

## COMMITTEE REPORT

**Committee:** East Area  
**Date:** 14 January 2010

**Ward:** Strensall  
**Parish:** Earswick Parish Council

**Reference:** 09/01956/OUT  
**Application at:** Fossbank Boarding Kennels Strensall Road York YO32 9SJ  
**For:** Outline Planning Application for Redevelopment of Kennels and Cattery to Provide Three Detached Dwellings.  
**By:** Mrs M Barker And Mrs A Royle  
**Application Type:** Outline Application  
**Target Date:** 24 December 2009

### 1.0 PROPOSAL

#### 1.1 SITE

The application site is located on the west side of Strensall Road, between the settlements of Earswick and Strensall. It comprises an area of land at the end of an approximately 290m long private driveway that serves a collection of single storey buildings currently used as a boarding kennels and cattery business. The buildings were part of the former Foss Bank Farm. The farmhouse is sited at the front of the collection of buildings to the east and is the first building reached when approaching along the private drive, but falls outside the application site. The buildings within the application site include a single storey 'L' shaped brick and tile structure currently used as kennels at the western boundary of the site, a single storey office and cattery block immediately to the west of the farmhouse and a single storey stable block to the south of the farmhouse.

To the north of the site are open fields and Hall Farm. To the south is a field that separates the site from a large more modern housing estate, which is an extension to the Earswick settlement that falls within its defined settlement limit. To the west is open land used as a playing field/play area and beyond this the River Foss. To the east, beyond the original farmhouse and its paddock, is Strensall Road with a row of houses on its eastern side.

#### 1.2 PROPOSAL

The application seeks outline planning permission for the erection of three detached houses following demolition of the existing outbuildings. Details have been submitted to show potential siting and massing of the houses. Two are shown to be sited immediately behind the former farmhouse and one on the footprint of the kennel block. The houses would be three and four bedroom, with kitchen diner, dining room, lounge and fourth bedroom on ground floor. All houses would be accessed by the existing private driveway alongside the farmhouse. The house immediately to the rear of the farmhouse is proposed to be an affordable unit.

#### 1.3 APPLICANT'S CASE

A Design and Access Statement, incorporating a Sustainability Statement, has been submitted with the application. This sets out the background to the proposals, describes the development and outlines the very special circumstances that it is considered exist to outweigh the harm by definition to the Green Belt. In summary, the case is:

(i) Background: The kennels and cattery was once a thriving business, but restrictions to the opening hours and maximum numbers via the business' licence to address complaints from local residents have seriously impacted on the economic viability of the business. As a result, the applicants are seeking to relocate the entire business to a more isolated location in the area where residential amenity would not be affected. The redevelopment of the site for a more compatible use would enable this relocation, though the search for a new site has not begun. Given the restrictive licence conditions and effect on business viability, they consider that it is unlikely that a buyer would be found to continue the current use or that the buildings would be suitable for any other purpose given their nature and positioning. The buildings were marketed for almost 12 months with no serious interest.

(ii) Description: This is an outline application. The total footprint of the three dwellings would be 323sq.m. (33% less than existing) with the total volume being reduced to 1529m<sup>3</sup> (9% less). A single affordable dwelling is proposed to meet the provisions of Policy H2a. The layout of the dwellings, their scale and potential design has been considered and indicative plans show dwellings to resemble barn-type/outbuildings not dissimilar to those on the site at present or in surrounding rural area. The dwellings will be of one and a half storey design to limit their height and ensure that there is no visual impact on the locality. Access is to be from Strensall Road via the existing private drive.

(iii) Very special circumstances: These are cited as removal of noise nuisance, lack of alternative uses and improvement of openness and appearance of site.

## 1.4 HISTORY

There are no planning records for this site. The kennels and cattery business has been present at the site for many years and pre-dates the housing estate to the south. A previous application (09/01559/OUT) for the same proposal was withdrawn in October 2009. There had been pre-application discussion prior to the submission of the previous application. This discussion was with two different planning officers, both who raised concern about the principle of development in the Green Belt and the harm to the openness of the Green Belt.

This application has been called in for a Committee decision by the local ward councillor, Councillor Kirk, on the grounds that there are 'environmental considerations'.

## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

## 2.2 Policies:

CYSP6  
Location strategy

CYGP1  
Design

CYGP4A  
Sustainability

CYGB1  
Development within the Green Belt

CYGB6  
Housing devt outside settlement limits

CYT4  
Cycle parking standards

CYNE1  
Trees, woodlands, hedgerows

CYNE6  
Species protected by law

CYNE7  
Habitat protection and creation

CYH2A  
Affordable Housing

CYH3C  
Mix of Dwellings on Housing Site

CYH4A  
Housing Windfalls

CYH5A  
Residential Density

### **3.0 CONSULTATIONS**

#### 3.1 PUBLICITY

The application was advertised by way of a site notice and letters to nearest neighbours to the south and north, the local parish council and internal consultees.

#### 3.2 INTERNAL

##### 3.2.1 Highway Network Management

No objections in principle. It is recommended that the initial 10m of the vehicular access, measured from the back of the public highway, should be increased to 6m in width, thereby allowing vehicles to pass simultaneously at the entrance, which will prevent vehicles waiting on the highway when accessing the site. It is also noted that the applicant proposes to provide additional passing places within the driveway. It is therefore recommended that conditions be attached, re: full details of proposed vehicular access, driveway width, details of servicing.

##### 3.2.2 Housing

This application seeks planning permission to build three detached houses at Fossbank Boarding Kennels in Earswick. The application is in outline and only the principle of development is applied for. It is proposed that the two four bedroom houses would be for market sale and the one three bedroom house would be affordable. The proposal does not appear to have significantly altered from the withdrawn application. HASS commented on those plans and as the proposal is the same as previous and there has been no change in policy the previous comments should also be applied to this application.

A view should be sought from Planning Policy team as to whether policy GB6 should be strictly applied to this application given the applicants 'special circumstances' justification for the development. If not, the proposal provides a two/three bedroom affordable house which housing needs information indicates is in particular shortage. This dwelling should be for affordable rent through a Registered Social Landlord and not for discounted sale. Should the application be approved, HASS would encourage detailed discussions with the applicants before a reserved matters scheme is drawn up to ensure that any proposal best meets the housing needs and would meet the requirements of a Registered Social Landlord.

##### 3.2.3 Environment and Conservation (Countryside)

The large kennel block is considered to have potential for supporting roosting bats, particularly the taller building to the north of the site which has a closed off roof void, and many potential access points into the building. As the kennels are likely heated, there may be suitable roosting conditions within this roof void. Because of this, and

due to the buildings location, a bat survey should be carried out to see if there is any evidence of occupancy or suitable habitat present.

### 3.2.4 Environmental Protection Unit (EPU)

In most planning applications the issue of residential developments being proposed within the Green Belt is not a matter of concern for which environmental protection is required to comment. However in this particular case it is of relevance as the applicant appears to be asking for the application of very special circumstances to apply in this case due to the benefit of the removal of a source of a potential noise nuisance in the closing of the dog kennels.

There is one recorded complaint of noise arising from the operations of the kennels on the current EPU computer database (Flare). This complaint was received on 21 September 2008 about dog barking, a letter was sent to the complainant and kennel owner following this. Confirmation was received from the complainant on 13 November 2008 that the noise had reduced and that the situation was now much better. The complaint was closed and the complainant advised to make contact again if the noise got worse. No further complaint has been received. EPU has not established the existence of a statutory noise nuisance and no enforcement action has been undertaken, but there is always the potential and the removal of the potential noise source would be of some benefit to the amenity of residential dwellings in the area (as shown by the applicant's noise report). In view of this, it would appear that very special circumstances may apply to the provision of a residential dwelling.

With regard to the site itself and its suitability for development into residential units the site is not located near to any major roads or railways and as a result EPU has no concerns regarding noise. The main issue of concern relates to the potential for odour arising from the operations of Hall Farm which is located approximately 210m to the north of the site and is used for pig farming.

Under the General Permitted Development Order 1995 Part 6 development permitted by Class B and carried out within 400 metres of the curtilage of a protected building is subject to the condition that any building which is extended or altered, or any works resulting from the development, shall not be used for the accommodation of livestock except in the circumstances described in paragraph D.3 below or for the storage of slurry or sewage sludge. It is appreciated that in this instance the proposal is not for the creation of a building for the accommodation of livestock within 400m of a protected building, there are some concerns that it would introduce a protected building which will be located within 400m of an existing livestock building. During the last five years EPU have received 5 complaints about odour arising from Hall Farm as a result of the spreading of slurry on the farm, most likely to have occurred as a result of pig slurry.

