

COMMITTEE REPORT

Date: 13th December 2017 **Ward:** Haxby And Wigginton
Team: Major and Commercial Team **Parish:** Wigginton Parish Council

Reference: 17/01876/FUL
Application at: Mercer And Challis Nursery Willow Lodge Sutton Road Wigginton York
For: Erection of shed for sorting of waste and storage of plant and machinery following the removal of existing polytunnels
By: Mr Nigel Jagger
Application Type: Full Application
Target Date: 12 October 2017
Recommendation: Refuse

1.0 PROPOSAL

1.1 Planning permission is sought for the erection of a shed following the demolition of polytunnels. The proposed shed would measure 24 metres by 18 metres, 5.1 metres to the eaves and 7.5 metres to the roof ridge. The proposed shed would be used for the storage of plant and machinery and secure sorting. The applicant states that the proposed shed would be used in association with a waste transfer station on the site.

1.2 The site is within the general extent of the Green Belt. The site is within Flood Zone 1.

1.3 The current business has 10 full time positions, 7 further Full Time positions are proposed,

1.4 RELEVANT SITE HISTORY

- 17/00521/AGNOT - Erection of agricultural building - Refused
- 16/02073/FUL - Construction of gated vehicle access following blocking up of existing access - Approved
- 15/00449/FUL - Erection of 1no. detached two storey dwelling to replace existing prefabricated dwelling (resubmission) - Approved
- 14/00261/FUL - Erection of 1no. detached two storey dwelling to replace existing prefabricated dwelling - Refused

- 13/03547/FUL - Erection of building for use in connection with waste transfer station - Approved
- 11/01471/CLD - Certificate of Lawful existing development for 3-bay polytunnel and pole barn - Approved
- 11/01470/CLD - Certificate of existing development for dwelling - Granted
- 10/02726/CLU - Use of land for landscaping contractors yard including recycling waste from contracting business, whereby (i.) a maximum of 100 ton waste has been handled within the site, 50 ton of which has been subjected to crushing and screening; (ii.) Types of waste being handled within the site are rubble, soil, wood, plastic, foliage and scrap metal; (iii.) a maximum of 450 ton waste is stored for crushing and screening at any one time. It is stored on ground as well as in skips and container; (iv.) 1 crushing and screening activity has been taking place per year, each of which last 3 days; (v.) the site has been in operation 4 hours per day, 6 days per week; (vi.) waste is manually sorted into skips and buildings before being mechanically handled; (vii.) the origin of waste imported into the site for the past 10 years is from landscaping, groundwork garden clearance and building jobs; (viii.) Products produced from the site are Type 1 crushed rubble, top soil, compost for planting and soil improvement, bark chipping for weed suppression and moisture retention; (ix.) after screening and crushing waste materials, the maximum time the remaining waste has been stored before being taken to landfill is 3 days. - Granted
- 10/02724/CLD - An engineering operation comprising of the creation of earth banks and a roundabout as shown in red on the attached plan 10/02724-A - Granted

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

CYSP3 Safeguarding the Historic Character and Setting of York

CYSP6 Location strategy

CYGP1 Design

CYGP4A Sustainability

CGP15A Development and Flood Risk

CYGB1 Development within the Green Belt

CYGP11 Accessibility

CYMW5 Waste Management Facilities

Pre-Publication draft Local Plan (2017):

Policy DP1: York Sub Area

Policy DP2: Sustainable Development

Policy DP4: Approach to Development Management

Policy SS2: The Role of York's Green Belt

Policy D1: Placemaking

Policy D2: Landscape and Setting

Policy GB1: Development in the Green Belt

Policy ENV2: Managing Environmental Quality

Policy ENV4: Flood Risk

Policy ENV5: Sustainable Drainage

Policy WM1: Sustainable Waste Management

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

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT

3.1 No comments received

FLOOD RISK MANAGEMENT TEAM

3.2 No drainage details have been submitted, these can be sought via condition

PUBLIC PROTECTION

3.3 Note that the site is an existing waste transfer station; this will operate under a permit issued by the Environment Agency. The application appears to be for existing activities which take place in a polytunnel to be carried out in a purpose built building on the site. For this reason there will not be any new issues arising from the operation of the waste transfer station.

3.4 Request conditions for unexpected contamination together with an informative.

EXTERNAL CONSULTATIONS/REPRESENTATIONS

WIGGINGTON PARISH COUNCIL

3.5 No objections

ENVIRONMENT AGENCY

3.6 No objections; would like the applicant to be aware of the following points to ensure that the operations are in compliance with their Environmental Permit: No

details are provided in the supporting documentation, for the specification of the floor. The environmental permit requires that this must be impermeable (i.e. a surface or pavement constructed and maintained to a standard sufficient to prevent the transmission of liquids beyond the pavement surface). No discharge of liquids will be permitted apart from clean surface water from the roof. In the absence of a sealed drainage system or sump, an engineered lip or bund at the entrance to the building will be required to prevent liquid escaping from the building in the event of major spill, leak or a fire.

