

**Parish: Great Busby**  
Ward: Osmotherley and Swainby  
**2**

Committee Date : 12 May 2022  
Officer dealing: Ms Helen Ledger  
Target Date: 14 May 2021

**21/00730/FUL**

**Change of use and extension of existing agricultural building and land to mixed agricultural and commercial use.**

**At: Skate Beck Farm Great Busby North Yorkshire TS9 5LB**

**For: Mrs R Stevenson.**

## **1.0 Site, Context and Proposal**

- 1.1 The site is located to the south west of Stokesley, surrounded by open countryside including an area of woodland and a beck to the north east of the site. At the rear (north west) is the River Leven. At the time of the officer site visit the land directly to the front of the site was being used for sheep grazing. Access is through a gate and via a private track of 114 m from the A172. Elhams Market Garden touring caravan and camping site lies directly to the south across the A172.
- 1.2 The entrance to the site includes gate and stone gate pillars, which has been the subject of enforcement action and are to be replaced with 5 bar gate and timber support posts. Submitted plans show timber gate and posts as described. On the site, enforcement action has been undertaken regarding a number of matters, with the majority of the enforcement notices being complied with. These matters were associated with a former occupier of the site.
- 1.3 An agricultural building (approximately 290 square metres) is on site and was erected with the benefit of permitted development rights. An area of concrete hard standing is located to the exterior of the building. The proposal is to change the use and extend the existing building for a Mixed Agricultural and Commercial use. This would retain the existing agricultural use and add in the commercial use by allowing an existing business currently located on Stokesley Business Park to locate to larger premises. The extension amounts to an increase in footprint by 470.90 sqm by extending the building in length and width. There is no overall increase in height and a cat slide roof is proposed to increase the width to the south-west elevation.
- 1.4 The applicant is seeking to provide new accommodation for Agriplus Ltd an existing local business operating from Stokesley Business Park which provides new and used agricultural vehicles and machinery sales and repair. Farming UK lists the business as providing a 24 hour callout service 7 days a week with opening hours 8.30am to 6pm Monday to Friday and 8.30am to 2pm Saturday.
- 1.5 The site is within flood zone 3 and has a risk of surface water flooding. A flood risk assessment has been provided.

## **2.0 Relevant Planning History**

- 2.1 17/01889/FUL - Construction of an agricultural livestock building - Refused on 8 January 2018 on the following grounds:

There are concerns with the viability of the proposed business including the likely need for additional development; and the location of the site. These lead to the conclusion that the use would not represent a sustainable form of agricultural development in conflict with section 3 of the NPPF, and development plan policies CP1, CP2 and DP26.

Whilst the principle of new agricultural development in the countryside is supported, insufficient information has been submitted to justify the need and siting of the building in an isolated and prominent position in the countryside. Consequently the need for the development does not outweigh the landscape and visual impact of the building, in conflict with Local Development Framework Policies DP26 and DP30, which are concerned with protecting the character and appearance of the countryside and includes amongst other things that the openness, intrinsic character and quality of the District's landscape will be respected.

The proposal is in an area of flood risk and the submitted Sequential Test fails to adequately demonstrate that the development is required to be located in flood zone 3. Therefore, the proposal conflicts with the Section 10 of the NPPF and Development Plan policies CP21 and DP43, which states that development proposals in areas of flood risk will not be permitted unless a sequential test has been passed.

The application was appealed and was also dismissed by the Planning Inspector

- 2.2 17/00599/APN - Construction of an agricultural building for purpose of storage of equipment, straw and hay - Refused on 7 April 2017 on the following reasons:

The local planning authority needs to be satisfied that the building is 'reasonably necessary for the purposes of agriculture within that unit' in accordance with Part 6, Class A of the General Permitted Development Order 2015 (as amended). The short statement submitted in support of the application has been reviewed and this does not provide sufficient information/detail to satisfy this requirement. The statement makes reference to an 'excess of 100 acres of agricultural land' farmed by the applicant. However, it is unclear where this is located and how it relates to the site, which is 5.67 hectares in extent.

Therefore, the local planning authority is of the view that the proposed development is not permitted development. This is because it has not been demonstrated that the works are reasonable necessary for the purpose of agriculture within the unit.

