

COMMITTEE REPORT

Date: 8 November 2012 **Ward:** Fulford
Team: Major and **Parish:** Fulford Parish Council
Commercial Team

Reference: 12/03168/FUL
Application at: York Designer Outlet St Nicholas Avenue York
For: Temporary use of car park for funfair
By: Ms Maria Farrugia
Application Type: Full Application
Target Date: 23 November 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks planning permission for the temporary use of part of a car park at the Designer Outlet for a funfair. The proposed funfair would operate alongside the ice rink which was given a five year temporary planning permission in 2011 (11/00868/FUL). A funfair operated at the site last year without planning permission, the proposed funfair for which planning permission is sought is similar to that at last year's event. The funfair would be located on an area of car parking consisting of approximately 100 spaces adjacent to the South Entrance of the Designer Outlet. The funfair would be located between the ice rink and the main pedestrian boulevard which accesses the south entrance.

1.2 The proposed funfair would consist of the following rides; Speedway, Carousel and Dodgems as well as a Helter Skelter, a small Planes ride and a toy stand. In addition the site would contain six market type stalls and a food stall. The funfair would sit on a site measuring approximately 40m by 47m. The funfair would be powered by a generator which would be located towards the south of the development site next to the Dodgems.

1.3 The funfair would operate alongside the Ice Factor. The Ice Factor has planning permission to operate between 1st November and 31st January each year until January 2016. The ice rink and cafe is permitted to operate between 08:30 and 21:30 hours Mondays to Sundays during these dates. The proposed funfair would operate between 10:30 to 21:30 hours Monday to Sunday. The site would employ seven staff.

1.4 The whole of the application site is within the Green Belt.

1.5 This application has been brought before East Area Planning Committee because the application for the ice rink was determined at committee level.

A site visit is recommended to understand the context of the site and the relationship between the site and the nearest residential dwellings.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies:

CYGP1 -Design

CYGB1 -Development within the Green Belt

CYGP23 -Temporary planning permission

3.0 CONSULTATIONS

INTERNAL

3.1 Highway Network Management - No comments received at the time of writing the report.

3.2 Environmental Protection Unit - the application has been considered in terms of noise, lighting, nuisance, air quality and contaminated land. The main issue is to prevent nuisance from the proposed development, as such, should permission be granted for this proposal it is recommended that conditions covering the following issues are included with any approval:

- The hours of operation of the funfair shall be confined to 1030 hours to 2130 hours Mondays to Sundays.
- No lighting associated with the development, other than security lighting, shall operate outside the hours of 0900 hours and 2200 hours, unless required for emergency purposes.
- No audio systems associated with the development shall operate outside the hours of 0900 hours to 2200 hours, unless required for emergency purposes.
- The funfair shall be laid out in accordance with the submitted plans which shows the generator in position, this is required to ensure the generator is sited in the shown location to provide maximum attenuation of noise due to distance from the nearest residential premises.

EXTERNAL

3.3 Highways Agency - No objections.

3.4 Fulford Parish Council - Comments not received at the time of writing the report, comments expected to be received before Committee date and Members will be updated.

3.5 Local Residents - One letter of objection has been received at the time of writing the report. The letter of objection was received from the residents of 34 Naburn Lane. The following comments were made:

- The event operated without planning permission in 2011/12 despite it being known that permission was needed.
- Complaints were made prior to and during the event last year, despite this an application for this years event was only submitted two months before the event is due to start.
- The funfair uses a much larger area than the Ice Factor itself, doubling the area that there is currently planning permission for which is unacceptable in the Green Belt and close to residential properties.
- It is proposed to use generators as sufficient mains electricity is not available. There are historic problems with noise from this event which resulted in the most recent ice rink application containing a condition requiring it to be run on mains electricity rather than generators.
- Generators were only allowed for emergency purposes at the ice rink because they would be needed to stop the ice melting if mains power failed. However, the same problem does not apply to funfair rides, and it is extremely disappointing that the use of generators is proposed.
- Whilst the proposed funfair generators are located further from houses on Naburn Lane than the chiller generators for the ice rink, there is no guarantee that the hum from the generator would not be audible from these houses.
- This year planning permission has already been granted for a miniature railway to operate within the grounds of the Designer Outlet, yet another diversification of the shopping centre and there is a real danger that the whole area will turn into a seasonal theme park rather than a retail destination.
- The applicants claim that 100 car parking spaces would be used up at a time when demand for car parking is at its highest. At last years event cars were parked all along access roads and even across pedestrian crossings with pedestrians forced to walk along the road.
- The applicants claim that the car parking problem last year was caused by people wishing to use the Park and Ride, this highlights the high demand for car parking at this site during the Christmas period and to reduce the number of car parking spaces available is ludicrous.
- People would visit the Designer Outlet and ice rink with or without a funfair; the application is an attempt to generate more money from visitors.

