

**Parish:** Northallerton  
**Ward:** Northallerton North and  
Brompton

**Committee Date:** 26 August 2021  
**Officer dealing:** A O'Driscoll

**2**

**Target date:** 18 March 2021

**20/02689/HYB**

**Hybrid Planning Application comprising:**

**1) Full planning permission is sought for the demolition of the existing farmhouse and buildings and construction of a commercial development comprising of 21,000sq ft (1951 sq.m) of trade counter space (B8), a 3,777sq ft (351 sq.m) drive thru (E b) and sui generis and associated infrastructure comprising of carparking, landscaping, drainage and construction of an access road (Phase A1) from the Darlington Road to cross enable Phase 1B and 2.**

**2) Outline Planning Permission is sought for Phases 1B and 2 for the erection of the following: A four pump petrol station with up to 5,000sq ft (465 sq.m) of retail space (Sui generis and ancillary E a). A drive thru of up to 1,800sq ft (167 sq.m) (E b) and sui generis. Office units of up to 15,000sq ft (1395 sq.m) E g. Industrial units of up to 190,000 sq ft (18,116 sq m) B2.**

**At Land South East of Moor Close, Darlington Road  
For Beckwith Knowle Developments Ltd**

**This application is referred to Planning Committee as the proposed development is a major development and is a departure from the Development Plan.**

**1.0 Site Context and Proposal**

1.1 The application site is a green-field site located to the northern extremity of the settlement of Northallerton. To the west of the site is the East Coast mainline, to the South the Standard Way industrial estate, to the east the A167 Darlington Rd and to the north open countryside.

1.2 The southern part of the application site is allocated in the LDF for employment use under policy NM5E which states:

For development to take place on this site, the following will be required:

- high quality B1 uses will be required on this site and on the equivalent parts of Site NM5D, particularly at the prominent areas of the sites adjacent to the proposed roundabout junction, to form a suitable 'gateway' into Northallerton. B2, B8 and other suitable employment uses (excluding town centre uses) would also be acceptable within the site subject to location;

- access to this site will be gained directly from a roundabout at the proposed junction between the A167 Darlington Road and the proposed Link Road.

1.3 The site has not, so far, come forward for development. The allocation site has been expanded to the north and included for employment uses in the Emerging Local Plan under NOR2 which states:

#### Access and highways

- Vehicle, cycle and pedestrian access will be taken from the existing roundabout junction with the A167 Darlington road and North Moor Road.
- Works are required to extend and improve pedestrian and cycle links, including to the local centre located to the east, the extension of the footway and lighting along Darlington road, appropriate pedestrian crossings and street lighting, where necessary, to serve the site.

#### Flood, drainage and water management

- Part of the site towards the southwestern boundary is vulnerable to surface water flooding. A site specific flood risk assessment will be required to determine the nature and scope of any mitigation necessary.

#### Biodiversity and landscaping

- A preliminary ecological appraisal and possible ecological impact assessment will be required. Mitigation will be required to deal with any risk of habitat loss. Existing features should be retained, including hedgerows and mature trees, and boundaries features enhanced to screen views of the site from the north and east. Habitats must be protected from adverse impacts, such as obtrusive light.

#### Other planning considerations

- The site is in a minerals safeguarding area; safeguarding considerations will need to be adequately addressed with engagement with North Yorkshire County Council.

#### Utility and service provision

- Early engagement will be required with the utility and service providers in order to establish available supply capacity to the site and, depending on the type of proposed development, whether reinforcement will be required:
  - Water - Yorkshire Water have identified that reinforcement of the sewerage network is likely to be required and that detailed investigation into the capacity of the water supply and waste water infrastructure is required. Therefore it is recommended that early consultation with the water authority is necessary.
  - Works adjacent to the railway - If any site excavations/ piling/ buildings are proposed to be located within 10 metres of the railway boundary a method statement will need to be submitted to Network Rail's Asset Protection Engineer for approval.

#### Design

- A planning and development brief for the site should demonstrate how the development will successfully integrate with the existing employment area as well as addressing the constraints and opportunities of the site. Scale, massing and density considerations will be expected to have regard to the original character of the area.

- 1.4 The application is a hybrid application for the entirety of the Emerging Local Plan allocation site with full permission sought for the provision of trade counter space, a drive through restaurant and the access road for the wider site. Outline permission is sought for a petrol station with retail space, a further drive through, office and industrial space.