However, EPU are not aware of any complaints regarding odour from the keeping of pigs in their own right and are aware of the existence of a large number of residential dwellings in Earswick which are also within 400m of Hall Farm. As a result, EPU would not object to the proposals and in any case have powers under the Environmental Protection Act 1990 to take any action necessary should an odour nuisance arise.

With regard to contaminated land, EPU have no record of contaminated land on the site, but in view of the former use as a dog kennels, it is recommended that the watching brief be placed on any approval if given.

### 3.2.5 Lifelong Learning and Culture

Requests a contribution to off site provision of open space in lieu of any on site open space.

### 3.2.6 City Development

It would be useful to consider this application within the context of the emerging LDF development strategy, in particular the settlement hierarchy, which considers the future role of different places in York.

Away from larger urban areas, planning authorities are advised by national and regional guidance to focus most new development in or near to local service centres where employment, housing (including affordable housing), services and other facilities can be provided close together (PPS1, PPG2, PPS3, PPS6, PPG13). RSS Policy YH2 encourages patterns of development which help reduce greenhouse gas emissions by concentrating population, development and activity in cities and towns, reducing traffic growth through appropriate location of development and encouraging redevelopment of previously developed land. For York's area, Policy Y1(E) focuses most development on the sub-regional City of York, and advises using a managed approach to development elsewhere, to focus on meeting local housing needs and appropriate economic diversification. This means that the majority of development in the authority area should be directed to the City of York itself, with the remainder being dispersed across a number of local service centres (towns and villages that provide services and facilities that serve the needs of, and are accessible to, people living in the surrounding rural areas) and smaller villages. RSS refers to the Local Service Centres identified by the Regional Settlement Strategy (2004) as a starting point but stipulates (in policies YH4, 5 and 6) that it is for the LDF to establish a settlement hierarchy and understand the role of each place within its area. It is therefore for the local authority to determine the approach for deciding in which tier a settlement is placed.

To this end, the Council has developed it's own emerging settlement hierarchy, which ranks settlements according to their size and range of services and facilities; their possible capacity for growth; and the policy towards the function of the settlement. Topic Paper 1, which supported the LDF Core Strategy Preferred Options consultation this autumn explains this process more fully, but essentially, to determine which settlements offer the most sustainable options for growth, we have compared their characteristics with those of an 'ideal neighbourhood', based on the RSS Sustainable Settlement Strategy and work produced by the Housing Corporation and English Partnerships which supports the Urban Task Force's 'Towards an Urban Renaissance' report. As a small village with relatively few services, Earswick's future role would be restricted to infill development only. The development strategy would not support further expansion beyond the existing settlement boundary unless solely for the provision of affordable housing to meet locally identified need (which reflects

both the thinking of PPS3 and the existing Local Plan Policy GB9 'Rural exception sites').

### 3.3 EXTERNAL

#### 3.3.1 Earswick Parish Council

No objections.

#### 3.3.2 Country Land and Business Association

This is a national organisation representing owners of rural businesses and agricultural land. It is unfortunate and distressing for the applicants that the adjacent residential development, over the years, has encroached on their property to the point that they now suffer regular complaints about the noise emanating from the boarding kennels. These complaints have had a severe impact on the effective operation of their business with the implementation of restricted opening hours. There is also the very real possibility that the applicants could be served a Noise Abatement Order which would effectively put them out of business. It is therefore imperative that they relocate to a more remote property. The redevelopment of Foss Bank Boarding Kennels and its eventual sale would allow this to happen. The proposals would have little visual impact in the Green Belt as the form of the proposed buildings is reduced from those existing on site at present. It will also remove the noise disturbance for the adjacent properties. The proposal to include one affordable house is welcomed; there is a desperate shortage of affordable housing across the region as a result of the downturn. No hesitation in supporting this development.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES

- whether the development is appropriate in the Green Belt;
- if not, whether there is any other harm caused to the openness and visual amenity of the Green Belt;
- whether any very special circumstances exist to outweigh any identified harm to the Green Belt;
- design considerations and sustainability;
- impact on residential amenity;
- access and highway safety;
- flood risk and drainage;
- nature conservation;
- impact on local services.

