

COMMITTEE REPORT

Date: 13th December 2017 **Ward:** Osbaldwick And Derwent
Team: Major and Commercial Team **Parish:** Kexby Parish Council

Reference: 17/00893/FUL
Application at: Land To The South Of Keepers Cottage Intake Lane Dunnington York
For: Erection of entrance gates, 1 no. agricultural store, 1 no. field shelter, and shooting platform (retrospective)
By: Mr Andrew Cole
Application Type: Full Application
Target Date: 6 July 2017
Recommendation: Refuse

1.0 PROPOSAL

1.1 Planning permission is sought for a field shelter for livestock together with a timber storage shed, a shooting platform and a metal gate. The application is retrospective. Approximately half of the field has recently been planted with fruit trees and the south east part of the site has been planted with deciduous trees. The applicant has advised that the site is being used as a commercial orchard.

1.2 The monopitched timber field shelter is sited in the north east part of the field. Would measure 1.43 metre by 2.43 metres. The tallest part of the roof would be 1.82 metres high. At the time of the site visit it was being used by pigs.

1.3 The timber storage shed has the appearance of domestic garden shed. It is sited centrally within the field and was being used for the storage of animal food. The dual pitched shed measures 1.82 metres by 2.43 metres and would have a maximum height of 2 metres. However the shed on site would appear to be taller than 2 metres.

1.4 The shooting platform would measure 1.82 metres by 1.82 metres and would be 4 metres in height. The upper section of the structure has been enclosed with openings on all four sides.

1.5 The applicant makes the case that the above structures fall within permitted agricultural development and as such do not require planning permission. Setting aside that the application is retrospective and no application was submitted for agricultural notification and as such they require planning permission. The applicant has recently stated that the agricultural holding exceeds 5ha but has not submitted any information to demonstrate the extent of the agricultural holding. However under if the Part 6 Class 'Agricultural development on units of 5 hectares or more' and Class B 'Agricultural development on units of less than 5 hectares' the field shelter

and storage shed would require planning permission. For the reasons set out in section 4 the shooting shelter is not considered to be reasonably required for the purposes of agriculture and as such would require an application for planning permission.

1.6 The proposed metal gate fronts onto the public right of way 15/8/30 as well as a cycle track. The gates open inward into the field. The 2 no. gates together measure 4.8 metres in width and 2 metres in height. The decorative gates posts are slightly taller in height. The gate is not considered to fall within the permitted Development of Part 2 Class A of the GDPO. The GDPO sets out that development is not permitted by Class A if the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—in any other case, 1 metre above ground level. No definition of ‘vehicular traffic’ exists either within the GPDO, the 1990 Act or the Highways Act 1980. In the Road Traffic Act 1988, a “cycle” is interpreted to mean a bicycle, a tricycle, or a cycle having four or more wheels, not being in any case a motor vehicle (section 192). There is nothing to suggest that for the purposes of the GPDO, the term ‘vehicular traffic’ is confined to motorised vehicles or that the highway must be open to all forms of vehicles. Although a ‘vehicle’ will often have an engine, an ordinary definition of the word does not exclude other forms of vehicle and there is no reason to suppose it should be interpreted so restrictively when applying the GPDO.

1.7 The site is within the general extent of the Green Belt. It is within Flood Zone 1. To the south east of the site is Hagg Wood - a Site of Importance for Nature Conservation (SINC). The application site falls within a Local Green Corridor. To the south west, north west and north east are fields. To the north is Keepers Cottage, which is not part of the application site.

2.0 POLICY CONTEXT

2.1 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005:

- CYSP2 The York Green Belt
- CYGP1 Design
- CYGP14 Agricultural land
- CYGB1 Development within the Green Belt
- NE8 Green Corridors

Pre-Publication draft Local Plan (2017):

- DP4 Approach to Development Management
- SS1 Delivering Sustainable Growth for York
- SS2 The Role of York’s Green Belt
- D2 Landscape and Setting
- GI1 Green Infrastructure

- GI2 Biodiversity and Access to Nature
- GI3 Green Infrastructure Network
- GB1 Development in the Green Belt
- ENV2 Managing Environmental Quality

2.2 Please see the Appraisal Section (4.0) for national and local policy context.

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

PLANNING AND ENVIRONMENTAL MANAGEMENT (ECOLOGY)

