 and B8 Uses together with associated car park and landscaping  
**Location:** Plots 11F to 13H Malton Enterprise Park Cherry Farm Close Malton North Yorkshire

**Registration Date:** 7 January 2022  
**8/13 Wk Expiry Date:** 8 April 2022  
**Overall Expiry Date:** 2 March 2022  
**Case Officer:** Alan Goforth **Ext:** 43332

#### CONSULTATIONS:

<b>Yorkshire Water Land Use Planning</b>	Recommend conditions
<b>Lead Local Flood Authority</b>	Recommend conditions
<b>Ellie Hook AONB Manager</b>	No response received
<b>Public Rights of Way</b>	Recommend informative
<b>Huttons Ambo Parish Council</b>	No response received
<b>Highways North Yorkshire</b>	Recommend conditions

#### Representations:

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#### BACKGROUND:

The application is to be determined by Planning Committee as a major development because the floor area of the building exceeds 1,000 square metres.

#### SITE:

The application site is within the development limits of Malton within part of the western extension to York Road Industrial Estate (Malton Enterprise Park). The application site is employment land committed or under construction since 2012 (Policy SD12 of the LPSD).

Access is gained from the north via York Road and Cherry Farm Close. The application site amounts to approximately 3,500m<sup>2</sup> and relates to plots 11 & 13. There is open countryside in agricultural use to the south, the sewage treatment works to the east and existing employment land (industrial estate) to the north and west (plots 7 & 9 and 14 & 17 respectively).

Public Footpath no. 25.51/3/1 takes a south-westerly course through the industrial estate and passes the application site on its northern side at a distance of approximately 40 metres. The site is located within Flood Zone 1, being the lowest flood risk classification. A water mains crosses the industrial estate. The boundary of the Howardian Hills AONB is approximately 450 metres to the north west of the site.

#### HISTORY:

10/00150/MOUT- Mixed use development of Business (B1), General Industrial (B2), Storage and Distribution (B8) - site area 6.8ha. APPROVED 22.12.2010. Work has commenced and a number of industrial units have been developed.

## **PROPOSAL:**

Planning permission is sought for the erection of a building comprising 14no. units for Class E, B2 and B8 Uses together with associated car park and landscaping.

The mixed use building would comprises a series of small ‘start up’ units for Class E (Commercial, Business and Service), B2 (General Industrial) and B8 (Storage and Distribution) uses.

The application supporting statement makes reference to further diversification of uses/businesses within Malton Enterprise Park. The applicant has confirmed that the application is speculative with no end users/tenants identified at this stage.

## **POLICIES:**

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 planning authorities are required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The Development Plan for the determination of this particular application comprises the following:

- The Ryedale Plan- Local Plan Strategy (2013)

### The Ryedale Plan - Local Plan Strategy (2013)

Local Plan Strategy -Policy SP1 General Location of Development and Settlement Hierarchy  
Local Plan Strategy - Policy SP6 Delivery and Distributing of Employment Land and Premises  
Local Plan Strategy - Policy SP7 Town Centres and Retailing  
Local Plan Strategy - Policy SP13 Landscapes  
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

### Local Plan Sites Document (LPSD)

Policy SD12- New Employment Land Provision

Employment Land – Commitments:

York Road Industrial Estate, Malton 6.8ha B1, B2, B8 uses

### Material Considerations

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (PPG)

## **APPRAISAL:**

### Principle of the development

The National Planning Policy Framework (NPPF), at paragraph 81, advises that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. It states that “*Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development*”.

The site is within the town development limits and Policy SP1 (General Location of Development and Settlement Hierarchy) supports new development within Malton, as one of the principle towns it is the primary focus for growth.

Policy SP6 (Delivery and Distribution of Employment/Industrial Land and Premises) relates to employment/industrial land and the site falls within the York Road Industrial Estate which is allocated for that purpose (Policy SD12 of the LPSD). Policy SP6 supports expansion land and new buildings for major employers/established businesses in this location.