## **2.0 Relevant Planning and Enforcement History**

- 2.1 20/01681/SCR - Request for screening opinion for Environmental Impact Assessment (EIA) in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (As amended) in respect of a Hybrid application for Full Planning for construction of up to 351m<sup>2</sup> trade counter B8 use, up to 557m<sup>2</sup> drive thru (A1,A3,A5) and infrastructure and an Outline application for four pump petrol station with up to 465m<sup>2</sup> sui generis and A1 use, drive through up to 167m<sup>2</sup> (A1, A3, A5) and a mix of up to 20,438m<sup>2</sup> business and light industrial (B1 B2) – EIA not require

## **3.0 Relevant Planning Policies**

The relevant policies are:

Core Strategy Policy CP1 - Sustainable development

Core Strategy Policy CP2 – Access

Core Strategy Policy CP4 - Settlement hierarchy

Core Strategy Policy CP10 - The scale and distribution of new employment development

Core Strategy Policy CP10A - The scale of new employment development by sub-area

Core Strategy Policy CP11 - Distribution of new employment development

Core Strategy Policy CP12 - Priorities for employment development

Core Strategy CP13 - Market towns regeneration

Core Strategy Policy CP14 - Retail and town centre development

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets

Core Strategy Policy CP17 - Promoting high quality design

Development Policies DP1 - Protecting amenity

Development Policies DP3 - Site accessibility

Development Policies DP4 - Access for all

Development Policies DP8 - Development Limits

Development Policies DP9 - Development outside Development Limits

Development Policies DP10 - Form and character of settlements

Development Policies DP16 - Specific measures to assist the economy and employment

Development Policies DP17 - Retention of employment sites

Development Policies DP19 - Specific measures to assist market town regeneration

Development Policies DP23 - Major out of centre shopping and leisure proposals

Development Policies DP30 - Protecting the character and appearance of the countryside

Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation

Development Policies DP32 - General design  
Development Policies DP33 - Landscaping  
Development Policies DP34 - Sustainable energy

### **Hambleton emerging Local Plan**

Hambleton Emerging Local Plan

The Hambleton Local Plan was considered at Examination in Public during October-November 2020. Further details are available at <https://www.hambleton.gov.uk/localplan/site/index.php>. The Local Planning Authority may give weight to relevant policies in an emerging plan as advised in paragraph 48 of the NPPF. The following draft policies are considered relevant on this basis.

S 1: Sustainable Development Principles 35  
S 2: Strategic Priorities and Requirements 37  
S 3: Spatial Distribution  
EG 1: Meeting Hambleton's Employment Requirement  
EG 2: Protection and Enhancement of Employment Land  
EG 6: Commercial Buildings, Signs and Advertisements  
E 1: Design  
E 2: Amenity  
E 3: The Natural Environment  
CI 2: Transport and Accessibility  
RM 3: Surface Water and Drainage Management

National Planning Policy Framework

## **4.0 Consultations**

- 4.1 Parish Council – No Response received
- 4.2 Highway Authority – No objection subject to conditions
- 4.3 Environmental Health Officer – Recommends conditions
- 4.4 North Yorkshire Police Designing Out Crime Officer – recommends conditions
- 4.5 Yorkshire Water – No objection subject to acceptable outfall rates
- 4.6 Lead Local Flood Authority – Awaiting final comments
- 4.7 North Yorkshire County Council Heritage Service – No objection
- 4.8 Network Rail – Recommends condition, awaiting confirmation on drainage condition content
- 4.9 North Yorkshire Fire and Rescue – No Observations
- 4.10 MOD Safeguarding, RAF Leeming – recommends conditions relating to Bird Hazard Management Plan and assurance that the drainage attenuation basin will only fill during peak events and will revert back to a dry basin after any events.

- 4.11 North Yorkshire County Council Footpaths – Public right of way within the site will need a diversion order.
- 4.12 Public comments – Five letters of representation were received, one in support one neutral and three in objection. The following points were raised:
- Impact on litter
  - Increased noise from traffic
  - Light pollution
  - Impact of chain takeaways on an independent market town
  - Proposed uses are contrary to the LDF allocation
  - Allocation policy specifically excludes town centre uses (retail/food/drink)
  - Other high value non town centre uses could be developed to make the employment uses viable
  - Proposal is contrary to DP17 which safeguards employment land
  - Impact on employment land need in Emerging Local Plan
  - Will prejudice delivery of the new local neighbourhood centre on the east side of Darlington Road
  - Neighbourhood Centre requires the retail/food/drink uses to make the neighbourhood centre viable, approval of this scheme will draw away these uses making the neighbourhood centre unviable.
  - Disruptive uses should have been placed further back in the site
  - Views towards the Dales will be lost
  - Design unsympathetic to surroundings
  - Tree belt should be provided to screen the site
  - Dedicated cycleway and pelican crossings should be provided to make the site more accessible
  - Smell from drive through restaurants
  - There is existing space available for the proposed uses and therefore this greenfield land should not be developed

## **5.0 Analysis**

5.1 The main issues to consider are:

i) The Principle of development in this location; ii) Acceptability of proposed uses; iii) Design and impact on the character of the area; iv) Amenity; v) Drainage; vi) Highways Safety and ; vii) Biodiversity

The principle of development in this location

5.2 As outlined at 1.2 and 1.3 above the site is allocated for employment uses in both the current LDF and the Emerging Local Plan. Policy EG2 of the Emerging Local Plan identifies this site, amongst others, as a key employment location. In this case therefore the general principle of development in this location is considered acceptable.

