

## COMMITTEE REPORT

**Date:** 14 February 2018      **Ward:** Bishopthorpe  
**Team:** Major and      **Parish:** Acaster Malbis Parish  
Commercial Team      Council

**Reference:** 17/00342/FUL  
**Application at:** Whinney Hills Appleton Road Acaster Malbis York  
**For:** Creation of new access, excavation of pond and siting of 2no. static caravans (part retrospective)  
**By:** Mr and Mrs Clarke  
**Application Type:** Full Application  
**Target Date:** 16 November 2017  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 Members will recall that this application was brought before the Committee in January. At that meeting Members resolved to defer the application following a request from the applicant.

1.2 The application site is located within the general extent of the York Green Belt on the south eastern side of Appleton Road. It comprises a flat area of grassland, with mature trees along the frontage and the western boundary. The site boundaries are well defined by mature hedging which have been left to grow so that the site is relatively well screened. The surrounding landscape is open farm land delineated by low level hedges and post and rail fence. There is an existing access in to the site towards its northern corner.

1.3 The application is part retrospective for the siting of two static caravans, and a driveway that runs along the south western boundary towards the static caravans and stable. Permission is also sought for a surface water soakaway/pond and a new access to the west of the existing access into the site. The static caravans are at the southern corner of the site. A stable building on the site was approved in June 2006.

1.4 The applicant has stated in supporting information that he intends to start a business on the site for a certified site for up to 5 caravans. This is not for consideration in relation to the current application, and subject to compliance with the relevant criteria may be Permitted Development.

### 1.5 HISTORY

04/03629/AGNOT (29.10.2004) Erection of a agricultural building (determined not permitted development).

04/04151/FUL (12/05/2005) Permission refused for general purpose agricultural building

05/01117/FUL ( 28.06.2006) Permission granted for Erection of detached stable block with associated storage.

## **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. The following policies are considered relevant to the application:

- CYSP2 The York Green Belt
- CYGP1 Design
- CYGP4a Sustainability
- CYGP9 Landscaping
- CYGP14 Agricultural Land
- CYGP15a Development and Flood Risk
- CYNE7 Habitat Protection and Creation
- CYHE10 Archaeology
- CYGB1 Development in the Green Belt
- CYH4a Housing Windfalls

2.2 Consultation ended on the Pre-Publication Draft Local Plan on October 30th 2017:

- DP4 Approach to Development Management
- SS1 Delivering Sustainable Growth for York
- SS2The Role of York's Green Belt
- D2 Landscape and SettingGB1 Development in the Green Belt
- GB1 Development in the Green Belt.
- ENV4 Flood Risk
- ENV5 Sustainable drainage
- EC4 Tourism

## **3.0 CONSULTATIONS**

### **INTERNAL CONSULTATIONS**

Planning and Environmental Management (Heritage Project Officer)

3.1 The site is located within a broader Prehistoric and Romano-British landscape. The site appears to have been relatively undisturbed. It is possible that the development of the road and pond may reveal or disturb archaeological features relating to the prehistoric-medieval periods which may be located beneath the shallow topsoil. Ditches systems have been identified on aerial photographs to the west of

this site, whilst an Iron Age enclosure has been noted to the east. It will therefore be necessary to record any revealed features and deposits through an archaeological watching brief on all groundworks. Recommend a condition is imposed on any approval.

### Highway Network Management

3.2 The location is unsustainable due to the rural nature; there are no footways, street lights, close facilities or public transport. Therefore anticipate that there will be an increased reliance on car borne trips from this location, compared to that of residential/ holiday accommodation in a sustainable location. The existing lawful access (prior to static caravan placement) is an historic agricultural field access expected to generate very few vehicle movements on an infrequent basis. The presence of residential/holiday accommodation would pose a measurable intensification exacerbated by the reliance on car borne trips due to its unsustainable location.

3.3 The proposal to use this field as a residential dwelling will increase the use of the existing access from that of its current lawful use. The visibility to the southwest of the current existing access is substandard for the traffic speeds. To achieve acceptable visibility of 200m from 2m back at the entrance, some hedgerow relocation will be required. This will require approximately 12m of hedge which is under the applicant's control to be set back. To the north east of the site visibility is obscured by overgrown vegetation, which is a maintenance issue, and can be controlled under separate legislation.

3.4 There is a Highway **objection** to the additional access for the following reasons:

- (i) To achieve the correct sight lines, mature trees and a substantial amount of hedgerow and mature tree/s will need to be removed.
- (ii) An acceptable entrance is already established for the proposed use as a dwelling.
- (iii) To reduce the number of accesses to that necessary, for the good management of the highway.

3.5 In summary, use of the existing access is supported if a condition to ensure correct sightlines is applied to the decision.