The site benefits from outline planning permission ref. 10/00150/MOUT for mixed use development of Business (B1), General Industrial (B2), Storage and Distribution (B8) granted in December 2010. Work has progressed with the estate road, site infrastructure, landscaping and the build out of plots within the extended estate. In principle the proposal would enhance economic activity and create employment that would comply with the aims of Policy SP6 of the Local Plan Strategy.

It should be noted that on 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (2020 No. 757) came into effect. As a result Use Class B1 ('Business'- light industrial; research & development; and office uses) was subsumed within the new Use Class E (Commercial, Business and Service). Use classes B2 (General Industrial) and B8 (Storage and Distribution) are unchanged. The full wording for Use Class E is set out below:

*'Class E. Commercial, Business and Service*

*Use, or part use, for all or any of the following purposes—*

*(a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,*

*(b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,*

*(c) for the provision of the following kinds of services principally to visiting members of the public—*

*(i) financial services,*

*(ii) professional services (other than health or medical services), or*

*(iii) any other services which it is appropriate to provide in a commercial, business or service locality,*

*(d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,*

*(e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,*

*(f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public,*

*(g) for—*

*(i) an office to carry out any operational or administrative functions,*

*(ii) the research and development of products or processes, or*

*(iii) any industrial process,*

*being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit'.*

The new Use Class E aims to allow greater flexibility for the high street and town centres allowing businesses the ability to diversify and adapt to changes (a change of use within one and the same Use Class does not require planning permission). Clearly Use Class E (Commercial, Business and Service) is a broad use class which encompasses some 'main town centre uses' and other uses which are not defined as 'main town centre uses'.

The NPPF (2021) defines 'main town centre uses' as '*Retail development (including warehouse clubs*

*and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities)'.*

A consequence of Use Class E is that main town centre uses could be located in out of centre sites contrary to planning policy objectives of maintaining and enhancing town centres.

Section 7 of the NPPF (Ensuring the vitality of town centres) highlights that planning decisions should support the role that town centres play at the heart of local communities. The NPPF (paragraph 87) also requires that local planning authorities apply a sequential test to planning applications for main town centre uses not located within town centres. Out-of-centre sites should be considered only if suitable sites are not available there or on the edge of the centre. Within the Local Plan Strategy Policy SP7 supports proposals which maintain and enhance the vitality and viability of the Town Centre.

The proposal includes an unspecified amount of Class E floor space although the applicant envisages that the two storey end units are likely to lend themselves to Class E uses (units 11F & G and 13A & B totalling approximately 500m<sup>2</sup> floorspace) with the majority of the other units being B2 (General Industrial) and B8 (Storage and Distribution) uses. In light of the proposal being speculative the applicant is unable to specify the proposed end users with reference to the sub-classes of uses within Use Class E. The application is not accompanied by any evidence to demonstrate that it would satisfy the sequential test or a town centre impact assessment (paragraph 90 of the NPPF & Policy SP7).

In light of the policy objective which seek to maintain and enhance the vitality and viability of the Town Centre and due to the speculative nature of the proposal, should permission be granted, it is considered reasonable and necessary to impose a condition restricting the use of the building to specific use classes and sub-classes consistent with the outline permission, the site allocation, the NPPF and adopted policy of the Development Plan. It is recommended that the condition is worded so to allow Class E(g) uses (offices; research and development facilities; and industrial processes suitable for residential areas) but prohibit all other sub-classes within Use Class E. Policy SP7 and Section 7 of the NPPF provide a sound planning basis for imposing such a condition.

#### Design, character and form

The proposed building will provide small 'back to back' units (14 in total) ranging from 1,250 square foot (116m<sup>2</sup>) to 1,500 square foot (140m<sup>2</sup>) in size. There would be access and parking on both sides (north & south) of the building to serve units 11F-11N and 13A-13H. The rectangular building would have a maximum length of 65.2 metres and maximum span of 28.2 metres. The building would have a shallow pitched roof with a ridge height of 7.7m and eaves height of 6.4m. There would be units provided across two storeys on the western (road fronting) end of the building (Units 11F & G and 13A & B).