3.1 No comments received

EXTERNAL CONSULTATIONS/REPRESENTATIONS

KEXBY PARISH COUNCIL

3.2 No comments received

DUNNINGTON PARISH COUNCIL

3.3 No comments received

POLICE ARCHITECTURAL LIAISON OFFICER

3.4 No comments received

PUBLICITY AND NEIGHBOUR NOTIFICATION

3.5 No representations were received within the consultation period

4.0 APPRAISAL

KEY ISSUES

- Planning policy
- Green belt and consideration of very special circumstances
- Design and landscape considerations
- Impact to residential amenity

PLANNING POLICY

4.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

4.2 The National Planning Policy Framework (NPPF) was published in March 2012. It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed. The NPPF sets out the presumption in favour of sustainable development unless specific policies in the NPPF indicate development should be restricted. The presumption in paragraph 14 does not apply in this case as the more restrictive policies apply concerning green belt.

DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

4.3 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

4.4 Policy GB1 'Development in the Green Belt' of the DCLP sets out a number of criteria of considering new sites, whilst some of the specific criteria do not comply with the National Planning Policy Framework (NPPF) the general aim of the policy is considered to be in line with the NPPF.

4.5 Policy SP2 'The York Green Belt' states that the primary purpose of the green belt is to safeguard the setting and historic character of the city. Policy SP3 'Safeguarding the Historic Character and setting of York' states high priority will be given to the historic character and setting of York. The general aim of the policy - take account of the different roles and character of different areas, - is considered to be in line with the NPPF.

EMERGING LOCAL PLAN

4.6 The public consultation on the Pre-Publication draft Local Plan ended on Monday 30 October 2017 and the responses are being compiled and assessed. The emerging Local Plan policies can only be afforded very limited weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF. However, the evidence base underpinning the emerging Plan is capable of being a material consideration in the determination of planning applications.

4.7 The Biodiversity Action Plan (2013) includes the application site as part of a Local Green Corridor 20 - Southern Heath. This is an extensive corridor that continues the Northern Heath corridor. It follows an indistinct belt taking in the sandy soils on the south eastern edge of the city and connects through to the Tilmire and the Naburn Blown Sands areas to the west. As for the northern heath, it is more restricted in its overall interest being primarily for agriculture, forestry and, in wildlife terms, for its heathland. The remaining heathland interest is limited largely to relict heath within this woodland cover. Sites of known interest include the adjacent Hagg Wood.

GREEN BELT STATUS OF THE SITE

4.8 The NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open and that, the essential characteristics of the Green Belt are its openness and permanence. The Green Belt serves 5 purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns;
- and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.9 The site is located within the general extent of the York Green Belt as described in the RSS. The DCLP (2005) and the emerging local plan designate the site as Green Belt.

4.10 The site was not identified in the City of York Local Plan - The Approach to the Green Belt Appraisal (2003) which the Council produced to aid in the identification of those areas surrounding the City that should be kept permanently open. However, whilst this document identifies key important areas, which do not include this site, it leaves large areas of countryside as similarly not being of particular importance and it does not set out that all that remaining land within the extent of the Green Belt is necessarily suitable for development or that it has no Green Belt purpose.

4.11 Additionally, when the site is assessed on its merits it is concluded that it serves at least one of Green Belt purposes, namely assisting in safeguarding the

countryside from encroachment. As such, the site should be treated as lying within the general extent of the York Green Belt and the proposal falls to be considered under the restrictive Green Belt policies set out in the NPPF.

4.12 To the south east of the site is Hagg Wood - a Site of Importance for Nature Conservation (SINC) within the larger Local Green Corridor. To the south west, north west and north east are fields. To the north is Keepers Cottage, which is not part of the application site. The current character of the area is open and agricultural in character.

4.13 NPPF paragraph 89 states that the construction of new buildings is inappropriate in the Green Belt, save in the case of a list of exceptions. These exceptions include buildings for agriculture and forestry. The field shelter and the storage shed could be reasonably considered to fall within the criteria. The proposed gates (which require planning permission because of its height in proximity to a highway) does not fall within any of the criteria set out in paragraphs 89 and 90 and as such are inappropriate development. The applicant has stated that the shooting platform is required for the shooting of rabbits and deer. The applicant has verbally confirmed that the shooting of the deer and rabbits is a form of pest control, to prevent them from damaging the trees rather than a sport/leisure activity. The applicant has verbally stated that the tower is required as they do not own the surrounding fields and so from the tower they can shoot down rather than across.