- 2.3 16/01864/APN - Application for prior approval for the construction of an agricultural general purpose storage building (Previously submitted application for Prior Notification ref: 16/01513/APN) - Approved 13 September 2016
- 2.4 19/01171/FUL - Change of use of agricultural building to storage of agricultural machinery and plant - Withdrawn

### **3.0 Relevant Planning Policies**

As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Local Plan Policy S1: Sustainable Development Principles  
Local Plan Policy S2: Strategic Priorities and Requirements  
Local Plan Policy EG7: Businesses in Rural Areas  
Local Plan Policy S5: Development in the Countryside  
Local Plan Policy E1: Design  
Local Plan Policy E2: Amenity  
National Planning Policy Framework  
Local Plan Policy E7: Hambleton's Landscapes  
Local Plan Policy RM2: Flood Risk  
Local Plan Policy RM3: Surface Water Drainage  
National Planning Policy Framework

### **4.0 Consultations**

- 4.1 Great Busby Parish Meeting - Object, the following is a summary of matters raised:
- The site is in the open countryside, where commercial development is unacceptable.
  - It does not comply with the Council's locational policies
  - It should be located on Stokesley Business Park
  - The noise and lighting will disturb the nearby caravan site at Elhams Market Garden
  - The increased volume of large vehicles turning would be hazardous
  - The single-track lane to Busby is not suitable for heavy goods vehicles
  - The land lies within the River Leven floodplain and is subject to flooding.
  - Could develop into a much larger operation
- 4.2 NYCC Highways - More information was sought on the anticipated traffic movements to assess whether the site can accommodate the manoeuvres required to access the highway. More information was supplied including a swept path analysis. The Highway Authority is recommending that the access to the site is improved to ensure that the vehicles visiting the site can access/ exit the site in a safe manner. This will involve a larger, wider access to accommodate the turning manoeuvres of the larger vehicles that are expected to visit the site. The Local Highway Authority recommends that Conditions are attached to any permission granted to secure this.
- 4.3 Environmental Health - The applicant has not provided any hours of operation. The nearest residential property has been identified as 350m from the proposed site. However, the potential impact on the customers of Elhams Market Garden Caravan Site has not been adequately considered. Customers will be sleeping overnight on the site approximately 190m from the proposed development. The Planning Support Statement comments "The nature of the business can be noisy in comparison to the neighbouring uses and can also generate dust and dirt given the farm vehicles and

machinery involved. These environmental impacts have already raised complaints from adjacent businesses" from where the business is currently operating. The A172 is a well-used transport route, however it is anticipated the amount of traffic using the road will fluctuate during the day time, and on a night-time will significantly reduce. Concern raised that the activities from the proposed development could impact the occupiers of the Caravan Site without adequate control from noise. No details provided on lighting, which will also cause disturbance. At the time of writing a further response from Environmental Health is expected following further discussion about potential noise impacts. Members will be updated on this at Committee

- 4.4 Environment Agency - The development is classed as Less Vulnerable according to table 2 of the Planning Policy Guidance (Flood Risk and Coastal Change) which is acceptable within Flood Zone 3. The Agency does not consider it to have an increased risk of on or off-site flooding, therefore have no objection to this development. We request that the LPA lists the FRA as an approved plan/document, to which the development must adhere. Refer LPA to 'Flood risk emergency plans for new development' to determine whether the proposals are safe in accordance with paragraph 163 of the NPPF and the guiding principles of the PPG. This does not mean we consider that the access is safe, or the proposals acceptable in this regard.
- 4.5 Economic Development officer - Question why the applicant has not considered the allocation of employment land on the business park; this land has been available for sale for many years with planning permission for these use classes already granted. Development of this land would allow further allocations of employment land to the South of this site to be opened up. These options should be explored. Looking at the application there are businesses on the estate that similarly cater for large vehicles such as the coach company and Armstrong Richardson; the estate would seem the logical location for the business and there is land available.
- 4.6 Site notice posted and neighbours notified. 64 representations received, the following is a summary of the issues raised.

#### Support

- Would allow business expansion
- Easier access for the larger machines and keep them out of town
- Current site not big enough without causing obstruction to highway
- Relocation would prevent an hour plus travel time to the nearest other business
- It will keep a local business local, close to customers and suppliers
- New location easier to travel to, avoids minor roads
- Skate beck farm better suited to the business
- Location provides adequate facilities to load and unload in the safety
- Fear that if a suitable alternative site is not found they may be forced out of this area
- Need someone local to support when machinery breaks down at peak farming time
- if forced to relocate out of the area, it will be detrimental to the productivity and efficiency of many other agricultural businesses in the area
- The business park and adjoining businesses is not suited to this nature of the business

- Agricultural enterprises must be supported by local government for long term security and sustainability
- Probably mean jobs for local people
- No other premises in this area that would be suitable for Agriplus
- Sustainable Long Term Support for the Farming community.