## Acceptability of proposed uses

5.3 LDF Policy DP17 state that: sites and premises used and/or allocated for employment purposes will be safeguarded for that use. Permission for any use that may have an adverse effect on an area's primary purpose for employment will not be granted, unless:

- i. the supply and variety of available alternative employment land is sufficient to meet District and local requirements; or
- ii. evidence can be provided that no suitable and viable alternative employment use can be found, or is likely to be found in the foreseeable future; or
- iii. there would be substantial planning benefit in permitting an alternative use, for example in removing a use which creates residential amenity problems such as noise or odours; or
- iv. economic benefits to the area would result by allowing redevelopment, for example by facilitating the retention of a business in the area through funding a new site or premises.

Where redevelopment of employment land is accepted, particular concern will be given towards ensuring the future viability of individual businesses (eg. tenants of an estate or premises) that might be displaced.

5.4 Policy EG2 states that a proposal for B class uses within a key employment location will be supported. A proposal for sui generis uses will only be supported if it is demonstrated that there is no suitable land or buildings available within a general employment location or site allocated for employment development. A proposal that involves the redevelopment or change of use of land or premises for non-employment uses will only be supported if it can be demonstrated that the proposed use is ancillary. Applicants will need to demonstrate that the proposal will have a complementary benefit to the employment area. There would be no unacceptable amenity impact, no unacceptable impact on either the operation of the site as a key employment location, or the supply of employment land, both in quantitative and qualitative terms. A proposal for a sui generis use or a use that is ancillary to the operation of the whole location should be located towards the periphery of the key employment location, nearest to public transport routes (where available), in order to reduce the potential for conflict with traffic associated with existing business uses.

5.5 Whilst the principle of development at this site is acceptable the proposal does not match the uses for which the site was allocated. The applicants claim that the site has not come forward yet, despite marketing, due to "the cost of the infrastructure required to enable the development of the site for small/medium scale employment units and the relatively low values that can be achieved in this location, making such investments unviable" (supporting statement pg 22). It is argued that the gateway location of the site lends itself to "restaurant- take away/retail/petrol station/trade counter uses which will generate high values and therefore assist in funding the infrastructure needed to open up the wider site" (supporting statement pg 22).

- 5.6 The applicant has applied the sequential test by assessing alternative locations for the development. It is considered, however, that this approach does not in itself justify the deviation from the allocation, however, it does assist in the application of Policy EG2 outlined above. The sequential test looked at a number of sites within Northallerton including the Auction Mart and carpark, the Prison site, sites at Yafforth Road/Finkills Way and the local Centre site to the east of Darlington Road. All sites assessed were considered to be either unsuitable or unavailable. Having reviewed the supporting statement it is considered that there are no other sites which could have been included in the assessment and the sequential test is therefore acceptable.
- 5.7 In addition, the applicant is arguing that an element of high value enabling development is required to assist in delivering the allocation. Even if a more suitable site for the non B class uses were found to be available it would not necessarily facilitate the allocation.
- 5.8 A viability assessment was submitted with the application which details the build costs for the site. The Assessment claims that given the cost of infrastructure including the access road and balancing pond the site would be unviable unless a higher value can be achieved on a number of units. The proposal therefore is to site higher values units, drive throughs, trade counter and petrol station at the front of the site to balance the cost of infrastructure to the wider site.
- 5.9 Comments have been received from Eshton Castlevale Ltd who have a legal agreement with the landowner to deliver a new local centre on land east of Darlington Road which has planning permission for town centre uses and will function as a new local neighbourhood centre. The comments raise a number of concerns regarding the impact of the proposal on the delivery of the neighbourhood centre.
- 5.10 It is argued that the proposal is contrary to the allocation policy which specifically precludes town centre uses and policy DP17 which safeguards employment land. The relevant wording for NM5E is as follows: "high quality B1 uses will be required on this site and on the equivalent parts of Site NM5D, particularly at the prominent areas of the sites adjacent to the proposed roundabout junction, to form a suitable 'gateway' into Northallerton. B2, B8 and other suitable employment uses (excluding town centre uses) would also be acceptable within the site subject to location;" It is considered in this case that the wording does not specifically indicate that town centre uses would be unacceptable as the commentator states, rather that the allocation is for non town centre employment uses. This does not preclude the consideration of other uses where an appropriate justification has been provided.
- 5.11 In relation to DP17 part iii indicates that permission may be granted if there would be substantial planning benefit. The example given is the removal of a nuisance. In this case, however, the site has not come forward in the last plan period and the proposal offers a reasonable solution. The provision of the infrastructure to allow the employment land to come forward is considered a planning benefit in this case.
- 5.12 The commentator also indicates that approval for drive throughs at this site would prejudice the delivery of the neighbourhood centre site by drawing the food retailers away. It is claimed that these business are required to achieve the visibility of the site. No specific evidence has been provided to back this up. Indeed the identity of

the end users has not officially been revealed by either party and therefore the Council cannot make any informed judgement on whether this proposal would prejudice the other. A decision must be made on the basis of what is before the Council and not on what may be presented in the future.