Required condition for existing access: Prior to the development coming into use 2m x 200m highway visibility splays shall be provided at the junction of the existing site access and Appleton Road free of all obstructions which exceed the height of the adjacent carriageway by more than 1.0m and shall thereafter be so maintained.

### Planning and Environmental Management (Countryside and Ecology)

3.6 Note that the proposed pond is intended to act as a surface water soakaway and so have no comment to make with regards to this element of the application. From

aerial photos there appears to be some significant trees around the site boundary and in the area of the proposed static caravans, which could be impacted by hardstanding or the storage of materials within their root protection zone. The creation of a new access would require the removal of trees/hedgerow along Appleton Road - this may have already occurred.

#### Flood Risk Management Team

3.7 Object on basis that it is not clear from the submitted details how the applicant will satisfactorily dispose of the foul and surface water from the development. Insufficient drainage details to assess the effect the development will have on the site drainage and downstream watercourse.

#### EXTERNAL

#### Acaster Malbis Parish Council

3.8 Object: The Parish Council considers that the development is inappropriate development within the greenbelt and permission should be refused. Furthermore, the Parish Council has serious concerns regarding the risk to highway safety of slow moving vehicles towing caravans and other vehicles entering and leaving the site from Appleton Road. The road is subject to the national speed limit at which vehicles travel at high speed. Additional traffic entering and leaving the highway presents an unacceptable risk in view of the restricted sight lines and high potential speed of passing vehicles.

#### Ainsty Internal Drainage Board

3.9 The Board has assets adjacent to the site in the form of Intake Dyke. The risk of flooding should be reduced and surface water managed in a sustainable manner. The Boards consent is required for any development within 9m of the bank top of any water course. The Local Authority should be satisfied that surface water is satisfactorily catered for. It appears that the development will increase the impermeable area of the site and surface water run off if not constrained. The Board welcomes solution that retains water on site. Further information on the capacity of the pond is required. Further information required. No objection in principle but recommends conditions requiring the agreement of a scheme for surface water drainage.

#### Neighbour Notification/Publicity

3.10 One letter of objection has been submitted and includes the following points;

- The application sets a dangerous precedent and a mockery of planning legislation that a piece of land can be bought, static caravans sited and live on the site. Only applying for planning permission when challenged.

- Since the applicant has moved in, the access track has been defined and surfaced, and a shed structure sited.
- No details of foul drainage.
- Application is only for the caravan's access and pond but inextricably linked to intention to run a business on the site. There are already three caravan sites within a mile of the site and therefore it is not needed and will add little to tourism in York.
- Caravans being towed on this busy road particularly at the height of the farming season would create a potential hazard.
- The field was previously used by horses, hence the stable and did not present an obvious fly tipping problem.
- Further residential provision in the area is unnecessary and should neither be supported nor encouraged

## **4.0 APPRAISAL**

### KEY ISSUES

- Planning Policy
- Green Belt
- Principle of residential development
- Design and landscape considerations
- Archaeology
- Ecology
- Highway considerations
- Impact on Residential Amenity.
- Drainage/Flood Risk
- Assessment of supporting information

### PLANNING POLICY

4.1 Section 38(6) of the Planning and Compensation Act 2004 requires that applications are determined 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 Y1 (C1 and dC2) which relate to York's Green Belt and the key diagram insofar as it illustrates the 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 concerning green belt apply.

4.3 The NPPF should be considered as a whole; however the following sections have particular relevance to this application. Section 1 of the NPPF relates to building a strong competitive economy. Section 3 advises that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. This section makes specific reference to supporting sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. Section 6 relates to delivering a wide choice of high quality homes. Section 7 relates to the importance that the Government places on good design. Section 9 states that the Government attaches great importance to Green Belts. Section 10 relates to meeting the challenge of climate change, flooding and coastal change. Section 11 relates to conserving and enhancing the natural environment and Section 12 relates to Conserving and enhancing the historic environment including assets of archaeological interest.

#### DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

4.4 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Given the age and the untested nature of the DCLP, it is considered that the document should be given very limited weight and that its role should depend upon its consistency with the NPPF.

#### EMERGING LOCAL PLAN

4.5 The public consultation on the Pre-Publication Draft Local Plan ended on Monday 30 October 2017 and the responses have now been considered by the Executive. The Executive resolved to publish the Plan for the final six week consultation but at this stage it is not yet published. The emerging Local Plan policies can only be afforded limited weight at this stage of its preparation and subject to their conformity with the NPPF and the level of outstanding objection to the policies, 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

4.6 The site is located within the general extent of the York Green Belt, as described in the RSS. 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.

4.7 Policy GB1 'Development in the Green Belt' of both the DCLP and the Pre-Publication Local Plan set 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.

4.8 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, to take account of the different roles and character of different areas, is considered to be in line with the NPPF.

4.9 The character of the area that includes the site is open and agricultural. 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.

