

COMMITTEE REPORT

Date: 27 October 2016 **Ward:** Fulford And Heslington
Team: Major and **Parish:** Fulford Parish Council
Commercial Team

Reference: 16/01483/FUL
Application at: York Designer Outlet St Nicholas Avenue York YO19 4TA
For: Change of use of part of car park to 12 hole artificial all weather putting course
By: Drew Kirby
Application Type: Full Application
Target Date: 7 September 2016
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to the construction of a 12 hole artificial all weather putting course adjacent to the southwest entrance into the McArthur Glen "Designer" outlet. The course would occupy an existing area of car parking (approximately 1000 sq metres) replacing 26 parking spaces out of a total of 2,700 (i.e. approximately 1% of the total). A dedicated "Shambles" style kiosk/clubhouse is included in the design for operating the course, supplying clubs, balls and supervising play. Each hole would be approximately 8 - 12 metres in length. It is anticipated that the average play time would be 30 - 40 minutes, with a difficult and easy route to appeal to visitors of all ages and abilities. It is proposed that the putting course would be open to the public between the hours of 10.00 and 20.00 Monday to Friday, 09.00 to 20.00 on Saturdays, and 10.00 to 18.00 on Sundays.

1.2 Within each hole there would be timber or stone features to act as hazards and which would reflect the historical context of York (e.g. Clifford's Tower, St. Mary's Abbey, City Walls, Viking longboat) in addition to localised mounding and contouring. There would also be seating areas, benches and litter bins throughout the course, which would be enclosed by 1.5 metre high mesh fencing supplemented by indigenous tree and shrub planting. It is intended that the facility would complement the existing retail use of the site rather than be a destination in itself.

SITE HISTORY

1.3 The following applications are considered to have some relevance to the proposal:

Ref: 12/01456/FUL - Construction of miniature railway including station building and engine shed - approved 21/06/2012

Ref: 12/03184/FUL - Installation of canopy and car wash facility - refused
20/12/2012

Ref: 12/00656/FUL - Siting of hand car wash and valeting service - refused
19/05/2014

Ref: 16/00215/FUL - Use of car park for siting of ice rink and funfair - approved
13/06/2016. The ice rink and funfair operate between November and mid-January
and the planning permission is conditioned accordingly. The granting of this
planning permission allows the ice rink and funfair to operate during these months
on a permanent basis followed the granting of a series of temporary planning
permissions.

2.0 POLICY CONTEXT

Please see Section 4 for the relevant planning policy context for this application.

3.0 CONSULTATIONS

3.1 INTERNAL

Highway Network Management - No objections to the proposed development. The Course will be sited on existing parking spaces within a large car park. The number of spaces lost to facilitate the course is 26 which will equate to 1% of total car-parking at the outlet. Most of the visits to the course will be linked trips to the shopping park. We therefore do not expect a material impact on the highway. Cycle parking has not been detailed and there is no indication of where existing provision is. 3 Sheffield cycle stands within 50m of the course to cater for staff and visitors are recommended to be conditioned.

Public Protection - No objections. The proposed putting course is located to the far south of the site, at a distance of 150 metres away from the nearest property at Acres Farm and 300m plus away from properties on Naburn Lane. No additional lighting is proposed.

Landscape Architect – Comments to be reported.

3.2 EXTERNAL

Fulford Parish Council make the following comments:

1. Diversification

Remain concerned about further diversification of use of a site that was originally approved solely as a retail outlet.

2. Green belt

States the site is currently within the green belt and the proposal is inappropriate development (and harmful by definition). The applicant has not put forward any very special circumstances to justify relaxation of green belt policies. Until the Local Plan is adopted, there is no certainty that the site will be removed from the green belt and applications of this nature are therefore premature. The height and bulk of the kiosk seems excessive for its intended use - some reduction in the 4 metre height would reduce its impact on openness.

3. Parking

The loss of more parking spaces will result in additional pressure during peak periods. Further loss should not be permitted unless additional parking provision is approved to compensate for the losses resulting from this application.

3.3 PUBLICITY

Site notice posted on 19 July – no responses received.

4.0 APPRAISAL

KEY ISSUES

4.1 The key issues in this case are considered to be:

- Green Belt
- Design and layout
- Loss of car parking

PLANNING POLICY

Development Plan

4.2 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 retained policies of the Yorkshire and Humber Regional Spatial Strategy (RSS). 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 require the inner and the rest of the outer boundaries to 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.