- 5.13 A similar objection has been raised on behalf of Simon Bailes, who claim that their site, which has permission for drive through units is sequentially preferable to the application site as it is better connected to the town centre. In this case the difference in accessibility is considered marginal. The commentor also questions the marketing carried out at the site and whether this was robust.

Design and impact on the character of the area

- 5.14 One of Hambleton's strategic planning objectives, set out in The Core Strategy Local Development Document (2007), is "To protect and enhance the historic heritage and the unique character and identity of the towns and villages by ensuring that new developments are appropriate in terms of scale and location in the context of settlement form and character."
- 5.15 Policies CP17 and DP32 require the highest quality of creative, innovative and sustainable design for buildings and landscaping that take account of local character and settings, promote local identity and distinctiveness and are appropriate in terms of use, movement, form and space.
- 5.16 The National Planning Policy Framework supports this approach and, at paragraph 134, states that planning permission should be refused for development of poor design especially where it fails to reflect local design policies and government guidance on design<sup>52</sup>, taking into account any local design guidance and supplementary planning documents such as design guides and codes
- 5.17 Policy E1 of the Emerging Local Plan states that all development should be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and help to create a strong sense of place.
- 5.18 The site is currently green-field with industrial development to the south and the partially complete North Northallerton housing development to the east. The site currently forms part of the transition between the edge of the settlement and the open countryside. To the east of Darlington Road the North Northallerton housing development has extended the built form of the settlement to the north. This site will bring development on the western side approximately 100m beyond the road fronting extent of the housing development. Further land to the north east of this new settlement edge has approval for further housing. Given the application site's position in relation to the strategic expansion of Northallerton and its status as both a current allocation under the LDF and draft allocation in the Emerging Local Plan it is considered that development of the site will not have an undue impact on the character of the area.
- 5.19 Part of the application is in outline with access only considered. The appearance, scale, layout and landscaping of this part of the development will be considered at reserved matters stage.

- 5.20 The application also includes a section seeking full permission. This section is located at the south east corner. Detailed design drawings have been submitted for Unit 1 which is a drive-through unit and units 2 and 3 which are trade units. Unit 2 is shown as divisible into 2 separate spaces and unit 3 into 4 spaces. The design is modern in style featuring timber and Kingspan cladding, blue engineering brick and aluminium framed glazing.
- 5.21 As the site is seen as a gateway site into Northallerton it has been designed with visual permeability as a priority. The proposed stone entrance originally continued around the eastern boundary of the site. This was amended on request and it is now proposed to keep the existing hedgerow with the stone wall reduced to just the entrance.
- 5.22 The design and access statement identifies that other commercial and industrial properties in the area feature red brick and various cladding materials. This has not been carried forward into the proposed design, however, it appears that Unit 1 at least is a corporate design for a well known restaurant chain. The remaining buildings that seek full consent take their cue from Unit 1 and feature timber and industrial type cladding. Overall, the design is modern and will appear as good quality design in the context of the wider industrial area.

#### Amenity

- 5.23 LDF Policy DP1 states that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight.
- 5.24 Emerging Local Plan Policy E2 states that all proposals will be expected to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use.
- 5.25 The Council's Environmental Health Officer was consulted and has recommended a number of conditions to secure the amenity of nearby residents. The response details that in recent years the number of complaints regarding industrial uses in the district has increased. The Environmental Health Officer has indicated that "historic estates tend to have no hours use restrictions and many larger operators now work 24 hours. Over the years the areas surrounding these sites have experienced a general increase in noise levels which can lead to a deterioration in amenity both due to increased activities during the night and associated road traffic movements. This becomes increasingly difficult when there are many operators and many sources of noise and odour".
- 5.26 As some of the end uses are currently unknown the Environmental Health Officer has recommended a number of conditions including submission of additional information at later stages of the development which will allow more detailed assessment at the appropriate time.

## Drainage

- 5.27 LDF Policy DP32 indicates that sustainable drainage systems (SuDS) should be included where possible.
- 5.28 Emerging Local Plan Policy RM 3 relates to surface water and drainage management. Of relevance to this case is the requirement that SuDS be incorporated in the drainage design.
- 5.29 The application site is located in Flood Zone 1. The emerging Local Plan identifies that the south western portion of the site is vulnerable to surface water flooding. Due to the size of the site a Flood Risk and Drainage strategy were submitted with the application.
- 5.30 The drainage strategy indicates that the site will be developed with separate systems for foul and surface water drainage. Ground condition testing has been carried out and it was found that the site is not suitable for soakaway systems.
- 5.31 The drainage assessment indicates that discharge to a watercourse is not viable as this would require the system to cross third party land. In the interest of sustainable drainage, Yorkshire Water has advised that the feasibility of crossing third party land be investigated further and have recommended that this be secured by condition.
- 5.32 Subject to the above condition it is proposed that surface water be discharged to the public system located in Standard Way with a maximum discharge rate of 5l/second. This will require a positive attenuation system through a detention basin, pumping station and via a rising main to the Yorkshire Water surface water sewer.
- 5.33 Similarly, foul water will discharge to the Yorkshire Water foul sewer at Standard Way. It is proposed that the drainage system will be built to adoptable standards.