- The deployment of marshals to help people find car parking spaces can only have limited effect as people become frustrated and abandon their vehicles wherever they can.
- There were issues last year of noise from music and staff shouting, this is simply down to the fact that the event is too close to houses. Last year the use of a large ride called the 'Chairoplane' created nuisance through screams which it is impossible to control.
- The rides are visible through trees and can create light pollution.
- There are bats which use the area and the site is close to an SSSI, however no bat survey has been carried out.

4.0 APPRAISAL

4.1 The key issues are:

- The impact on the Green Belt
- The impact on residential amenity
- Highways and car parking

GREEN BELT

4.2 The whole of the application site is within the Green Belt. The NPPF states that Green Belt land allocation serves five purposes, these are 1) to check the unrestricted sprawl of large built-up areas; 2) to prevent neighbouring towns merging into one another; 3) to assist in safeguarding the countryside from encroachment; 4) to preserve the setting and special character of historic towns; and 5) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The NPPF and Development Control Local Plan set out the type of developments which are not considered inappropriate within the Green Belt. It is considered that the proposed funfair and market stall use does not fit within one of the listed potentially appropriate uses. Therefore the proposed use of land set out in this application represents inappropriate development. Inappropriate development is considered harmful to the Green Belt by definition. The NPPF states that 'local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' (to justify development) will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.'

4.3 The proposed use of land would only take place for a limited period of the year. It is considered that if Members are minded to approve the application that permission should only be granted for the proposed funfair use for a period of time which matches the permission of the ice rink. Any permission could be conditioned such that the funfair is only on site in November, December and January and shall only be permitted until January 2016.

4.4 Whilst the applicants have not provided a supporting statement which seeks to promote very special circumstances to overcome the presumption against inappropriate development in the Green Belt, it is clear that there are a number of considerations which need to be balanced against the harm through inappropriateness. The proposed funfair would be sited next to an ice rink which also includes a covered skate hire and cafe facility. To the east of the proposed funfair would be the substantial building of the Designer Outlet. Added to this is that the site sits within a substantial car park with associated footpaths and lighting. The Designer Outlet is well screened through substantial planting around the boundary. Given the site circumstances, and the fact that any use would only take place for a limited period of time, it is considered that the proposed development would not harm the openness of the Green Belt or the five purposes of including land within the Green Belt. It is therefore considered that these considerations outweigh the harm by reason of inappropriateness.

RESIDENTIAL AMENITY

4.5 Policy GP1 of the Development Control Local Plan seeks, in part, to protect the amenity of local residents. The nearest residential dwellings are along Naburn Lane. The nearest house to the site of the proposed funfair is 32 Naburn Lane which is approximately 125m away. The ice rink would be located between the funfair and these houses. Between the ice rink and Naburn Lane is a substantial area of mature landscaping.

4.6 Concerns have been raised by a local resident that the funfair would cause a nuisance through noise and light. A funfair operated at the site last year and the letter of objection states that this caused a nuisance. Complaints were received during last year's event which were investigated, however Officers found no reason to take any action. The funfair is likely to increase the amount of noise generated at the site, however the funfair is further from residential dwellings than the ice rink which was considered acceptable and approved. The applicants have changed one of the rides this year from those used last year. The 'Chairoplane' has been replaced with a Carousel which is considered likely to reduce the amount of noise generated by the riders. In total there would be two large fair rides, two small fair rides, three games stalls, six log cabins, a food trailer and a pay booth.