### 4.2 POLICY CONTEXT

#### 4.2.1 National Planning Policy

Central Government planning policy is contained within Planning Policy Statement 1: Delivering Sustainable Development (PPS1), Planning Policy Guidance Note 2: Green

Belts (PPG2), Planning Policy Statement 3: Housing and Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7).

The general thrust of PPS1 is to encourage development in accessible and sustainable locations and which is of good design.

PPG2 outlines the national approach to designated Green Belts including the categories of development that are considered to be appropriate in such areas. There is a presumption against inappropriate development that, by definition, is harmful to the Green Belt. Such development will only be allowed where very special circumstances can be demonstrated that clearly outweigh the harm to the Green Belt.

PPS3 promotes 'more sustainable patterns of development and make better use of previously developed land' through appropriate densities and the provision of affordable housing. It states that 'the focus for most additional housing in rural areas' being on existing towns and identified service centres. It acknowledges that 'it will also be necessary to provide for some new housing to meet identified local need in other villages'.

PPS7 (as amended) advises strict control over new house building in the countryside away from established settlements or from areas allocated for housing in development plans.

#### 4.2.2 Local Planning Policy

Policies contained in the City of York Draft Development Control Local Plan (incorporating fourth set of changes, April 2005), are material to the consideration of the application. These are summarised in 2.2.

In particular, policy GB1 reflects advice in PPG2 with regards to appropriate development in green belt areas. Policy GB6 refers specifically to housing development outside defined settlement limits in the Green Belt, which it states will only be permitted where it is for agriculture/forestry or is affordable housing development on small 'exception' sites complying with GB9. Both policies, make it clear that all other forms of new housing development (other than replacement of existing dwellings or conversion of existing buildings) is considered to be inappropriate in the Green Belt. Policy H4a allows for housing windfall sites within the urban area.

### 4.3 GREEN BELT POLICY

The main issue is whether the proposal is inappropriate development and if so whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to 'very special circumstances' necessary to justify the development.

#### 4.3.1 Inappropriate Development

The application does not propose to convert the existing buildings, but to demolish them to allow for the construction of three new dwellings. Paragraph 3.4 of PPG2 sets



out the categories of new buildings that are considered to be appropriate in the green belt. The construction of new houses as proposed outside the defined settlement limit of Earswick would not fall within any of the categories and therefore constitutes 'inappropriate development' that, by definition, is harmful to the Green Belt and should be accorded substantial weight.

#### 4.3.2 Other Harm

It is considered that additional harm is caused to the Green Belt by virtue of the change in the rural character and appearance of the site that would be caused by the development. Currently, the site of the former farm is unobtrusive and is in keeping with the rural location. It reads as one host dwelling (albeit outside the application site boundary) with associated single storey outbuildings to the rear or the side. These buildings are either of a traditional rural appearance or are small scale and subservient to the main dwelling house.

Whilst the application is in outline, an indicative layout has been submitted, which shows that the proposed three two-storey dwellings would be spaced out across the site, with one immediately next to the existing dwelling, one on the footprint of the kennel block adjacent to the western boundary and one in the current open space between the house and the kennel block. The result would be that the open character and appearance of the site would significantly change, causing harm to the openness of the Green Belt. It is accepted that the application indicates that the dwellings could be one and a half storey, though this does not alter the concern about the identified adverse impact of the proposal on the openness of the Green Belt.

Furthermore, the site has been assessed as part of the York Green Belt Appraisal (February 2003), which acts as a key document for the Local Development Framework (LDF) evidence base and identifies significant areas of green belt as primary constraints against future development. This site has been identified in the appraisal, along with a much larger area that extends north and south, as undeveloped land between the villages of Earswick and Haxby that prevents coalescence. As a result, the site was discounted as part of the Council's Strategic Housing Land Availability Appraisal, when it was put forward for consideration by the land owner. Therefore, development of this site would be contrary to the purposes of including land within the Green Belt.

#### 4.3.3 Very Special Circumstances

PPG2 requires that the harm caused by inappropriateness, and any other harm, be clearly outweighed by other considerations that amount to very special circumstances. The Courts have held that these must be 'very' special and not merely special (i.e. unusual or exceptional). They should not be 'ordinary planning considerations'.