## Highways Safety

- 5.34 LDF Policy DP3 supports the provision of sustainable forms of transport to access the site and within the development. Provision must be made for (where appropriate), footpaths, cycleways, cycle storage, bus stops, travel plans and parking.
- 5.35 Draft Policy CI 2 of the Emerging Local Plan indicates that a proposal will be supported where it is demonstrated that the development can be satisfactorily accommodated within the network, can be well integrated with footpath, cycling and public transport networks, provides proportionate contributions towards improvements where necessary, maximises opportunities for walking, cycling and public transport, provides safe access for both users and emergency vehicles and adequate parking.
- 5.36 North Yorkshire County Council Highways Authority has been consulted and the following response was returned: Access to the site is proposed to be taken from the recently constructed roundabout on Darlington Road. The roundabout and access road are of a suitable width and construction to accommodate the larger goods vehicles that the development would be expected to generate. A check on

the capacity of the roundabout has demonstrated it would continue to operate within capacity with the new traffic generated by the proposals and therefore the vehicular access proposals are considered acceptable.

- 5.37 The internal road and site layout shown for phase 1A would allow service vehicles to the Trade Units to load and unload clear of the highway and leave the site in a forward gear. The level of parking provision proposed for phase 1A also meets the minimum requirements expected. An indicative road layout for the later phases seeking outline permission has been provided and in principle this is considered acceptable although the highway authority would expect a turning head facility to be provided that can be used by goods vehicles to form part of the road layout.
- 5.38 The impact of the new traffic expected to be generated by the proposals has been considered with a trip generation and distribution exercise undertaken by the applicant. It is accepted that a number of uses proposed for the site, such as the petrol filling station and drive through restaurants will rely to some extent on existing traffic that already passes the site. Given the site is located on a major A road, this could be a significant proportion of the traffic. There is also likely to be some redistribution of existing traffic that is already present on the wider local road network that will divert to this development. However, there will also be new trips that are likely to impact on junctions in Northallerton that can already suffer from congestion. Traffic modelling work recently undertaken has in particular highlighted issues at High Street and Friarage Street with options to improve capacity now being considered. The proposed development is likely to result in a noticeable impact at this location and therefore a contribution towards measures to improve capacity is sought. It is also important to ensure that facilities and infrastructure that can provide alternative means of transport to the site are provided. A connecting cycle path/footpath that joins to Standard Way and a contribution to provide/enhance bus services to this location are also sought as part of the proposals.
- 5.39 North Yorkshire County Council Highways raised no objection to the proposals and recommend conditions relating to detailed plans, construction requirements, closing of the farm access, off site works, travel plan delivery and a construction management plan. It is considered that the proposed development will not result in a harmful impact on road safety and the proposed development is in compliance with policy DP3 and DP4.

#### Biodiversity

- 5.40 Planning Practice Guidance on the natural environment indicates that section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its 25 Year Environment Plan.

- 5.41 Policy DP31 of the LDF states that 'Permission will not be granted for development which would cause significant harm to sites and habitats of nature conservation [...] Support will be given [...] to the enhancement and increase in number of sites and habitats of nature conservation value'.
- 5.42 Policy E3 of the Emerging Local Plan requires that harm to a feature of biodiversity interest, will only be supported where harm is unavoidable, then appropriate mitigation is provided to lessen the impact of any unavoidable harm, and as a last resort compensation is delivered to offset any residual damage to biodiversity. Policy E3 also requires the use of a biodiversity offsetting metric to demonstrate that a proposal will deliver a net gain for biodiversity. It must also be demonstrated that the need for the proposal outweighs the value of any features that would be lost.
- 5.43 A Preliminary Ecological Assessment was submitted with the application. As part of the assessment a desktop study was undertaken on the 19/11/2019 in order to obtain any relevant ecological records that may be present within a 2km radius of the site, including protected and notable species records and nature conservation designations. The proposed development will have no impact on statutorily and non-statutorily designated conservation sites. This is due to no conservation sites in the wider landscape being in or within 2km of the influencing area of the proposed development.
- 5.44 A phase 1 habitat survey was also undertaken on site. The site was found to have potential of supporting bat roosting sites and emergence surveys were recommended to establish the presence or absence of bat roosts. Emergence and re-entry surveys were carried out in August and September of 2020. The surveys found a number of bats commuting/foraging at the site. In addition, 2 instances of bats (brown long-eared and common pipistrelle) emerging from the barn to the south of the dwelling were recorded.
- 5.45 As bats have been confirmed to be roosting at the site a Bat Mitigation Licence must be applied for from Natural England, and a mitigation plan devised so development causes as little impact on local bat populations as possible.
- 5.46 Paragraph 180 of the National Planning Policy Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- 5.47 In this case it is considered that there are no alternative sites available to accommodate this development, however, mitigation measures can be secured to reduce the impact during construction and later use of the site. It is recommended that a Construction Environmental Management Plan (CEMP) and a Landscape and Ecological Management Plan (LEMP) including a suitable lighting scheme be provided prior to the commencement of development.
- 5.48 The Preliminary Ecological Assessment also found that the buildings, scattered trees and hedgerow habitats on site provide excellent nesting opportunities for breeding bird species. Several vacant Swallow nests were noted within the storage building and outbuilding. The scattered broadleaf trees on site offer potential nesting areas for breeding birds. The site is likely to support breeding birds, including those listed as Local Hambleton Biodiversity Action Plan farmland bird species. It was