Externally the building would be completed with composite cladding, with RAL 9007 (aluminium grey) to the walls on a brick plinth with the roof being completed with trapezoidal cladding (merlin grey). There would be a series of roller shutter doors and single personnel doors in both long sides of the building. The two storey units at the western end of the building would benefit from additional curtain wall glazing to the end and side elevations and fair faced blockwork (Florentine ivory) would be used in the central part of the gable end elevation (road facing side) with composite cladding below the eaves.

The proportions, materials and openings of the proposed building represent a continuation of those of adjacent buildings within the Enterprise Park albeit there would be added visual interest to the frontage units. Overall the proposed design will assimilate with the existing developments in the wider site in compliance with Policies SP16 and SP20.

### Impact on amenity

As required by Policy SP20 (Generic Development Management Issues) the development should respect the character of the area without having 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.

There are no proximal residential properties that would be impacted by the proposed development. It is considered that the proposed building is compatible with the existing land use and it is not anticipated that the proposed development would give rise to any unacceptable visual intrusion or any pollution or disturbance and as a result there would not be an adverse impact upon residential amenity in compliance with Policy SP20.

### Highways

Paragraph 111 of the NPPF states that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*.

Policy SP20 (Generic Development Management Issues) advises that *“Access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. Information will be required in terms of the positioning and treatment of accesses and circulation routes, including how these relate to surrounding footpaths and roads”*.

The building would be accessed via the internal estate road off York Road to the north. The estate road meets the current LHA standards and is considered appropriate to serve the type and volume of traffic likely to be generated by the proposals and the level of car parking is appropriate.

The existing public footpath would not be obstructed by the development and the standard informative shall be imposed. There are no objections from the highways officer subject to conditions in relation to road construction, access, parking and turning areas and a construction management plan. It is not anticipated that the proposed development would result in an unacceptable increase in traffic levels or any adverse impacts on the local highway network and the design encourages the use of sustainable transport in compliance with Policy SP20.

### Drainage

The site operates a sustainable urban drainage design to discharge excess surface water run off through a site wide masterplan approved under the outline consent. All surface water drainage run off will discharge into a holding pond which will then be discharged at a controlled rate into a watercourse.

The plans takes account of the drainage easements required by Yorkshire Water. Yorkshire Water have confirmed no objections and recommend the standard drainage conditions. The LLFA has confirmed that the application demonstrates a reasonable approach to the management of surface water and request standard conditions to secure the detailed design of the drainage arrangements including maintenance.

It is considered that the proposal would be served by suitable surface water drainage arrangements in compliance with Policy SP17.

### Conclusion

The proposed development of this site within an area allocated as employment land within the town development limits aligns with the principle aims of Policies SP1 and SP6 of the Local Plan Strategy and the NPPF in relation to growth, productivity and employment.

It is acknowledged that the proposal is speculative with no end users identified at this stage. The proposals for B2 and B8 uses aligns with the outline permission, the site allocation and adopted policy. However, in light of Use Class E allowing a broad range of uses which includes some ‘main town centre

uses' the LPA is mindful of the town centre first principle set out in the NPPF and the aims of Policy SP7 in relation to maintaining and enhancing the vitality and viability of town centres. In response it is considered reasonable and necessary to impose a condition (Condition 12) restricting the use of the units to specific use classes and sub-classes consistent with the outline permission, the site allocation, the NPPF and adopted policy of the Development Plan.

In conclusion, subject to the aforementioned conditions, the proposed development can be accommodated without resulting in material harm to the vitality and viability of the town centre, the setting of the AONB, visual or residential amenity or highways safety and complies with Policies SP1, SP6, SP7, SP13, SP16, SP17, SP19 and SP20 of the adopted Ryedale Plan - Local Plan Strategy and the National Planning Policy Framework.