YORKSHIRE WATER

3.7 No comments received

FOSS INTERNAL DRAINAGE BOARD

3.8 No comments

KYLE AND UPPER OUSE DRAINAGE BOARD

3.9 No comments received

PUBLICITY AND NEIGHBOUR NOTIFICATION

3.10 No representations were received within the consultation period or since.

4.0 APPRAISAL

KEY ISSUES

- Planning policy
- Green belt and consideration of very special circumstances
- Design and landscape considerations
- Drainage
- 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 relevant to this site 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 the 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.

GREEN BELT STATUS OF THE SITE

4.7 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.

4.8 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 (2017) designate the site as Green Belt.

4.9 The site and the wider area are 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. The site falls within the D1: extension of green wedge to west of Haxby and Wiggington. It is considered to be important for the following reasons: to retain the open approach, rural and historic setting of York adjacent to the B1363, and important approach road into the city.

4.10 The surrounding landscape is flat with large fields broken up by hedgerows. To the north of the site are fields. To the east is the B1363 to the other side of the road are fields and a farmstead. To the west is a playing field used by York City Football Club. The use of the land directly to the south is unclear from aerial photographs a number of ponds have been created, further south are fields.

4.11 Additionally, when the site is assessed on its merits it is concluded that it serves a number of Green Belt purposes, namely assisting in safeguarding the countryside from encroachment and helping to preserve the setting and special character of York. 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 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt. 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 including: limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

4.13 In 2011 a Certificate of Lawful Development (10/02726/CLU) was issued for the following:

Use of land for landscaping contractors yard including re-cycling waste from contracting business, whereby (i.) a maximum of 100 ton waste has been handled within the site, 50 ton of which has been subjected to crushing and screening; (ii.) Types of waste being handled within the site are rubble, soil, wood, plastic, foliage and scrap metal; (iii.) a maximum of 450 ton waste is stored for crushing and screening at any one time. It is stored on ground as well as in skips and container; (iv.) 1 crushing and screening activity has been taking place per year, each of which last 3 days; (v.) the site has been in operation 4 hours per day, 6 days per week; (vi.) waste is manually sorted into skips and buildings before being mechanically handled; (vii.) the origin of waste imported into the site for the past 10 years is from landscaping, groundwork garden clearance and building jobs; (viii.) Products produced from the site are Type 1 crushed rubble, top soil, compost for planting and soil improvement, bark chipping for weed suppression and moisture retention; (ix.) after screening and crushing waste materials, the maximum time the remaining waste has been stored before being taken to landfill is 3 days.

4.14 As such it could be argued that the application site is previously developed. However the proposed building by virtue of its scale and mass would have a significantly greater impact on the openness of the Green Belt and the purposes of including land within the greenbelt than the previously approved/accepted use. Therefore the proposed development is not considered to fall within any of the exception criteria of paragraphs 89 and 90 of the NPPF

4.15 In addition when officers visited the site it did not appear to be a landscaping business with associated re-cycling of waste. However it did appear to be a waste transfer site, indeed this is how the applicant describes the development in their application. The applicant does not appear to have a landscaping contractors business but does have a demolition, plant hire and commercial recycling business. There is no record of a planning permission for a waste transfer site in this location. It is considered that the use of the site does not fall within the terms of the Certificate of Lawfulness. The material on site appeared to be building rubble, hardcore, road planings etc. It does not appear to be waste from a landscape contractors yard. The scale far exceeded that set out in the description of 10/02726/CLU. The existing use appears to be unauthorised, and the proposed building would appear to be associated with this unauthorised use of the land. From photographs it appears that the (current (unauthorised) use of the site has been for less than 10 years.

4.16 The applicant has been advised of the above, however no response has been received.

4.17 Consideration of the use of the land would require a new application. This current application is for the proposed building only, not the use of the land.

4.18 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 building 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 4.24 of this report.

DESIGN AND LANDSCAPE CONSIDERATIONS

4.19 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. 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 proposed building would increase the extent of development on the site, in terms of mass and height. This close proximity to the existing building, in conjunction with the additional mass, 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. 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 and Draft Local Plan Policy GP1.

IMPACT TO RESIDENTIAL AMENITY

4.21 By virtue of the distance from the nearby dwellings it is not considered that the proposed building would result in disturbance or harm to residential amenity.

DRAINAGE

4.22 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Local Plan policy GP15a: Development and Flood Risk advises discharge from new development should not exceed the capacity of receptors and water run-off should, in relation to existing run-off rates, be reduced.

4.23 No details of the surface water drainage scheme were submitted as part of the application. However it is considered that an acceptable drainage scheme could be achieved and the details of this method could be sought via condition, if the development was considered to be acceptable.

ASSESSMENT OF THE CONSIDERATIONS FORWARDED BY THE APPLICANT

4.24 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.

4.25 The applicant/agent has not put forward any considerations in favour of the development to outweigh the identified harm. The requirement for a building in association with an unauthorised use is considered to have no weight. 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 a number of 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 2/3 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 amenity identified in this report.

5.3 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.

6.0 RECOMMENDATION: Refuse

1 The application site is within the general extent of the Green Belt as set out by 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 erection of a shed 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, the sprawl, merging and coalescence of development; 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 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. 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.

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:

- Written to the applicant to explain the planning status of the site
- Requested 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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