also found that the site is unlikely to support nesting and breeding hedgehogs, however the grassland habitat offers some foraging opportunities for hedgehogs.

- 5.49 It is recommended that Biodiversity Enhancement Plan be secured by condition which includes:
- Quantities and locations of faunal boxes for bats, birds, hedgehogs and insects.
  - Native shrub/tree/grass/hedgerow planting.
  - Gaps in fencing to allow movement for hedgehogs and other small mammals

#### Planning Balance

- 5.50 The proposal does not strictly comply with the requirements of the LDF or Emerging Local Plan allocations. An argument has been put forward, however, which reasonably explains the justification for the town centre type units in this location. There is some merit to the argument that the neighbourhood centre could be impacted by the proposal, however, it is considered that based on the available information this would not form a robust reason for refusal at this stage. Given that the allocation has not come forward in the last plan period it is considered that the proposal to offset the cost of infrastructure through the provision of high value units is acceptable.

## 6.0 Recommendation

- 6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:
1. Part 1) of the development hereby permitted (Full planning permission is sought for the demolition of the existing farmhouse and buildings and construction of a commercial development comprising of 21,000sq ft (1951 sq.m) of trade counter space (B8), a 3,777sq ft (351 sq.m) drive thru (E b) and sui generis and associated infrastructure comprising of carparking, landscaping, drainage and construction of an access road (Phase A1) from the Darlington Road to cross enable Phase 1B and 2) shall be begun within three years of the date of this permission.
  2. Application for the approval of all the reserved matters in respect of Part 2) of the development hereby approved (Outline Planning Permission is sought for Phases 1B and 2 for the erection of the following: A four pump petrol station with up to 5,000sq ft (465 sq.m) of retail space (Sui generis and ancillary E a). A drive thru of up to 1,800sq ft (167 sq.m) (E b) and sui generis. Office units of up to 15,000sq ft (1395 sq.m) E g. Industrial units of up to 190,000 sq ft (18,116 sq m) B2) shall be made to the Local Planning Authority not later than three years from the date of this decision and the development hereby approved shall be begun on or before whichever is the later of the following dates: i) Three years from the date of this permission ii) The expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.
  3. No development in respect of Part 2) (Outline Planning Permission is sought for Phases 1B and 2 for the erection of the following: A four pump petrol station with up to 5,000sq ft (465 sq.m) of retail space (Sui generis and ancillary E a). A drive thru of up to 1,800sq ft (167 sq.m) (E b) and sui generis. Office units of up

to 15,000sq ft (1395 sq.m) E.g. Industrial units of up to 190,000 sq ft (18,116 sq m) B2) shall take place in any Phase without the prior written approval of the Local Planning Authority of all details of the following reserved matters for that Phase: (i) appearance; (ii) landscaping; (iii) layout; and (iv) scale. Thereafter the development of that Phase shall not be carried out otherwise than in strict accordance with the approved details.

4. Part 1) of the development hereby permitted shall not be undertaken other than in complete accordance with the drawing(s) numbered: Proposed Site Layout 15475-101 Rev A received on 20.07.2021 Proposed Unit 1&2 GA 15475-102 Rev A received on 20.07.2021 Proposed Unit 1 Elevations 15475-104 Rev A received on 20.07.2021 Proposed Site Elevations/Sections 15475-107 Rev A received on 20.07.2021 Proposed Boundaries Plan 15475-112 Rev A received on 20.07.2021 Landscape Plan 15475-VL L01 Rev D received on 20.07.2021 Landscape Masterplan 15475-VL L02 Rev D received on 20.07.2021
5. The Reserved Matters application shall be submitted in substantial accordance with the Proposed Phasing Plan 15475-111 Rev A.
6. Part 1) of the development shall not be occupied until the access road and related services have been installed to a standard adoptable by statutory undertakers to facilitate Phase 2 of the development as shown on drawing titled Proposed Phasing Plan 15475-111 Rev A and received by Hambleton District Council on 26.11.2020.
7. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.
8. 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.
9. With 6 months of development commencing on phase 2 the existing farm access onto Darlington Road has been permanently closed off in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