In light of the above the recommendation to Members is one of conditional 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            The development hereby permitted shall be carried out in accordance with the following approved plan(s):

- Plot 11 & 13 Proposed Site Location Plan ref. 950 Rev C, dated 07.12.21
- Plot 11 & 13 Proposed Site Plan ref. 951 Rev D, dated 24.02.22
- Plot 11 & 13 Proposed Ground Floor GA Plan ref. 955 Rev C, dated 07.12.21
- Plot 11 & 13 Proposed First Floor GA Plan ref. 956 Rev C, dated 07.12.21
- Plot 11 & 13 Proposed GA Elevations ref. 958 Rev C, dated 07.12.21

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

3            Unless otherwise approved in writing all external constructional materials and colour finishes to be used for the building shall be in accordance with those identified in the application as shown on the approved elevation drawing.

Reason: In the interests of amenity and to comply with Policies SP16 and SP20.

4            No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

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

Reason: To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users in compliance with Policy SP20.

5            No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at Plots 11F to 13H Malton Enterprise Park have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained

for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in compliance with Policy SP20.

- 6 No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
3. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
4. the parking of contractors' site operatives and visitor's vehicles;
5. areas for storage of plant and materials used in constructing the development clear of the highway;
6. details of site working hours;
7. details of the measures to be taken for the protection of trees; and
8. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity in compliance with Policy SP20.

- 7 The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

Reason: In the interest of satisfactory and sustainable drainage in compliance with Policy SP17.

- 8 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network in compliance with Policy SP17.

- 9 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 to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement for that document). 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. Note that further restrictions on surface water management may be imposed by Yorkshire Water and the Local Planning Authority.

Reason: To ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk in compliance with Policy SP17.

- 10 Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to a maximum flowrate of 21 litres per second for up to the 1 in 100 year event. A 30% allowance shall be included for climate

change effects and a further 10% for urban creep for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme has been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

Reason: To mitigate additional flood impact from the development proposals and ensure that flood risk is not increased elsewhere in compliance with Policy SP17.

- 11 Unless otherwise agreed in writing with the Local Planning Authority all external lighting associated with the development hereby approved shall be limited to that shown on the approved Proposed Site Plan ref. 951 Rev D, dated 24.02.22. All lighting shall be installed and maintained in accordance with the approved details. Any additional lighting associated with the development hereby approved shall be agreed in writing by the Local Planning Authority prior to installation.

Reason: In the interests of the reduction of light pollution and to protect the setting of the AONB in compliance with Policies SP13 and SP20.

- 12 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order, the use of the building hereby approved shall be restricted to Use Classes E(g), B2 and B8 only and shall not be used for any other use whatsoever including any use within Class E without express planning consent from the Local Planning Authority first being obtained.

Reason: In order to maintain and enhance the vitality and viability of the Town Centre in compliance with Section 7 of the NPPF and Policy SP7 of the RPLPS.

## **INFORMATIVE**

- i) There is a Public Right of Way or a 'claimed' Public Right of Way within or adjoining the application site boundary - please see the attached plan.
- ii) If the proposed development will physically affect the Public Right of Way permanently in any way an application to the Local Planning Authority for a Public Path Order/Diversion Order will need to be made under S.257 of the Town and Country Planning Act 1990 as soon as possible. Please contact the Local Planning Authority for a Public Path Order application form.
- iii) If the proposed development will physically affect a Public Right of Way temporarily during the period of development works only, an application to the Highway Authority (North Yorkshire County Council) for a Temporary Closure Order is required. Please contact the County Council or visit their website for an application form.
- iv) The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as an alternative route has been provided by either a temporary or permanent Order.
- v) It is an offence to obstruct a Public Right of Way and enforcement action can be taken by the Highway Authority to remove any obstruction.
- vi) If there is a "claimed" Public Right of Way within or adjoining the application site boundary, the route is the subject of a formal application and should be regarded in the same way as a Public Right of Way until such time as the application is resolved.
- vii) Where public access is to be retained during the development period, it shall be kept free from obstruction and all persons working on the development site must be made aware that a Public Right of Way exists, and must have regard for the safety of Public Rights of Way users at all times.

Applicants should contact the County Council's Countryside Access Service at County Hall, Northallerton via [CATO@northyorks.gov.uk](mailto:CATO@northyorks.gov.uk) to obtain up-to-date information regarding the exact route of the way and to discuss any initial proposals for altering the route.