4.14 The shooting of pests is not considered to be development. As such it falls to be considered whether the shooting platform is required for agriculture. There did appear to be some deer fencing within Hagg Wood although the applicant verbally advised that this fencing does not prevent deer from entering the field. It was noted that the other three site boundaries have tall mature relatively dense hedging with some standard agricultural post and wire fencing. There was no obvious deer fencing. The recently planted fruit trees did not have protective fencing and there are considered to be a number of fencing options that would prevent damage to the trees from deer.

4.15 It was noted the trees did have tree guards which would prevent rabbits from damaging the trees. As such there are a number of options that would have less impact on the openness of the greenbelt than the shooting platform. Further information and justification was sought from the applicant for the platform and the other pest control measures they had considered, however at the time of writing the report no further information was forthcoming. As such it is not considered that the shooting platform is reasonably required for agriculture and the management of the fruit trees when there are more typical solutions to preventing damage. It is not considered that the proposed platform would fall within the NPPF criteria of provision of appropriate facilities for outdoor sport, outdoor recreation, as the structure would further impact on the openness of the Green Belt Therefore the shooting platform and the gate are considered to be inappropriate development in the greenbelt.

4.16 It was noted at the site visit that some fruit trees had been planted (less than half the field), and whilst it is appreciated that it may be in the early stages of creating the orchard, there is some concern that the site has the appearance of an amenity/garden area rather than a traditional farmed orchard. Much of the field had been planted with other types of non-fruiting trees together with a number of benches; however there is still some scope for further fruit trees to be planted.

4.17 The fundamental purpose of Green Belt policy is keep land permanently open. The concept of 'openness' in this context means the state of being freed from development, the absence of buildings, and relates to the quantum and extent of development and its physical effect on the site. The proposed shooting tower and centrally located shed together with the proposed gate would create in an increase in the solid form and visual harm within the Green Belt, and would result in the encroachment of development into the Green Belt contrary to one of the purposes of including land in the Green Belt. This would result in harm to the openness and permanence of the greenbelt and is therefore considered to be inappropriate development in the Green Belt. The proposal gives rise to harm to the Green Belt by reason of inappropriateness which should not be approved except in very special circumstances. The NPPF states that local planning authorities should ensure that substantial weight is given to any harm to the green belt. 'Very special circumstances' 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. Whether very special circumstances exist is assessed from paragraph 4.27 of this report.

DESIGN AND LANDSCAPE CONSIDERATIONS

4.18 Chapter 7 of the NPPF gives advice on design, placing great importance to the design of the built environment. At paragraph 64, it advises against poor quality design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

4.19 The advice in Chapter 7 is replicated in Draft Local Plan Policy GP1 (Design) and, therefore, this policy accords with the NPPF. Policy GP1 which requires new development to respect or enhance its local environment and be of an appropriate density, layout, scale, mass and design compatible with neighbouring buildings and using appropriate materials.

4.20 The Ecology Officer has verbally confirmed that the proposed development would be unlikely to affect the functioning or reasons for allocating the area as a Local Green Corridor or a SINC (Interest: remnant semi natural woodland) . The visual (cumulative) impact of the development on the character and visual amenity of the area are considered below.

4.21 The siting of the field shelter close to the boundary hedge is considered to be a reasonable location. It is of a low height and of typical agricultural appearance and is not considered to result in visual harm.

4.22 The proposed gates and gate posts, by virtue of their domestic urban appearance, appear jarring and atypical in this rural context. It is considered to result in visual harm when viewed from the public right of way and a cycle path that run directly past the gates.

4.23 The siting of the shooting platform and the storage shed centrally in the field increases the prominence, particularly as they are lined up with the gated access. The storage shed by virtue of its domestic design and central location appears atypical and incongruous in this location. Whilst some deciduous trees have been planted which may in future provide an element of screening this is not considered sufficient to overcome the harm. When viewed from the public right of way and cycle path the shooting platform is sited behind the timber shed and they appear as one building, However the appearance of the structures are atypical and out of character with the rural context, particularly as when viewed from the public realm the tower and domestic shed are in the background with the metal urban gate in the foreground. During the winter months the structures and the gate would become more visible by virtue of leaf loss from the surrounding deciduous hedging. As such, the proposal would fail to take the opportunities available for improving the character and quality of an area and would not respect or enhance the local environment, contrary to advice in the NPPF.

