

## COMMITTEE REPORT

**Date:** 14 September 2017      **Ward:** Huntington/New Earswick  
**Team:** Major and Commercial Team      **Parish:** Huntington Parish Council

**Reference:** 17/00954/OUTM

**Application at:** Land Adjacent Hopgrove Roundabout Beechwood Hopgrove York  
**For:** Outline planning application with all matters reserved for erection of petrol filling station, restaurant and 50-bedroom hotel with associated access, car parking and landscaping (resubmission)

**By:** Enita Europe Limited

**Application Type:** Major Outline Application (13 weeks)

**Target Date:** 25 September 2017

**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 Beechwood, Hopgrove Roundabout Malton Road comprises a large partially secluded area currently in pasture use circumscribed by the A64 and A1237 York Outer Ring Road . The site is well landscaped along the eastern, south western and southern edges with residential properties set within large grounds adjacent to the former Malton Road to the north. The site is accessed from the A1237 and lies within the York Green Belt as well as being partially within Flood Zone 3. Outline planning permission is sought with all matters reserved for erection of a "signed" trunk road service area comprising a petrol filling station, restaurant/cafe, 50 bedroom lodge accommodation and a range of ancillary works. The proposal represents a re-submission of an earlier proposal in 2014(ref:14/00672/OUTM)- that was withdrawn following concerns in respect of its impact upon the open character of the Green Belt, impact upon Flood Risk in the locality and impact upon a known habitat of the water vole a species protected by law.

1.2 The proposal has been screened in respect of Schedule 2 the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations and been found not to warrant a separate process of Environmental Impact Assessment.

1.3 A holding Direction preventing the Authority from approving the proposal for a period up until 30th November 2017 was served by the Highways Agency on 30th May 2017 on the basis that insufficient information was forthcoming with the proposal to enable a sufficient assessment of its impact upon traffic levels and road safety on the nearby A64

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

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City Boundary GMS Constraints: York City Boundary 0001

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

Flood zone 2 GMS Constraints: Flood zone 2

## 2.2 Policies:

CGP15A - Development and Flood Risk

CYGB1 - Development within the Green Belt

CYGP1 - Design

CYNE6 - Species protected by law

## 3.0 CONSULTATIONS

### INTERNAL:-

3.1 Public Protection (Environmental Health) raises no objection in principle to the proposal but raise some concerns with regard to the impact of noise arising from the site on the residential amenity of neighbouring properties.

3.2 Highway Network Management raises concerns in respect of the lack of information submitted with the proposal in respect of the levels of traffic to be generated by the proposal and its impact upon surrounding roads.

3.3 Planning and Environmental Management (Archaeology) raise no objection to the proposal subject to any permission being conditioned to require an archaeological evaluation of the site prior to construction of the development.

3.4 Planning and Environmental Management (Ecology) raises no objection to the proposal on the basis that the most recent survey information does not record the presence of water voles within the application site.

3.5 Strategic Flood Risk Management was re-consulted with regard to the proposal on 17th August 2017. Views will be reported orally at the meeting;

3.7 Public Protection (Trading Standards) was re-consulted with regard to the proposal on 17th August 2017. Views will be reported orally at the meeting.

### EXTERNAL:-

3.8 Huntington Parish Council object to the proposal on the grounds that:-

- it represents inappropriate development in the Green Belt;
- insufficient justification has been supplied for the proposal as it fails to take account of the availability of alternative facilities in the locality even when disaggregated;
- it comprises a habitat of the water vole a species protected by law;
- it would give rise to substantial harm to the residential amenity of neighbouring properties by virtue of noise, light pollution and loss of privacy;
- It would give rise to substantial increases in vehicular traffic on unsuitable local roads;
- It would require a fly-over access with consequently serious visual impact in the event of the nearby section of the A64 being duelled;
- it lies partially within Flood Zone 3a) and so is assessed as being at high risk of flooding; and
- it is designated as a Green Wedge within the Huntington Neighbourhood Plan.

3.9 The Foss (2008) Internal Drainage Board raises no objection on principle to the proposal but raise serious concerns as to the ability of surrounding water courses to accommodate the surface water from the site without significantly increasing flood risk in the locality;

3.10 Yorkshire Water Services raises no objection to the proposal subject to a suitable surface water outfall being established.

3.11 The Environment Agency raises no objection to the proposal subject to it being constructed in strict accordance with the submitted site specific Flood Risk Assessment.