The very special circumstances set out in Section 7 of the Design and Access Statement are as follows:

- The relocation of a 'bad neighbour' use as illustrated by the submitted Acoustic Survey Report and the resultant substantial benefits to residential amenity;
- The development would make use of a previously developed, brown field site;

- The visual improvement over the current collection of buildings with their substantial tracts of hardstanding and tall fencing.

(i) Noise nuisance

It is accepted that, as demonstrated by an Inspector's appeal decision submitted with the application, that the removal of a potential noise nuisance, and the consequential benefit this would have for local residents in the houses to the south, is capable of constituting very special circumstances. The appeal case referred to the replacement of a kennels for 90 dogs and 60 cats with one modest dwelling, and the Inspector concluded that 'the removal of a potentially noisy business would constitute very special circumstances to be weighed in the balance against the severely restrictive Green Belt policies that would normally apply'.

The application submission states that the kennel business has been subject to restricted opening times through its operation licence since 2002 in order to minimise the noise from barking dogs that can be caused by owners dropping off or collecting animals. The licence also restricts the number of dogs that can be accommodated at any one time from 56 to 32. The combination of these factors has, according to the applicant, affected the viability of the business. An Acoustic Survey Report and a letter from the Council's Environmental Protection Unit are submitted with the application. The conclusions of the report are that regular events of dogs barking resulting in maximum levels being recorded above a low background noise level from distant road traffic and localised activity, could be a source of annoyance that could disturb sleep during the day for any local residents working shifts or ill or at night if measured outside an open bedroom window. The letter from the Council's Environmental Protection Unit dated September 2008 was received following a complaint to the night time Noise Patrol.

The Environmental Protection Unit has been consulted with regards the issue of noise nuisance. The unit confirms that one noise complaint was received in 2008 and logged on the unit's database. It resulted in the letter referred to above being sent, but the case being subsequently closed two months later and no more complaints being received since. The unit has not established the existence of a statutory noise nuisance and no enforcement action has been undertaken. However, the potential for a noise nuisance is acknowledged by the unit and the removal of this potential noise source welcomed.

In light of the comments from the Environmental Protection Unit and bearing in mind the aforementioned Inspector's assessment, it is considered that the removal of a noise source with the potential to cause noise disturbance, and the likely benefit this would have to local residents in the houses to the south, can be accepted as very special circumstances to be weighed against the identified harm to the Green Belt.

(ii) Reuse of previously developed site

The site would fall within the definition of previously developed land as outlined in Planning Policy Statement 3: Housing. However, the consideration of this site for development is part of the normal planning process and is not a very special circumstance. Whilst the site is 'brown field', the general thrust of national and local

planning policy is to locate development in or near to local service centres in the interests of achieving sustainable patterns of development. The area of land to the south of Foss Bank Farm was considered as part of the Council's Strategic Housing Land Availability Assessment and was regarded as being unsuitable for residential development based on its location and access to facilities. It was considered to be unsustainable in terms of its access to essential services, such as primary schools with capacity, health care facilities and convenience stores within 400m and as it has no access to existing cycle routes within 100m. The same conclusions can be applied to the application site. This is not, therefore, accepted as constituting very special circumstances.

(iii) Visual improvement to Green Belt

The application states that the footprint and volume of buildings on site would be reduced as a result of the proposal, which would improve both the physical and perceived openness of the area, especially when seen from Strensall Road. It is acknowledged that the total volume and footprint of the dwellings may be less than the existing buildings, but it is considered that this assessment is too simplistic and does not take into account the change to the character and appearance of the site that would result from the replacement of single storey outbuildings with three two storey (of one and a half storey appearance) houses spread out across the site as well as the introduction of an increased level of domestication. As stated above, it is considered that the proposal would not lead to a 'physical or perceived openness of the site' or area. For this reason, this is not accepted as constituting very special circumstances.