The key diagram to the RSS includes the Designer Outlet site in the general extent of the Green Belt. Whilst the emerging Local Plan proposes to remove the whole of the site from the Green Belt, in accordance with Para 216 to the NPPF this carries very limited weight at this stage in the plan process. However, the evidence base underpinning the emerging plan policy is capable of being a material consideration in determining the planning application
National Planning Policy Framework (NPPF)

4.3 Paragraph 14 of the NPPF says that there is a presumption in favour of sustainable development unless specific policies in the NPPF indicate development should be restricted. Restrictions are referred to in a footnote to paragraph 14. The restrictions include Green Belt locations. As the site is located within the general extent of the Green Belt around York the presumption in favour of sustainable development does not apply to the proposed development, instead the more restrictive policies concerning green belt apply.

4.4 The core planning principles at Paragraph 17 include the expectation that planning should proactively drive and support sustainable economic development, always seek to secure high quality design and a good standard of amenity for all existing and future occupiers of land and buildings, take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions.

4.5 Paragraph 19 states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

4.6 In seeking to promote sustainable transport paragraph 34 states that Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised and at paragraph 37 states that planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities

4.7 Section 9 of the NPPF 'Protecting Green Belt Land' states that the essential characteristics of Green Belts are their permanence and openness (paragraph 79). As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances. Paragraph 88 says that when considering any planning application, 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. Paragraph 89 states that the construction of new buildings is inappropriate. Exceptions to this include provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

2005 Development Control Local Plan

4.8 The Development Control Local Plan (DCLP) was approved for development control purposes in April 2005, and whilst it is not an adopted plan for the purposes of Section 38 of the 1990 Act, it is capable of being a material planning consideration where it is consistent with the NPPF. Policy GP1 "Design" is a general policy which expects new development to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials. Policy GB1 "Development in the Green Belt" is similar in its effect to paragraph 89 of the NPPF and states that within the Green Belt, planning permission for development will only be granted where: a) the scale, location and design of such development would not detract from the open character of the Green Belt; and b) it would not conflict with the purposes of including land within the Green Belt; and c) it would not prejudice the setting and special character of the City of York. Amongst the developments that are considered appropriate are essential facilities for outdoor sport and outdoor recreation. (The NPPF uses the word "appropriate" facilities rather than "essential", and takes precedence). Policy NE1 seeks to protect trees, woodlands and hedgerows, which are of landscape, amenity, nature conservation or historical value.

4.9 The Development Control Local Plan (DCLP) shows the site as being within the Green Belt. Within the plan the site is designated as a major developed site; such a designation is no longer recognised by Government policy and is no longer relevant to the consideration of planning applications. Given the conflict with this aspect of the DCLP Green Belt policy and with the wording of GB1, in terms of Green Belt implications it is considered more appropriate to assess the proposal against the NPPF and any evidence base emerging in the Local Plan.

Emerging Local Plan

4.10 The emerging publication draft local plan seeks to remove the site from the Green Belt. However, policies in the emerging draft Local Plan are not considered to be sufficiently far advanced to be material to the consideration of this application.

4.11 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the NPPF and the statutory development plan (the Regional Spatial Strategy which shows the site within the Green Belt). It is against this Framework and the RSS that the application proposal should principally be addressed.

GREEN BELT

4.12 A key issue in this case is whether the proposal constitutes inappropriate development within the Green Belt. The Designer Outlet is operated by a single management company with the car parking and ancillary facilities such as toilets and entrance areas providing amenities for users of the retail units. The site operates as a single unit, of which the area for the putting course would be a very small part. However, it would be enclosed by a fence and would occupy an area of 1000 square metres. It would have a different character and appearance to the car park and buildings that surround it, and would be visually completely distinct from them. As such, it is considered that the proposal would constitute a change of use of land and would not, therefore, fall within the exceptions listed in paragraphs 89 and 90 of the NPPF. Thus it would constitute inappropriate development in the Green Belt, and in accordance with paragraph 88, should not be approved except in very special circumstances.

4.13 Paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt. However, one of the exceptions to this is the provision of appropriate facilities for outdoor sport and outdoor recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. It could be argued that the kiosk and other structures associated with the putting course fall within this category, subject to the impact on openness and purposes of including land within the Green Belt being assessed.