IMPACT TO RESIDENTIAL AMENITY

4.24 The intensity of the use of the proposed platform is unknown. Further details were requested from the applicant; however at the time of writing no information was forthcoming. Without information as to how often the shooting platform is used, the length of period the platform is in use, how many shots etc officers are unable to assess the potential impact/disturbance to the nearby dwellings.

4.25 The proposed field shelter is currently being used for pigs. The proposed building is 55 metres from the closest dwelling. The size of the shed limits the number of pigs that could be kept on site. Any further buildings required for livestock would require planning permission in this location. Given the limited number of pigs that can use the field shelter it is not considered that it would result in harm to the residential amenity of the nearby dwellings.

ASSESSMENT OF THE CONSIDERATIONS FORWARDED BY THE APPLICANT

4.26 Paragraphs 87-88 of the NPPF advise that permission should be refused for inappropriate development in the Green Belt unless other considerations exist that clearly outweigh the potential harm to the Green Belt (and any other harm) so as to

amount to very special circumstances. Substantial weight is to be given to any harm to the Green Belt.

4.27 The applicant has not put forward any considerations in favour of the development to outweigh the identified harm. Therefore, in light of the lack any benefits of the development identified by the applicant or by officers that would either individually or collectively clearly outweigh the harm, it is considered that the very special circumstances necessary to justify the proposal do not exist.

5.0 CONCLUSION

5.1 The application site is located within the general extent of the York Green Belt and serves at least one of the Green Belt purposes. As such it falls to be considered under paragraph 87 of the NPPF which states inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.

5.2 In addition to the harm to the Green Belt by reason of inappropriateness, it is considered that the proposal would have a harmful effect on the openness of the Green Belt when one of the most important attributes of Green Belts are their openness, and that the proposal would undermine one of the five Green Belt purposes. Substantial weight is attached to the harm that the proposal would cause to the Green Belt. The harm to the Green Belt is added to by the harm to the visual character, and (potentially) residential amenity identified in this report.

5.3 Insufficient information has been submitted with the application to properly assess whether the use of the shooting platform would be acceptable in terms of residential amenity.

5.4 It is not considered that there are countervailing benefits arising from the proposal that clearly outweigh the harm so as to amount to very special circumstances necessary to justify an exception to Green Belt policy.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The application site is within the general extent of the Green Belt as set out in Policy Y1 of The Yorkshire and Humber Plan - Regional Spatial Strategy. In accordance with paragraph 89 of the National Planning Policy Framework it is considered that the proposed development constitutes inappropriate development which, according to Section 9 of the Framework is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The

proposal conflicts with the essential characteristics of Green Belts (their openness and their permanence) and the purposes of including land within the Green Belt by resulting in encroachment of development into the countryside, and is harmful to the openness of the Green Belt. The Local Planning Authority has carefully considered the justification put forward by the applicant in support of the proposals but has concluded that these considerations do not clearly outweigh the harm to the Green Belt and other harm (visual amenity and character, and potentially residential amenity) when substantial weight is given to the harm to the Green Belt. As such very special circumstances do not exist to justify the proposal. The proposal is therefore contrary to Section 9 of the National Planning Policy Framework and Policy YH9 of the Yorkshire and Humber Plan and also conflict with Draft Development Control Local Plan (2005) policy GB1: Development in the Green Belt.

2 It is considered that the proposal would increase the dominance and presence of the built form on the land. This would have a negative impact on the visual amenity of the area as the site is readily visible from the public right of way and the cycle path. As such, the proposal would fail to take the opportunities available for improving the character and quality of an area and would not respect or enhance the local environment, contrary to the core planning principle of the National Planning Policy Framework of recognising the intrinsic character and beauty of the countryside and Policy GP1 of the City of York Draft Development Control Local Plan (Approved April 2005) which similarly expects proposals to respect or enhance the local environment.

3 Insufficient information has been submitted with the application to properly assess whether the use of the shooting platform would be acceptable in terms of residential amenity. In the absence of further information, the Local Planning Authority has been unable to properly assess whether the proposal would be in compliance with Policies GP1 of the City of York Development Control Local Plan (2005), and national planning policy set out in the National Planning Policy Framework. It is not considered that these matters could reasonably be addressed through the imposition of planning conditions.

7.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

- Requesting further information

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

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