10. There must be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of phases 1B and 2 on land south east of Moor Close Darlington Road until full details of the following have been submitted to and approved in writing by the Local Planning Authority: o vehicular, cycle, and pedestrian accesses; o vehicular and cycle parking; o vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear, and; o loading and unloading arrangements. No part of phases 1B and 2 of the development must be brought into use until the vehicle access, parking, manoeuvring and turning areas 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.
11. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at Phase 1A 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.
12. The development must be carried out and operated in accordance with the approved framework Travel Plan. Those parts of the Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.
13. No development for any phase of the development must commence until a Construction Management Plan for that phase 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 Construction Management Plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
  1. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
  2. the parking of contractors' site operatives and visitor's vehicles;
  3. areas for storage of plant and materials used in constructing the development clear of the highway;
  4. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
  5. protection of carriageway and footway users at all times during demolition and construction;
  6. details of site working hours;
  7. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
  8. details of external lighting equipment;
  9. details of ditches to be piped during the construction phases;
  10. a detailed method statement and programme for the building works; and
  11. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

14. The following schemes of off-site highway mitigation measures must be completed as indicated below: 1. Provision of 2.5m wide shared cycleway/footway from the junction of Standard Way/Darlington Road that connects with the footway/cycleway at the roundabout of the A167/North Moor Road. To be provided prior to first occupation of the site. 2. Provision of a bus stop and shelter with raised kerbs on the northbound lane of the A167 Darlington Road prior to the roundabout Darlington Road/North Moor Road. To be provided prior to first occupation of the site For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority. An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site. Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.
15. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to: i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority
16. In respect of Part 1) of the development the hours of use for the restaurant, drive through / takeaway restaurant are restricted to between 07:00 - 22:00.
17. In respect of Part 1) of the development hereby approved delivery of raw ingredients / materials are restricted to between the hours of 07:00 -20:00.
18. In respect of Part 1) of the development hereby approved all emissions to air resulting from any processes, plant, or activity likely to be detected at odour sensitive receptors shall be treated and discharged at a height, position and in a manner to the satisfaction of the Local Planning Authority. Details of these emission(s), odour impact assessments and the method(s) of odour abatement, treatment of the discharge shall be submitted and agreed in writing with the Local Planning Authority prior to the commencement of emissions. (Siting the plant on a façade facing away from the receptor has been recommended as mitigation). The scheme shall also include details of noise levels generated and any noise attenuation structures to be incorporated.

19. In respect of Part 1) of the development hereby approved a construction management scheme shall be submitted to and approved in writing by the LPA before ground works commence. The scheme shall detail what steps shall be taken to mitigate emission of noise, lighting, dust, and vibration from the site impacting on existing noise sensitive premises\*. This is to include details the siting of:
- materials and machinery, o staff welfare facilities o office location, staff/contractor parking,
  - construction site traffic movements including deliveries,
  - siting of any lighting provision, type, and controls o hours of hours including delivery times.
  - how dust emissions will be reduced, monitored, and managed.
  - Details of any piling to take place including duration and equipment type to be used.
  - How machinery, equipment and earth works will comply with the British Standards BS 5228- 1:2009 Code of practice for noise and vibration control on construction and open sites, Part 1 : Noise
  - In circumstances where vibration is a potential source of impact it is anticipated that an appropriate vibration / screening survey or prediction report be proposed, and details submitted.
- Details of the community engagement arrangements will be in place throughout ground preparation and construction phases.
- \*Noise sensitive premises are taken to be places where building occupants may be resting, sleeping, or studying, or spending recreational time.
20. In respect of Part 2) of the development all emissions to air resulting from any processes, plant, or activity likely to be detected at odour sensitive receptors shall be treated and discharged at a height, position and in a manner to the satisfaction of the Local Planning Authority. Details of these emission(s), odour impact assessments and the method(s) of odour abatement, treatment of the discharge shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of emissions.
21. In respect of Part 2) of the development HGV and / or other associated deliveries to the development area shall be restricted to between the hours of 08:00- 18:00 hrs daily.
22. In respect of Part 2) of the development no external and / or externally terminating fixed plant extract ventilation, plant or machinery shall be placed on the roofs of the units. Prior to the installation of any extract ventilation system details of the position and termination height shall submitted to and approved writing by the Local Planning Authority.
23. In respect of Part 2) of the development no HGV / Refrigerated vehicles shall be parked overnight on the highway within the development area.
24. In respect of both Part 1) and Part 2) of the development: Notwithstanding the provisions of any Town and Country Planning (Use Classes) Order and any Town and Country Planning General or Special Development Order for the time being in force relating to 'permitted development' the buildings shall be retained for the uses hereby approved and detailed in the description and no changes of

use shall occur without the express consent of the Local Planning Authority through an application made under Part III of the Town and Country Planning Act 1990.