(iv) Marketing of buildings

Whilst not specifically stated within the very special circumstances, the Design and Access Statement refers to the likelihood of reuse and a marketing exercise that has been undertaken. The statement refers to the special design of the existing buildings for housing animals and as such, considers that their proportions, layout, construction and positioning makes residential conversion an unreasonable proposition. The site has been marketed for over 12 months to demonstrate that there is no interest for reuse of the outbuildings for the existing use or other commercial uses. Details have been displayed in the commercial property consultants offices in Harrogate, on their website and three times in the local press, though no sign board was erected at the site for commercial reasons. However, the outbuildings have been marketed as being separate to the former farmhouse. As the applicant intends to move from the site to relocate the kennel/cattery business elsewhere, which would need 24 hour presence, it would arguably have been more attractive/viable for the site to have been marketed as the house with associated/ancillary buildings. Therefore, it is considered that the marketing approach undertaken is flawed and the results of the marketing are considered not to constitute very special circumstances.

(v) Affordable Housing

Again, this is not included in the very special circumstances argument. The application proposes one affordable dwelling be provided as part of the scheme, to be the dwelling immediately to the west of the existing dwelling house. The inclusion of one affordable family dwelling is welcomed in principle by Housing Services, though the provision of 2 no. two-bedroomed semi-detached dwellings for affordable rent would be more appropriate to the housing need for this rural area. Details of any

affordable provision would need to be agreed if permission were granted. Policy GB6 of the Draft Local Plan states that new houses outside defined settlement limits will only be permitted where they are either for agriculture/forestry or are small 'exception' sites for affordable housing. The proposal would need to be 100% affordable in order to comply with this policy. However, as the proposal would also need to comply with Policy GB9, which only permits such development where it does not lead to coalescence of settlements, it is unlikely that even such a proposal would be considered acceptable.

#### 4.3.4 Overall Balance

The application is for three new dwellings in the Green Belt, which constitutes inappropriate development harmful, by definition, to the openness and purpose of the Green Belt. It is claimed that this number of units is required to allow a capital receipt sufficient to allow relocation to an alternative site. However, the Design and Access Statement confirms that 'the search for a new site has not begun' and therefore this claim cannot be demonstrated. The removal of the potential noise source and the likely benefits this would have to the amenity of the local residents is accepted as very special circumstances. However, whilst acknowledging this, it is considered that this alone is not sufficient to clearly outweigh the harm caused to the openness and purposes of the Green Belt from the erection of three new houses at the site. It is worth noting that the Inspector's decision submitted with the application relates to the replacement of a kennels and cattery business that could accommodate 90 dogs and 60 cats with the erection of 'one modest dwelling'.

### 4.4 OTHER CONSIDERATIONS

#### 4.4.1 Design Considerations and Sustainability

As the application is in outline, the details of the development submitted are indicative. The proposed density of the development would be low at approximately 16 dwellings per hectare. However, a higher density would result in the potential for further harm to the open character of the site and consequently the Green Belt.

A Sustainability Statement has been submitted with the application. It claims that the new dwellings would be easily accessible by foot or bicycle and within close proximity of bus stops providing a regular bus service. The development will confirm to required energy efficient and waste output standards, with renewable energy technology used where possible.

The site is within 400m of a bus stop with a frequent service running from Strensall to the City Centre (no.5). However, the driveway is 290m long and unlit with no footpath and accesses out onto a road with no footpath on the western side by the site. In addition, as stated above in 4.3.4 (ii), the area of land to the south of Foss Bank Farm was considered as part of the Council's Strategic Housing Land Availability Assessment and was regarded as being unsuitable for residential development based on its location and access to facilities. The same conclusions can be applied to the application site.

#### 4.4.2 Residential Amenity

There should be no adverse impact to the amenity of other residents in the vicinity as a result of the proposal. Future occupants of the existing dwelling at Foss Bank Farm would be affected by vehicles associated with the proposed dwellings accessing past the side wall and main entrance to the house. However, alterations could be made to reduce the impact on future occupants, such as the provision of screening at the front and rear of the dwelling, relocation of the access and possibly the removal/replacement of the ground floor side projecting window that overhangs the drive. The Environmental Protection Unit has raised concern about the impact of odour from the pig farm to the north on the amenity of future residents. There have been five complaints in the past five years arising from the spreading of slurry on the farm, but no complaints relating to odour from the keeping of pigs from the existing houses in the area at a similar distance. This could be controlled through the Environment Protection Act 1990 should an odour nuisance arise.

#### 4.4.3 Highway Safety

This an outline application, with access reserved for later approval. However, the Design and Access Statement confirms that access would be made utilising the existing driveway from Strensall Road, which could be widened or additional passing places provided if necessary. There are no objections from Highway Network Management subject to conditions being attached to any approval regarding vehicle access, parking and servicing.