3.12 Highways England raises serious concerns in respect of the level of information submitted relating to traffic generation from the proposal and its impact upon surrounding roads notably the A64 and has served a six month holding Direction preventing the Authority approving the proposal until their concerns are effectively addressed.

3.13 A detailed letter of objection has been submitted on behalf of a Local Residents Action Group living in the direct vicinity. The following is a summary of its contents:-

- concern that the proposal represents inappropriate development within the Green Belt and fails to comply with the relevant tests of "very special circumstances";
- concern that the proposal fails to demonstrate that the surface water generated can be satisfactorily accommodated without increasing flood risk to properties in the locality;
- concern that the proposal fails to demonstrate that the traffic generated can be successfully accommodated on surrounding roads;

- concern that the impact of the proposal upon the habitat of the water vole, a species protected by law can not be effectively mitigated against contrary to the requirements of paragraph 118 of the NPPF.

3.14 A further letter of objection has been submitted on behalf of local businesses. The following is a summary of its contents:-

- concern that the proposal represents inappropriate development within the Green Belt and fails to comply with the relevant tests of "very special circumstances";
- concern that the proposal by virtue of its scale and design would give rise to serious harm to the openness of the Green Belt;
- concern that the proposal would give rise to very substantial harm to the habitat of the water vole, a species protected by law in a manner which may not be mitigated against as required by paragraph 118 of the NPPF;
- concern that the proposal has failed to demonstrate the need for a Green Belt location either on the strict basis of the DfTR criteria or by disaggregating the various elements of the proposal as they exist as alternatives in the locality;
- concern that the proposal fails to demonstrate that the traffic generated can be safely accommodated on surrounding roads;
- concern that the proposal fails to demonstrate that the surface water generated can be successfully accommodated without increasing flood risk to other properties in the locality.

## 4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the open character and purposes of designation of the York Green Belt;
- Impact upon the residential amenity of neighbouring properties;
- Impact upon the level of flood risk in the locality;
- Impact upon the habitat of a protected species;
- Impact upon traffic levels on the surrounding highway network.

POLICY CONTEXT:-

4.2 GREEN BELT:- Saved Policies YH9C and Y1C of the Yorkshire and Humber Side Regional Strategy define the general extent of the York Green Belt and as such Central Government Planning Policies in respect of the Green Belt apply. Central Government Planning Policy as outlined in paragraphs 79 to 90 of the National Planning Policy Framework identifies Green Belts as being characterised by their openness and permanence. New built development is automatically taken to be inappropriate and therefore harmful to the Green Belt unless it comes within one of

a number of excepted categories. Other development may only be permitted where a case for "very special circumstances" has been forthcoming. Paragraph 88 of the National Planning Policy Framework indicates that "very special circumstances" will only be held to exist where potential harm to the Green Belt and any other harm is clearly outweighed by other considerations. Policy GB1 of the York Development Control Local Plan also applies and sets a firm policy presumption against inappropriate development within the Green Belt. The Draft Local Plan is also a material consideration although it may only be afforded limited weight by virtue of the consultation process having been paused.

4.3 RESIDENTIAL AMENITY:-Central Government Planning Policy as outlined in paragraph 17 of the National Planning Policy Framework "Core Principles" urges Local Planning Authorities to give significant weight to the need to provide and safeguard a good standard of amenity for all new and existing occupiers of land and buildings.

4.4 FLOOD RISK:-Central Government Planning Policy as outlined in paragraph 103 of the National Planning Policy Framework indicates that when determining planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere.

4.5 HABITAT AND BIODIVERSITY: - Central Government Planning Policy as outlined in paragraph 118 of the National Planning Policy Framework indicates that Local Planning Authorities should seek to conserve and enhance biodiversity by ensuring that planning permission is not granted for development that would result in the loss of irreplaceable unless clear public benefits can be demonstrated that outweigh the harm caused by the loss.

#### IMPACT UPON THE OPEN CHARACTER AND PURPOSES OF DESIGNATION OF THE GREEN BELT:-

4.6 The application site comprises a partially secluded area presently used for pasture to the north east of Hopgrove village within the York Green Belt. The proposal envisages the erection of a 50 bed room hotel, a restaurant and a petrol filling station with substantial associated areas of hard surfacing, which would be accessed from the Old Malton Road connected with the A1237 Outer Ring Road a short distance away. The detailed Planning Statement submitted with the application seeks to justify the proposal on the grounds of the A64 being a Trunk Road and the proposal coming within one of the categories deemed to be appropriate development within the Green Belt, as outlined in paragraph 90 of the NPPF as "local transport infrastructure which can demonstrate a requirement for a Green Belt location providing it does not harm the openness or purposes of designation of the Green Belt." This derives ultimately from DfTR Circular 02/2013 which identifies a functional need for a range of services on long distance transport routes, what that range of facilities should be as well as the ideal operational distance between

facilities. The Circular sets out minimum criteria which facilities should achieve to secure signing from the strategic road network. The submitted planning statement examines the perceived need for the facility in relation to the requirements of the Circular.