4.10 NPPF paragraph 87 states that inappropriate development is, by definition, harmful to the greenbelt, and should not be approved except in very special circumstances. Paragraph 88 states 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.' The siting of the static caravans, does not fall within any of the exceptions to inappropriate development identified within paragraphs 89 and 90 of the NPPF, and is therefore inappropriate development and harmful by definition. Furthermore, the siting of the caravans results in solid structures on the land and as such would result in the encroachment of development into the Green Belt contrary to one of the purposes of including land in the Green Belt.

4.11 Paragraph 90 of the NPPF establishes engineering operations as being not inappropriate within the Green Belt where they would preserve openness and would

not harm the purposes of designation. It is considered that the additional access, together with the surfaced driveways go beyond what would normally be required for agricultural purposes, and therefore will increase the urbanisation of the area. This is in particular if an alteration to the hedge to provide appropriate site lines is required. As such, the access and driveways are harmful to openness and as a consequence is inappropriate development. The loss of trees and hedges, together with the necessary alterations to form the access such as kerbing and hardstanding would also result in the encroachment of development into the countryside contrary to one of the purposes of including land in the Green Belt.

4.12 The formation of the pond/surface water soakaway, also falls to be considered in relation to paragraph 90 of the NPPF. It is considered that subject to natural contouring of the pond, this is a feature that can commonly be found in countryside locations that are agricultural in character. In view of this, it is not considered that it will impact on openness, or conflict with the five purposes of Green belt as detailed in paragraph 80 of the NPPF. Accordingly, it is considered that this part of the development is not inappropriate.

## PRINCIPLE OF RESIDENTIAL DEVELOPMENT

4.13 Section 6 of the NPPF relates to the delivery of a wide choice of high quality homes. However paragraph 55 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It further states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside, where it relates to a heritage asset, the re-use of redundant buildings or for exceptional quality or innovative nature of the design. In this case the development does not relate to a heritage asset or re-use of a building. The design is not innovative or truly outstanding, and an essential need for a rural worker to live permanently at the site has not been established. Accordingly, it is not considered that the development satisfies the guidance within section 6 of the NPPF, and would result in the creation of a dwelling in an unsustainable location.

## DESIGN AND LANDSCAPE CONSIDERATIONS

4.14 It is considered that the siting of the static caravans, the internal driveways (retrospective), and the proposed access within the site will result in an urbanisation of the area, and a change from the existing agricultural character. This urbanisation will be increased by virtue of the loss of trees/hedging to create the proposed entrance. One of the core planning principles of the NPPF states that planning should be about recognising the intrinsic character and beauty of the country. Furthermore Section 7 of the NPPF states that the government attaches great importance to the design of the built environment. The design of the caravans fails to reflect local distinctiveness, and does not demonstrate 'good design'. In addition the design and method of

construction is such that the caravans will have poor longevity and may deteriorate over time. It is further considered that the development is contrary to Policy GP1 of the Draft Local Plan which expects proposals to respect or enhance the local environment.

## ARCHAEOLOGY.

4.15 One of the core principles of the NPPF states that planning should 'conserve heritage assets in a manner appropriate to their significance. The site is located within a broader Prehistoric and Romano-British landscape. The Heritage Project Officer has advised that it is possible that the development of the road and pond may reveal or disturb archaeological features relating to the prehistoric-medieval periods which may be located beneath the shallow topsoil. Ditches systems have been identified on aerial photographs to the west of this site, whilst an Iron Age enclosure has been noted to the east. It will therefore be necessary to record any revealed features and deposits through an archaeological watching brief on all groundworks. It is considered however that such work can be secured by condition.

## ECOLOGY

4.16 Section 11 of the NPPF states that the planning system should contribute to, and enhance the natural and local environment. The site has not however been identified as a national or local site of nature importance. The ecologist has not raised any objection to the application; however she has advised that the hard standings and the access may impact on existing mature trees. It is therefore considered that a landscape management plan is required by condition should Members resolve to approve the application.

## HIGHWAY CONSIDERATIONS

4.17 Highway officers have expressed concern regarding the unsustainable location of the proposed development, which is likely to result in an increased reliance on car borne trips. They have also raised concern regarding the existing site lines for the site, and also for the proposed access. Whilst they acknowledge that one access is existing, they state that there will be an intensification of the use, and sightlines achievable by works to the hedgerows under the applicants control would fall substantially below current standards for cars exiting the site. The location is such that maintenance of the hedges will be an ongoing issue, and providing the required sightlines would not be under the control of the applicant. No information has been provided to indicate that the hedge line will be altered in any way to achieve suitable sightlines. Acaster Malbis Parish Council has also raised serious concerns regarding the risk to highway safety of slow moving vehicles towing caravans and other vehicles entering and leaving the site from Appleton Road. This concern is re-iterated by a representation received as a result of the publicity of the application. Nevertheless, as stated earlier in the report, the current application does not include use of the site as a caravan site.