#### Object

- All commercial businesses should be on an Industrial Estate. Stokesley has such space.
- Note it is the customers supporting this and focus the decision on the correct policy for the area
- How much more agricultural land and our countryside do we have to lose when the council have already provided the more than adequate space for them to trade.
- Will go against Hambleton's investment into the Industrial Estate, to allow this application would go against that
- The highway is not suitable for a venture of this kind as heavy vehicles will turning
- Would be to the detriment of the environment eg noise and more traffic in the area
- This type of development and business venture belongs on an industrial estate and not on agricultural land
- Impact on Elhams Caravan site, noise and disturbance

## 5.0 Analysis

5.1 Having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, applying all relevant Development Plan policies, and considering all other policy and guidance (including the NPPF and PPG) and all other material planning considerations, including representations received, it is considered that the main planning considerations raised in relation to the determination of this application are as follows: i) the principle of development in this location; ii) flood risk; iii) design; iv) impact on the countryside and local character; v) highway safety; vi) amenity impacts and; vi) nutrient neutrality

#### Principle

5.2 Policy S1 sets out that development needs will be met through sustainable development that supports existing communities, making effective and efficient use of land, supporting social cohesion, minimising the need to travel and promoting sustainable modes of travel; secondly by ensuring communities have a healthy, safe and attractive living and working environment with reasonable access for all to a good range of facilities and services. Other key relevant principles are:

*d. Promoting Hambleton as a recognised location for business by providing a range of employment opportunities that meet local aspirations, including high quality jobs, meeting the needs of new and expanding businesses and recognising the contribution of the rural economy;*

*e. Protecting and enhancing the high quality natural and historic environment whilst facilitating development in a way that respects and strengthens the distinctive character of the landscape and the form and setting of settlements;*

*f. Ensuring that development takes available opportunities to improve local environmental conditions, such as air and water quality, seeks the reuse of suitable previously developed and underused land and buildings, and reclaimed materials;*

- 5.3 Policy S2 makes allocations of approximately 77.8 hectares of employment land to meet the needs of businesses within the time horizon of the recently adopted local plan. The strategy focuses economic growth on the established areas of Leeming Bar and Sowerby with some provision provided for in other areas, such as Stokesley. The site sought through this application would be contrary to this strategic approach.
- 5.4 The strategic policies of the development plan would steer development towards allocated sites, the nearest relevant allocations for employment uses being at Stokesley Business Park. The case officer has raised this with the agent who has advised that the applicant has considered this site and discounted it due to being offered the site on a 99 year lease, which together with build costs and service charges was not considered to be a viable option. No specific evidence has been tabled to substantiate this. The agent notes that in the previous local plan employment allocation in Stokesley the aspiration of the land owners was for high quality business and a high quality of design, which they find do not fit with their client's business.
- 5.5 The agent has supplied a report that considers the principle further and advises that the previous development would allow small scale expansion of rural businesses, in this case the business employs just three people, in this case as the business serves the agricultural sector and thus fits with requiring a rural location. This makes reference to a 2012 approval ref 12/00965/FUL, at Sinderby Station for an agricultural contracting business. This is not considered relevant due to the specific justification for this development and owing to the changes in policy since that time, including the adoption of the Local Plan.
- 5.6 Policy EG7 on Businesses in Rural Areas states that employment generating development will only be supported in locations outside the main built form of a defined settlement in the settlement hierarchy where it involves:
- "a. the expansion of an existing business where it is demonstrated that there is an operational need for the proposal that cannot physically or reasonably be accommodated within the curtilage of the existing site; or
  - b. the re-use of an existing building of permanent, structurally sound construction that is capable of conversion without the need for substantial extension, alteration or reconstruction and can accommodate the functional needs of the proposed use including appropriate parking provision; or
  - c. a new building provided that it is well-related to an existing rural settlement and where it is demonstrated that the proposal cannot be located within the built form of a settlement or an identified employment location; or
  - d. other proposals specifically requiring a countryside location.
- Where new or replacement buildings are required, where possible they should be in close proximity to an existing group of buildings and the siting, form, scale, design and external materials of the new buildings should not detract from the existing buildings nor the character of the surrounding area."

5.7 It is officer opinion that the use proposed does not specifically require a countryside location. It is noted this proposal extends an existing building rather than providing a new structure and the site is large enough to accommodate the parking required. However, the building is not well related to an identified settlement nor is it located on an employment allocation. The site, being of an open rural character, albeit with a stand of trees to the east, this proposal would detract from this rural countryside character. It is considered that there is alternative, allocated employment land on Stokesley Business Park, which is capable of providing for this development and as such it is considered that an exceptional case for this development has not been made.