#### 4.4.4 Flooding and Drainage

The site is within Flood Zone 1 (Low probability). Little information has been submitted about foul and surface water disposal, though the application form states that surface water disposal would be to the main sewer. In accordance with Planning Policy Statement 25: Development and Flood, the development would be required to investigate alternative methods of disposal or restrict flows from the site if the only means of discharge available is to the main sewer.

#### 4.4.5 Nature Conservation

The kennel block has the potential to support roosting bats within the roof void because of its location and construction (it has a closed roof with many access points) and as such, a bat survey should be carried out to establish its full potential.

#### 4.4.6 Local Facilities

Lifelong Learning and Culture have requested a contribution be made to off site provision of public open space in lieu of provision on site. This would equate to £7,640 maximum for 1 no. three-bedroomed house and 2 no. four-bedroomed houses. There is no requirement for a financial contribution towards education facilities as the number of dwellings proposed falls below the threshold of four houses.

## 5.0 CONCLUSION

5.1 The application relates to development in the Green Belt, consisting of the erection of three new dwellings replacing a collection of outbuildings used as a dog kennel and cattery business and therefore needs to be considered firstly against Green Belt policy. The outbuildings have been marketed for reuse or for an alternative use for a period of just over 12 months, but with little interest. Conversion to residential is considered by the applicant to be unlikely.

5.2 The applicant agrees that the erection of new dwellings in the Green Belt is inappropriate development and puts forward a case for very special circumstances to balance against the harm caused to the Green Belt by reason of inappropriateness and other harm to the open character and appearance and the purposes of including the land within the Green Belt (the site falls within an area identified by the York Green Belt Appraisal as a coalescence buffer). These are: removal of potential noise nuisance, development of previously developed land and visual improvement of site. After consideration and consultation with the Council's Environmental Protection Unit, it is accepted that the removal of a noise source with the potential for disturbance to local residents is capable of constituting very special circumstances to be weighed against the harm to the Green Belt. However, it is considered that it does not clearly outweigh the identified harm caused by the erection of three detached houses.

5.3 In addition, the neighbouring site to the south has been discounted by the Council as part of the Strategic Housing Land Availability Assessment as unsuitable for residential development based on its location and poor accessibility, contrary to the thrust of national planning policy. The application site was discounted due to its location within a coalescence buffer that is a strategic Green Belt constraint, though the same assessment as that applied to the site to the south could also reasonably apply to the application site. Other material considerations, including residential amenity, highway safety, surface water drainage and public open space provision, could be addressed by condition. Further investigation should be undertaken with regard to the presence of bats.

5.3 In light of the above, the application is recommended for refusal on the grounds of Green Belt policy and the unsustainable location of the site.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Refuse

1 It is considered that the proposal to erect three new houses on a site outside the defined settlement limit of Earswick and within an area identified in the York Green Belt Appraisal (February 2003) as a coalescence buffer, would constitute inappropriate development that, by definition, would be harmful to the Green Belt. Additional harm would be caused to the Green Belt by reason of the change in the open and rural character and appearance of the site and would be contrary to the purposes of including the land within the Green Belt. It is accepted that the removal of a noise source with the potential for disturbance to local residents is capable of constituting very special circumstances, to be weighed against the identified harm to the Green Belt. On balance, however, it is considered that this benefit does not justify

the erection of three detached houses and does not clearly outweigh the harm caused to the Green Belt by reason of inappropriateness and additional harm to its open character and appearance and the purposes of including the land in the Green Belt. The proposal is, therefore, contrary to national planning policy contained in Planning Policy Guidance Note 2: "Green Belts" and local planning policies, GB1 and GB6, contained in the City of York Draft Development Control Local Plan (incorporating fourth set of changes).

2 The proposal is unsuitable for residential development by reason of its unsustainable location outside any defined settlement limit and on the edge of a small settlement with relatively few services. The site has no access to primary schools with capacity, health care facilities and convenience stores within 400m and no access to an existing cycle route within 100m. The proposal is, therefore, contrary to the general thrust of national planning policy contained in Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Statement 3: Housing and Planning Policy Statement 7: Sustainable Development in Rural Areas.

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