4.7 The site is sheltered from the A64 to the east and south east by a substantial landscaped bund which gives the site a pleasant secluded rural ambience which contributes significantly to the residential amenity of the scattered row of properties along Old Malton Road directly to the north. It is not as suggested in the submitted Planning Statement an area of highway verge. The proposal envisages the construction of a two storey hotel building, a single storey restaurant and a petrol station with associated car parking at the Malton Road fringe of the site for flood risk reasons. The proposal would totally alter the character of the site giving rise to substantial harm to openness even not withstanding whether or not the applicant's conjecture that the site represents Local Transport Infrastructure is accepted. The proposal is therefore inappropriate development within the Green Belt.

4.8 Furthermore paragraph 80 of the NPPF identifies five purposes for Green Belt designation including the prevention of encroachment into open countryside. The proposal would represent a complete urbanisation of a pleasant rural green wedge beyond the City Outer Ring Road which has been allocated as such in the Draft Huntington Neighbourhood Plan. As such the proposal would give rise to substantial harm to the purposes of designation of the Green Belt over and above the substantial harm caused to openness.

4.9 As the proposal amounts to inappropriate development in the Green Belt paragraph 87 of the NPPF gives rise to a clear requirement for a case for "very special circumstances" which paragraph 88 of the Framework makes clear should clearly over ride any harm by reason of inappropriateness and any other harm. The applicant presents a clear case based upon the DfTR Circular and also the presumption in favour of sustainable development embedded within the wider NPPF. Footnote 9 to paragraph 14 of the Framework is however clear that the presumption is dis-applied within areas designated Green Belt and should not therefore be given weight in considering the proposal.

4.10 The submitted details identify a search for alternative sites outside of the Green Belt within a 30 minute drive time of the nearest facility at Bilbrough and concludes that there are none presently available or reasonably capable of development. However, the current proposal is not itself directly accessible from the Trunk Road or an adjacent side road itself although the applicant has secured an agreement that it could be signed from the Trunk Road. Furthermore the submitted details fail to take account of locations in the near vicinity where the facilities present occur singly or in combination in close proximity to the Trunk Road. Significant hotel and restaurant accommodation is for example available at Hopgrove village within a five minute drive time of the trunk road. No evidence has also been put forward in

terms of accident statistics where fatigue is a factor to justify the proposal. The characteristics of the A64 and its traffic have not been examined. Instead an appeal decision from the A30 at Roche in Cornwall has been cited as a precedent however, that site is not designated Green Belt and is placed in a physically remote location away from major centres of population adjacent to one of the principal routes into and out of Cornwall. The A64 by contrast carries a majority of traffic over short and medium distances from the West Yorkshire Conurbation to the Yorkshire Coast within a two hour drive time which is held as critical in terms of driver fatigue.

4.11 The applicant further contends that the development would amount to Local Transport Infrastructure. However, it is contended that this definition would not apply in this case as it is a private commercial operation rather than for example a park and ride site, modal transport interchange or bypass scheme designed to serve the transport needs of the locality. The proposal is therefore not acceptable in Green Belt terms.

#### IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES:-

4.12 The application site comprises a relatively quiet and tranquil area of pasture land partially circumscribed by a landscaped bund and accessed from a very lightly trafficked section of Malton Road. The adjacent highway provides access to a number of residential properties, some of which are set a significant distance back from the road frontage. Two properties, Beechwood Cottage and Beechwood Lodge are however directly on the road frontage in the vicinity of the proposed access points to the proposal. In marked contrast to the existing situation the occupants of the two properties would be subject to significant volumes of traffic at regular intervals throughout the day and night. Furthermore they would lie in very close proximity to the play area associated with the proposed restaurant, along with the coach parking and bin stores associated with the proposed hotel. Notwithstanding the comments of Public Protection it is contended that the proposal would particularly in view of its 24 hour operation give rise to substantial harm to the residential amenity of both properties by virtue of noise, lighting, loss of privacy and general comings and goings from the application site contrary to paragraph 17 of the NPPF.