#### Flood risk

5.8 The site is in Flood Zone 3 and a Flood Risk Assessment has been submitted. It is noted that the site is classed as 'less vulnerable' under the Flood risk vulnerability and flood zone 'compatibility' table. Whilst an FRA is required within zone 3a the development would be considered appropriate. There is no requirement to consult LLFA at NYCC as the application is not a major development and the risk identified from surface water is low.

5.9 The EA do not consider it to have an increased risk of on or off-site flooding, although note that they do not necessarily consider the access safe. It should be noted that the entirety of the private access road, through to the A172 is within Flood Zone 3 and as such at times of flooding, the access may not be safe to use. It is further noted that the operator works on a 24/7 call out basis and as such, whilst there is no overnight accommodation in the proposals it should be anticipated that the site could be used at any time of the day or night with resultant potential for impact on the operators of the site or visitors to the site resulting in potential impact on emergency services. This factor is considered to weigh against the proposals in the planning balance.

#### Design and impact on the countryside and local character

5.10 Policy E1 requires all development should be of a high quality, integrating successfully with its surroundings in terms of form and function, including respecting and contributing positively to local character, identity and distinctiveness. The policy explicitly requires proposals to respond positively to its context and draw inspiration from the surroundings, to create distinctive, high quality and well-designed places. Further-more that it achieves a satisfactory relationship with adjacent development and not to have an unacceptable impact on the amenities of neighbours or the wider area or creating other environmental concerns. The policy continues that sites should be accessible for all users by maximising travel by sustainable modes, plus providing satisfactory means for vehicular access, parking, servicing and manoeuvring. Finally, this policy also notes development should achieve a high quality design and the protection of local character and amenity.

5.11 Policy S5: Development in the Countryside seeks to ensure that new development recognises the intrinsic beauty, character and distinctiveness of the countryside as an asset that supports a high-quality living and working environment, contributes to the identity of the district.

5.12 Policy E7 seeks to protect and enhance Hambleton's Landscapes proposals will be supported where there is consideration on the degree of openness and special

characteristics of Hambleton's landscapes and they conserve and, where possible enhance any landscape features that contribute to local character. It also seeks conservation and enhancement in rural areas which are notable for their remoteness, tranquillity or dark skies.

- 5.13 The design of the existing building is functional and orientated with the short edge of the linear building to the road. The extension would be constructed using the same profiled metal cladding as the existing, based on an extended steel frame. Whilst the site is set back from the road this would enlarge the building width making it more visible. Given the use proposed and the established building there is little or no ability to add to the local character, identity and distinctiveness. The use would be likely to generate some external parking and on site storage. The storage of large vehicles outside would create an industrial use in the countryside also likely to have an impact on the rural nature of the locality alongside any future advertising on the main road. It is likely that the existing hedge line could, if left to grow, offer some useful screening to help minimise the impact on this flat site 114m from the main road. However, the paraphernalia and widened access would also have a wider impact on the open flat rural character of the site and surroundings. It is considered that the proposed use, associated extension, storage and parking will have a detrimental impact on the landscape character of the area and fail to meet the requirements of policy E7.

#### Highway Safety

- 5.14 Thanks to extra research provided by the agent, the Highways Authority are satisfied the access can be improved to accommodate vehicles visiting the site and allow them to access/ exit the site in a safe manner. This will involve a larger, wider access to accommodate the turning manoeuvres of the larger vehicles that are expected to visit the site. The local Highway Authority recommend conditions are recommended to secure these improvements. It is noted the site area is large and there is adequate space for turning. It is considered that the proposed development will have no significant adverse impact on Highway Safety.

#### Amenity

- 5.15 The site is within the open countryside adjacent the main road, but set back some 114m within the site. Policy E2 requires 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. Part c) requires no significant adverse impacts in terms of noise including internal and external levels, timing, duration and character. The policy also lists obtrusive light as a potential impact.
- 5.16 The Environmental Health Officer specifically was concerned about the potential impact on the caravan and camping site to the south, but also noted the nearest dwelling was 135m away. The agent has submitted a noise assessment to consider the impacts of the development. The assessment advises that the methodology used was agreed with the Environmental Health Officer. It is noted that surveys were done on 30 November and 7 December 2021 from positions at 2m from the roadside to the south and to the north of site, 230m from the carriageway and data is provided for both day and night periods.