25. In respect of Part 1) and Part 2) of the development details of any external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The information shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles, and luminaire profiles) and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting. Thereafter the artificial lighting shall be installed, operated, and maintained in accordance with the approved scheme. Changes to any element of the lighting scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the changes taking place.
26. In respect of Part 2) of the development for unit occupations where noise activities produced both internally or externally are likely to be heard by noise sensitive receptors, including other business users, further information shall be submitted to and approved in writing by the Local Planning Authority in the form of an acoustic assessment detailing the associated noise level created by activities and / or machinery (including low frequency noise where relevant), impact on sensitive receptors, proposed mitigation, and the associated reduction in noise levels. The scheme may be requested in the format of a BS4142 assessment where necessary. Any mitigation measures approved as part of the scheme shall be installed prior to the noise activities taking place and shall thereafter be retained.
27. In respect of Part 2) of the development a construction management scheme shall be submitted to and agreed in writing with the LPA before ground works commence. The scheme shall detail what steps shall be taken to mitigate emission of noise, lighting, dust, and vibration from the site impacting on existing noise sensitive premises\*. This is to include details the siting of:
- materials and machinery,
  - staff welfare facilities
  - office location, staff/contractor parking,
  - construction site traffic movements including deliveries,
  - siting of any lighting provision, type, and controls
  - how dust emissions will be reduced, monitored, and managed.
  - Details of any piling to take place including duration and equipment type to be used.
  - How machinery, equipment and earth works will comply with the British Standards BS 5228-1:2009 Code of practice for noise and vibration control on construction and open sites, Part 1 : Noise
  - In circumstances where vibration is a potential source of impact it is anticipated that an appropriate vibration / screening survey or prediction report be proposed, and details submitted.
  - Details of the community engagement arrangements will be in place throughout ground preparation and construction phases.
- \*Noise sensitive premises are taken to be places where building occupants may be resting, sleeping, or studying, or spending recreational time.

28. No development shall take place until a Bird Hazard Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Bird Hazard Management Plan shall include design measures to minimise any increase in the numbers of hazardous species (primarily large or flocking birds) as a result of the development proposed, in particular provisions to prevent gulls from breeding (using appropriate licensed means) on site should be provided. The development shall be carried out strictly in accordance with the details set out in the approved Bird Hazard Management Plan in perpetuity or until RAF Leeming is no longer operational.
29. Prior to commencement of development, hereby approved, a scheme detailing what crime prevention measures are to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall take into account the comments made by the North Yorkshire Police Designing Out Crime Officers report dated 11 January 2021 and should provide rationale and mitigation in relation to any suggestions made that are not to be incorporated. Thereafter the approved scheme shall be implemented and retained for the life of the development.
30. No development shall commence until a Construction Ecological Management Plan ("CEMP") and a Landscape and Ecological Management Plan (LEMP) have been submitted for the written approval of the local planning authority for each phase of the development. The approved plans must be available onsite for consultation by site operatives throughout the course of constructions works for each phase. Once approved development of each phase shall be undertaken in accordance with approved CEMP and LEMP
31. No development shall commence until a Biodiversity Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority for each phase of the development. The plan shall include but not be limited to the following: -
- Quantities and locations of faunal boxes for bats, birds, hedgehogs and insects.
  - Native shrub/tree/grass/hedgerow planting.
  - Gaps in fencing to allow movement for hedgehogs and other small mammals
- Once approved development of each phase shall be undertaken in accordance with approved plan.

The reasons for the above conditions are:-

1. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
3. To enable the Local Planning Authority to properly assess these aspects of the proposal, which are considered to be of particular importance, before the development is commenced.

4. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan.
5. To ensure that the development accords with the justification provided to support the principle of the proposed uses.
6. In order to ensure that the employment land is made available for development.
7. To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.
8. 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.
9. In the interests of highway safety and the amenity of the area.
10. To ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.
11. To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
12. To establish measures to encourage more sustainable non-car modes of transport.
13. In the interest of public safety and amenity.
14. To ensure that the design is appropriate in the interests of the safety and convenience of highway users.
15. To ensure that no surface water discharges take place until proper provision has been made for its disposal.
16. In the interest of local amenity.
17. In the interest of local amenity.
18. In the interest of local amenity.
19. In the interest of local amenity.
20. In the interest of local amenity.
21. In the interest of local amenity.
22. In the interest of local amenity.
23. In the interest of local amenity.

24. Due to amenity concerns the development area is not suitable for residential accommodation. In addition due to the viability justifications presented during the application stage any deviation from that approved would require further consideration.
25. In the interest of local amenity.
26. In the interest of local amenity.
27. In the interest of local amenity.
28. To minimise the potential of the works approved to provide a habitat desirable to hazardous large and/or flocking birds which have the potential to pose a considerable hazard to aviation safety which is exacerbated by the proximity of RAF Leeming.
29. To satisfy Paragraphs 92 and 130 of the National Planning Policy Framework February 2021.
30. In the interest of biodiversity.
31. In the interest of biodiversity.