Openness

4.14 The site is located on part of the car park to the rear of the shopping centre. The development would reduce the overall amount of hard surfacing within the site although would result in the introduction of a small kiosk and structures for each of the putting holes. However, the structures would be relatively small (maximum height 2.5 metres) and would be spread around the course. The kiosk/clubhouse has a footprint of 5 metres by 3 metres, and in response to the comments of the Parish Council, its height has been reduced from 4 metres to 3 metres. The site occupies a commercial (albeit landscaped) setting within an existing car park, and is screened by landscaping and tree planting both within the site and around its perimeter. Given the commercial setting and the existing use of the site as a car park, it is not considered that the development would result in a very limited loss of openness.

Purposes of Green Belt

4.15 Paragraph 80 of the NPPF sets out the purposes of including land within the Green Belt. These include, amongst others, 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, and to preserve the setting and special character of historic towns. As the site is contained within the Designer Outlet boundary and is located on an existing area of car parking it is not considered that the purposes of including the land within the Green Belt would be undermined.

OTHER CONSIDERATIONS

DESIGN AND LAYOUT

4.16 The proposal consists of a 12 hole putting course occupying an enclosed area of approximately 1000 square metres. The kiosk and other structures signifying each hole are relatively small in scale. Existing mature trees to the east, between the putting course and the southernmost retail building would be retained. Although one small tree would be lost (in the vicinity of the kiosk), this would be replaced and a number of other trees and additional landscaping would be planted both within and around the course. Given the setting within a large car park and adjacent to a substantial commercial building, no objections are raised from a visual amenity standpoint.

LOSS OF CAR PARKING

4.17 The putting course would be sited on existing parking spaces within a large car park. The number of spaces lost to facilitate the course is 26 which will equate to approximately 1% of total car parking at the outlet. It is anticipated that most of the visits to the course will be linked trips to the shopping park and, given its scale, is unlikely to become a destination in itself. For these reasons, highway officers do not expect a material impact on the surrounding highway network. The provision of additional cycle parking (3 Sheffield cycle stands are recommended) can be conditioned.

4.18 The site is within flood zone 1, which is at low risk of flooding. As the site is hard surfaced (in tarmac), there would be no increase in surface water run-off as a result of the proposal, and therefore no drainage issues. The site is removed from residential properties, and the proposal would have no impact on the amenity or living conditions of local residents.

VERY SPECIAL CIRCUMSTANCES

4.19 Paragraph 81 of the NPPF states that once Green Belts have been defined, local planning authorities should plan positively to enhance its beneficial use by, among other things, looking to provide opportunities for outdoor sport and outdoor recreation. The NPPF is also supportive of development that is beneficial to the rural economy. It is considered that the proposal would complement the existing retail function of the site, potentially making it more attractive as a retail destination thus bringing economic benefits to the area.

4.20 A further consideration is the lack of harm to both openness and the purposes of including land within the Green Belt as described above, by the introduction of the proposed development within the existing commercial setting of the site and its existing use as a substantial car park. The putting course would provide a complementary facility that can be accessed sustainably, being on a good bus route and next to a park and ride facility. The applicant has stated that the facility would increase dwell time at the site and offer an additional activity for families and customers in addition to the current retail and leisure offer.

5.0 CONCLUSION

5.1 The application site forms a small part of the extensive car park serving the Designer Outlet retail development. Whilst the putting course would constitute inappropriate development in the Green Belt, the proposal would have no significant impact on openness, nor would the proposal conflict with the purposes of including land in the Green Belt. It is considered that the proposal would complement the existing retail function of the site, potentially making it more attractive as a retail destination thus bringing economic benefits to the area.

5.2 It is considered that taken together, the site circumstances and other considerations referred to above, even when attaching substantial weight to the harm to the Green Belt, amount to very special circumstances in this case that are sufficient to clearly outweigh the potential harm to the Green Belt and any other harm. Taking into account all other relevant planning matters as described, the application is therefore recommended for approval.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Application Reference Number: 16/01483/FUL

Item No: 4f

Location Plan and Block Plan received 5 July 2016
Illustrative details of major course features received 12 July 2016
Revised kiosk details received 7 October 2016
Drawing WAG 14 Rev "A" Hard Landscaping received 7 October 2016
Drawing WAG 14 Rev "A" Soft Landscaping received 7 October 2016

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

3 Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

INFORMATIVE: It is recommended that a minimum of 3 Sheffield cycle stands be provided in association with the development

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 order to achieve a positive outcome:

- Secured a reduction in the height of the proposed kiosk/clubhouse
- Secured revised landscaping details
- Use of planning conditions

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