- 5.17 The analysis includes using a range of data from the applicant's existing site in Stokesley. It is noted that during the attended portions of the baseline survey, the acoustic environment at both locations was considered to be dominated by noise from road traffic along the A172 to the southeast. The survey covered the times of activities present on the current site including delivery vehicles, roller shutter doors and metal work as well as a cumulative impact. The report concludes impacts are below Lowest Observed Adverse Effect Level.
- 5.18 The acoustics consultant has also advised in respect to operating hours, it is understood that the business does have capacity for 24-hour operation and, as such, section 5.5 of the report details an assessment against the representative background level for both daytime (0700-2300) and night-time (2300-0700) periods to this effect as per the prescribed methodology in the British Standard. Section 5.1.2 of the report, under heading 'Access / Egress Route' also notes "It is understood that the business would receive no more than one vehicle delivery in any given 1-hour period." However, they believe a more appropriate description for the likely scenario would be 'one per day' rather than 'one per hour' but the report is worded as such in accordance with the relevant assessment methodology. The assessment subsequently concludes that the degree of impact from noise is expected to remain below the Lowest Observed Adverse Effect Level in both scenarios.
- 5.19 No details have been provided to cover any potential on site lighting but it is likely some would need to be provided to allow safe use of the site in dark evenings and the 24 hour potential operation. This would have the potential to create some background amenity impact as defined by the policy, although given the distance to the nearest dwelling this may be minimal. However, given the rural nature of the site there is anticipated to be some impact on local character should lighting be introduced without appropriate controls.

#### Nutrient Neutrality

- 5.20 In March 2022, Natural England announced that The Teesmouth and Cleveland Coast Special Protection Area is being adversely affected by nutrient pollution. The effect of this is that the Local Planning Authority must not determine any application within the River Tees catchment area that may lead to an increase in the amount of nitrogen being discharged into the watercourse. The site in this case is within the catchment area.
- 5.21 Planning Practice Guidance sets out how a competent authority must decide if a plan or project proposal that affects a European site protected by the Conservation of Habitats and Species Regulations 2017 as amended (known as the Habitats Regulations) can go ahead. The first step in the process is deciding whether a Habitat Regulations Assessment is required. This requires the Local Planning Authority to carry out a screening process. The PPG outlines that this is a simple assessment to check if a proposal:
- is directly connected with or necessary for the conservation management of a European site
  - risks having a significant effect on a European site on its own or in combination with other proposals

- 5.22 As already set out, Natural England have identified that anything within the River Tees catchment area is directly connected with the conservation of a European site. Hence the proposal in this case meets requirement one.
- 5.23 The second requirement is for the LPA to check if there's a risk or possibility of a significant effect based on the evidence.
- 5.24 In this case the agricultural use and building is already in place and the intensity of the agricultural use will reduce as a result of the development, which will see a significant proportion of the site changed to an Industrial Use. There is no additional Nitrogen source introduced as a result of the development and this type of employment use is explicitly exempt under the assessment.
- 5.25 It is considered that the proposed development will not lead to additional Nitrogen Load and as such is considered acceptable in this instance.

#### Planning balance

- 5.26 The proposal is contrary to the overarching strategic locational principles of the new Local Plan under policy S2. It will not minimise the need to travel and promoting sustainable modes of travel. There will be some adverse impact on the character of the open countryside and trips made by large vehicles to and from the site throughout opening hours would in themselves have some impact on a road side that is in a rural location. The plans would not strengthen the distinctive character of the landscape and the form and setting of settlements as required by policy S1. Notwithstanding the position taken by the applicant, officers remain of the view that the employment land allocation is the most appropriate location for this development and that no substantive information has been provided to demonstrate that this is not viable. The access and the wider site are located in Flood Zone 3 and as such represents a risk to those operating or visiting the site during times of flooding. On this basis the application is recommended for refusal.

## 6.0 Recommendation

- 6.1 That subject to any outstanding consultations the application be **REFUSED** for the following reason(s)

The reasons for refusal are:-

1. The commercial use would be highly visible and harmful to the character of the area and is considered to be an incongruous form of development within the open countryside and is therefore considered to be contrary to Policies E1 and S5
2. The commercial use on agricultural land proposed is considered to be an inappropriate form of development in the countryside. This type of development is considered to be appropriate within an existing industrial estate and not within the open countryside. It is considered that insufficient evidence has been provided to allow an exceptional case to be made. It is therefore considered to be contrary to Policies S1, S2 and EG7 of the Council's Local Plan Policies.