#### IMPACT UPON FLOOD RISK IN THE LOCALITY:-

4.13 The application site lies across the boundaries of Flood Zones 1 and 3 although the proposed buildings are illustrated as being within Flood Zone 1. A water course crosses the site before draining to the south west through Hopgrove village into the River Foss. A detailed Flood Risk assessment has been submitted. This recommends the controlled closure of the hard surfaced parking areas in the event of a severe rainfall or flooding event. However, the consequence of controlled closure of the parking areas which may in all likelihood be at short notice, would be

significant additional parking along Old Malton Road seriously exacerbating the previously identified concerns in relation to impact upon residential amenity. Furthermore no clearly defined surface water outfall has been identified with the proposal. In view of the Flood Zone designation of the majority of the site a clear risk remains in terms of flooding for nearby properties.

#### IMPACT UPON THE HABITAT OF A PROTECTED SPECIES:-

4.14 A water course draining south west wards Hopgrove village and the River Foss crosses the site. This has been previously identified as being a habitat for water voles a species protected by the 1981 Wildlife and Countryside Act. However, the applicant has submitted updated surveys for the site which indicate that water voles are no longer resident and as such no mitigation measures would now be required.

#### IMPACT UPON TRAFFIC LEVELS WITHIN THE SURROUNDING HIGHWAY NETWORK:-

4.15 Serious concerns have been expressed in respect of the submitted traffic data and accident statistics which have not been updated to reflect the current situation. Furthermore no consideration of the potential for cumulative impact upon the Hopgrove roundabout or the adjacent roundabout has been forthcoming taking account of the results of other recent developments in the locality. As a consequence of the concerns Highways England has placed a holding Direction on the proposal preventing its approval. That Holding Direction remains in place. It is therefore clear that insufficient information has been submitted to enable the impact of the development on the surrounding road network to be properly assessed.

## 5.0 CONCLUSION

5.1 The proposal represents a re-submission of an earlier proposal in 2014(ref:14/00672/OUTM)- that was withdrawn following concerns in respect of its impact upon the open character of the Green Belt, impact upon Flood Risk in the locality and impact upon a known habitat of the water vole a species protected by law.

5.2 Whilst recent survey work clearly establishes that the site is no longer at least for the time being a habitat for the water vole, the very clear concerns remain in terms of the impact of the proposal upon the residential amenity of nearby properties and its impact upon the openness of the Green Belt. The proposal represents inappropriate development in the Green Belt and the applicant has failed to come forward as required by paragraph 88 of the NPPF with a case for "very special circumstances" that would clearly outweigh any harm by reason of inappropriateness and any other harm. As such the proposal is unacceptable in planning terms and refusal is recommended.



## **6.0 RECOMMENDATION: Refuse**

1 The proposed development is inappropriate within the Green Belt within the definition outlined in paragraphs 89 and 90 of the National Planning Policy Framework and therefore by definition materially harmful to its openness. The proposal runs clearly contrary to the principles of including land within the Green Belt namely the prevention of encroachment into open countryside and the safeguarding of the setting of historic towns and cities. No case for "very special circumstances" has been brought forward overcome the strong policy presumption against inappropriate development within the Green Belt and to justify the clearly unacceptable harm that the development would cause to the character and openness of the Green Belt.

2 The proposed development would give rise to a severe and on-going harmful impact to the residential amenity of occupants of the adjacent residential properties Beechwood Lodge and Beechwood Cottage in terms of light pollution, noise and general disturbance contrary to paragraph 17 of the National Planning Policy Framework "Core Planning Principles" and Policy GP1 of the York Development Control Local Plan.

3 By failing to provide adequate detail of a surface water outfall in respect of a site that falls predominantly within Flood Zone 3 and therefore deemed to be at high risk of flooding insufficient information has been supplied to enable an informed examination of the impact of the proposal upon the potential flood risk for other properties in the locality.

4 Insufficient information has been forthcoming with the proposal to be able to judge impact upon traffic flows within the surrounding highway network arising from the development notably in respect of impact upon accident levels in the immediate surroundings, base line traffic flows within the immediate surroundings and cumulative impacts arising from other recently approved developments in the locality.

## **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:

i) Sought submission of an up-to-date vole survey in respect of the watercourse

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crossing the site;

ii) Sought the submission of an up-to-date Transport Assessment that addresses concerns in respect of the impact upon traffic flows on the surrounding network.

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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