4.18 It is not considered that occupation for two static caravans will result in a significant increase in traffic generated. In addition paragraph 32 of the NPPF states that development should only be prevented on transport grounds where the residual cumulative impacts of development are severe. It is considered however that the provision of the additional access that is proposed, together with the required site lines, will result in the loss of a significant amount of hedgerow and trees. As such it would have an adverse impact on the intrinsic character of this part of open countryside.

## IMPACT ON RESIDENTIAL AMENITY

4.19 The site is located in an area that is agricultural in character. The nearest residential property is a farm, situated to the north west of the site. Given the location of the site in relation to this property, it is not considered that the scale of development will have a significant adverse impact on their existing amenities.

## DRAINAGE

4.20 The northern corner of the site lies within flood zone 2. However the majority of the site, including the area where the static caravans are located lies within flood zone 1. In view of this the development accords with the principle of that part of section 10 of the NPPF which aims to steer new development to areas with the lowest probability of flooding. In relation to drainage, there is a septic tank on the site for foul drainage and the proposed development includes a pond/soakaway. The Flood Risk Management Team has objected to the application on the basis of insufficient information being provided to assess the impact of drainage. It is considered however that the details could be secured by condition.

## ASSESSMENT OF 'OTHER CONSIDERATIONS'

4.21 The proposal would involve inappropriate development in Green Belt that is by definition harmful due to its inappropriateness and would harm the openness and one of the five purposes of the Green Belt, in safeguarding the countryside from encroachment. Additionally the proposed static caravans and access/driveways would cause harm to the character and appearance of the surrounding countryside and be of a poor design. Paragraphs 87-88 of the NPPF advise that permission should be refused for inappropriate development unless other considerations exist that clearly outweigh potential harm to the Green Belt, and any other harm, which would amount to 'very special circumstances'. Substantial weight is to be given to the harm to the Green Belt.

In support of the application, the applicant has stated that the two caravans are to live in and to start a business which would comprise 5 touring caravans. They also state that the Government is encouraging people to start new businesses and create

tourism in this country. Furthermore they advice that the land has been used for fly tipping in the past, and living on the site will deter trespassers and poachers.

4.22 Whilst the value of tourism to the rural economy is acknowledged, the establishment of a caravan site is not part of the current application, nor has such a business been established. Subject to compliance with relevant criteria, sites for up to 5 caravans belonging to members of an exempted organisation may be permitted development. In addition, it is considered that the benefits occurring from a '5 caravan site' would be small and in any event is unlikely to justify an essential need for residential occupation of the site in accordance with any such business.

4.23 It is not considered therefore that the 'other considerations' put forward to support the application are sufficient, either individually or collectively, to clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. Consequently the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

## **5.0 CONCLUSION**

It is considered that the proposal would constitute inappropriate development in the Green Belt. According to paragraph 87 of the NPPF, inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. In addition it is considered that the development would have some impact on the openness of the Green Belt, and the purposes of including land within it. It is further considered that the proposed static caravans and access/driveways would cause harm to the character and appearance of the surrounding countryside and be of a poor design. It is not considered that the supporting information submitted by the applicant are sufficient to outweigh the harm to the Green Belt by reason of inappropriateness or overcome the impact of the development on the character of the area . Therefore the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist and planning permission should be refused.

## **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 elements of the development that relate to the access, siting of the static caravans and the driveways constitute 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 'other considerations' 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 (poor design, and harm to the intrinsic character of the countryside) 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 conflicts with Draft Development Control Local Plan (2005) Policy GB1: Development in the Green Belt, and Policy GB1 of the Pre-publication Draft Local Plan (2017).

2 No special circumstances have been demonstrated that would justify the location of residential development in an unsustainable rural location that will increase car borne activities and is unrelated to services and amenities. As such it is contrary to paragraph 55 of the NPPF.

3 The proposed static caravans are of a poor design that fails to reflect local distinctiveness or the character of this rural area. As such the development is contrary to section 7 of the NPPF, policy GP1- Design criteria a), and b), of the City of York Draft Local Plan Incorporating the 4th set of changes, and policy D1 of the Pre-publication Draft Local Plan.

4 The proposed new access would result in the loss of a substantial area of hedge and tree planting in order to achieve the required sight lines. As such it would have an adverse impact on the intrinsic character of this part of open countryside, and conflict with one of the Core planning principles in the NPPF in relation to 'recognising the intrinsic character and beauty of the countryside, together with that part of paragraph 32 that relates to achieving a safe and suitable access to the site for all people.

## **7.0 INFORMATIVES:**

### **STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

The Local Planning Authority has taken account of 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. Nevertheless, it was considered that there were fundamental policy objections to the application that could not be addressed by the submission of additional information. Accordingly it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

#### **Contact details:**

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