4.7 The funfair is relatively modest in scale. The generator which has raised particular concerns in the past is located as far away from residential dwellings as possible within the site. The generator would be approximately 170m from the nearest dwelling. The applicants have provided technical information regarding the generator they wish to use for the event, this data includes maximum noise levels which have been considered acceptable by the Environmental Protection Unit at this distance from residential dwellings. It is not possible to operate the funfair without a generator; it is not possible to connect it up to mains electricity. The funfair would operate for fewer hours than the ice rink with the same finishing time in the evening.

The residential dwellings on Naburn Lane experience background noise through the use of local roads, the A64 and the operation of the Designer Outlet. It is considered that the proposal would not significantly harm the amenity of local residents subject to conditions which limit the hours of operation, ensure lights are turned off by 22:00 hours, no audio systems operate after 22:00 hours, and that the funfair is laid out as shown on the submitted plans.

HIGHWAYS AND CAR PARKING

4.8 The proposed development would reduce the amount of car parking on site from 2800 to 2700 spaces. Whilst the loss of 100 car parking spaces is significant, it represents a relatively small amount of the overall provision. The car park at the Designer Outlet is busy at Christmas time. Evidence provided by local residents and the Parish Council in respect of the previous application for an ice rink highlights the car parking issues which can occur and have occurred without the funfair on site.

4.9 Indiscriminate parking within the grounds of the shopping centre is for the management of the Designer Outlet to manage and control. It is the responsibility of the Designer Outlet to suitably control parking within the site and ensure pedestrian safety. It is not considered that the proposed funfair would attract a large number of customers; it is considered more likely that during Outlet opening hours, the funfair would be used by people who were already planning to visit the site for shopping and to skate. The Local Planning Authority operates maximum rather than minimum car parking standards and it is not considered that an objection on the grounds of loss of car parking for 3 months of the year could be sustained in this instance. The site is accessible by Park and Ride bus as well as a regular bus service between York and Selby.

4.10 Detailed written comments have not been received from Highway Network Management at the time of writing the report. However, from discussions it is understood that objections will not be raised. An update will be provided at Committee. The Highways Agency has raised no concerns in terms of the impact on the A64.

4.11 The letter of objection received from a local resident raised the issues of bats and wildlife and concerns that the proposed development could have an adverse impact. Advice taken from the Council's Countryside Assistant at was that given the existing level of illumination and lighting at the Designer Outlet, the proposed development is unlikely to have an additional impact on wildlife.

5.0 CONCLUSION

5.1 It is considered that the proposed development would not harm the openness or the purposes of including land within the Green Belt.

It is considered that residential amenity would not be significantly harmed and conditions are recommended in this respect. Whilst the loss of car parking spaces within the Designer Outlet may result in some congestion within the site, it is not considered that this would create any significant harm to the local highway network and would not warrant a reason for refusal.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The use hereby approved shall only operate between 1st November and 31st January for a period of four years and shall cease by 31st January 2016 unless prior to that date the consent of the Local Planning Authority has been obtained to extend the period of the permission.

Reason: The temporary nature of the use is such that the use is considered inappropriate on a permanent basis.

2 The development hereby permitted shall be carried out in accordance with the following plan:-

Site layout drawing number PJM received by CYC on 01/10/12

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority

3 All buildings, structures and equipment associated with the approved use shall be removed from the site and the land reinstated to its former condition and use as a car park at or before 31st January of each year for the period of this consent unless an extension of the period shall first have been approved in writing by the Local Planning Authority.

Reason: To ensure the car park is re-instated in line with the requirements of the shopping centre and to protect the visual amenity of the area.

4 The hours of operation of the funfair and associated stalls shall be confined to between 10:30 and 21:30 hours Mondays to Sundays.

Reason: To safeguard the amenities of local residents.

5 No lighting associated with the use hereby approved, other than security lighting, shall operate outside the hours of 09:00 to 22:00, unless required for emergency purposes.

Reason: To safeguard the amenity of local residents

6 No audio systems associated with the use hereby approved shall operate outside the hours of 09:00 to 22:00 unless required for emergency purposes.

Reason: To safeguard the amenity of local residents

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the Green Belt, the amenities of local residents, and on the local highway network and car parking. As such the proposal complies with Policies GB1, GP1 and GP23 of the City of York Development Control Local Plan and Government advice contained within the National Planning Policy Framework.

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