

COMMITTEE REPORT

Date: 21 February 2019 **Ward:** Rural West York
Team: Major and **Parish:** Skelton Parish Council
Commercial Team

Reference: 18/02583/FUL
Application at: Former Del Monte Site Skelton Park Trading Estate Shipton Road Skelton York
For: Change of use of land to public open space with landscaping
By: Mr Tate
Application Type: Full Application
Target Date: 28 February 2019
Recommendation: Approve subject to the signing of a S106

1.0 PROPOSAL

1.1 Planning permission is sought for the change of use of a paddock to public open space. The proposed site is adjacent to a site where there is a current application for reserved matters for 77 dwellings (18/01558/REMM) by the same applicant which is considered elsewhere on this agenda.

1.2 The proposed public open space would include play equipment in the eastern part of the site (closest to the proposed housing development). Access to the site would be from the proposed housing estate. The intention of the developer is that the application site would provide the amenity open space for the adjacent application site 18/01558/REMM. During the construction of the neighbouring site (if approved) the field would be used for the site compound. In addition drainage infrastructure including the attenuation/balancing pond would be sited to the northern corner of the site. The applicant has confirmed that they intend a management company to maintain the proposed public open space.

1.3 The site is within the general extent of the greenbelt. The site is within Flood Zone 1.

2.0 POLICY CONTEXT

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

- CYSP2 The York Green Belt
- CYGP1 Design
- CYGP4A Sustainability
- CYGP6 Contaminated land
- CYGP7 Open Space
- CYGP9 Landscaping

- CGP15A Development and Flood Risk
- CYNE1 Trees, woodlands, hedgerows
- CYNE7 Habitat protection and creation
- CYGB1 Development within the Green Belt
- CYGP13 Planning Obligations

2.2 The Publication Draft City of York Local Plan ('2018 Draft Plan')

- SS2 The Role of York's Green Belt
- HW2 New Community Facilities
- D1 Placemaking
- D2 Landscape and Setting
- GI4 Trees and Hedgerows
- GI6 New Open Space Provision
- GB1 Development in the Green Belt
- ENV2 Managing Environmental Quality
- ENV3 Land Contamination

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

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (LANDSCAPE ARCHITECT)

3.1 No objections, the landscape details can be sought via condition to obtain a detailed planting plan and secure a period of management. Would request maintained in perpetuity because it is a public space.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGY OFFICER)

3.2 This field is proposed to be used as the site compound during the construction of housing on the former Del Monte site, and then re-landscaped to form Public Open Space. A botanical survey was undertaken by Brooks Ecological in July 2018 to establish the ecological value of the grassland.

3.3 The survey determined that this is species-poor neutral grassland and does not meet the standard to be defined as a Priority Habitat under the Natural Environment and Rural Communities Act (2006) or the City of York Local Biodiversity Action Plan (Sites of Importance for Nature Conservation). The grassland habitat is considered to be common throughout the country and is assessed as being of low conservation significance.

3.4 If created and managed well the proposal for the POS land could make a positive contribution to local biodiversity in the long term.

3.5 Request following condition: Where it is intended to create semi-natural habitats, all species used in the planting proposals shall be locally native species of local provenance.

FLOOD RISK MANAGEMENT TEAM

3.6 No objections but require assurance (by condition) that there are no planting (apart from grass) or play equipment or other construction within these easements to allow free access for maintenance and emergency repairs to the buried apparatus and no planting (apart from grass) in the attenuation basin to enable the required storage volume to be available at all times.

PUBLIC PROTECTION

3.7 The site has previously been occupied by a steam mill, a riding school, a slaughter house and a food manufacturing factory which could all have given rise to land contamination. Additionally, previous site investigation has identified a land drain contaminated with hydrocarbons on the site. A site investigation specific to public open space use of the site is required to find out whether contamination is present. If contamination is found, appropriate remedial action will be required to ensure that the site is safe and suitable for its proposed use. Request that this is sought via condition

PUBLIC REALM

3.8 No objections

EXTERNAL CONSULTATIONS/REPRESENTATIONS

SKELTON PARISH COUNCIL

3.9 No objections

PUBLICITY AND NEIGHBOUR NOTIFICATION

3.10 One representation of objection from the neighbouring Skelton Park Golf Course:

- The submitted landscape plan for the recreation area makes no provision is made for security of the boundaries.
- They advise they have not been consulted by the Council regarding the application (*Officer note - a consultation letter was sent 26.11.2018, in addition 2 no. site notices was posted outside the site on 28.11.2018*).

4.0 APPRAISAL

KEY ISSUES

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

ASSESSMENT

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 and the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York 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.

DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

4.2 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 as revised in July 2018, although the weight that can be afforded to them is very limited.

PUBLICATION DRAFT YORK LOCAL PLAN (2018)

4.3 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

4.4 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

4.5 The Skelton Village Design Statement (2008) sets out a number of pertinent guidelines: All proposed development will be required to satisfy Green belt restrictions outlines in current planning policy (4); Developers of land to the west of the A19 should consider methods of integration with the existing village (6)

4.6 The revised National Planning Policy Framework was published on 24 July 2018 (NPPF) and its planning policies are material to the determination of planning applications. It is against the NPPF (as revised) and the saved RSS policies relating to the general extent of the York Green Belt that this proposal should principally be assessed.

4.7 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 11 does not applying this case as the more restrictive policies apply concerning green belt.

OPENNESS AND PURPOSES OF THE GREEN BELT

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

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

4.9 The proposed development is out with the Skelton settlement envelope shown in the proposal maps of the Draft Development Control Local Plan (2005) and the draft Local Plan 2018. The settlement envelope does include the neighbouring former Del Monte Factory site.

4.10 The site is 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 is D5 and is an extension to a green wedge. The land to the west of the A19 in this area forms part the extension to the green wedge between Poppleton and Skelton. This land has been identified as are of undeveloped land situated outside the ring road and connecting green wedges. It is considered that it is important that these areas remain open in order to retain the open approach and rural setting of York and ensure the future extension of green wedges. In particular this area has been identified in order to retain the open approach, rural and historic setting of York between the east coast railway line and A19, both routes of which are important approaches to the city.

4.11 Additionally, when the site is assessed on its merits it is concluded that whilst the York Green Belt has not yet been fully defined it serves a number of Green Belt purposes, including 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 (2018).

4.12 The proposed attenuation basin is considered to fall within engineering operations category and is not considered to impact on openness or conflict with the purposes of including land within the greenbelt. The proposed play equipment, paths and fencing would have a modest impact on the openness of the greenbelt and would encroach on the green wedge, and therefore does not fall within any of the categories in Paragraphs 145 and 146 of the NPPF. In addition it would conflict with the purposes of including land in the greenbelt including to check the unrestricted sprawl of large built-up areas; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns.

4.13 The proposed development therefore is inappropriate development in the Green Belt. The proposed development would result in an increase in encroachment of development into the Green Belt therefore resulting in harm to the openness and permanence of the greenbelt.

4.14 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4.15 The fundamental purpose of Green Belt policy is to prevent urban sprawl by keeping 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 proposal gives rise to harm to the green belt by reason of inappropriateness which should not be approved except in very special circumstances. Additionally, the proposal would result in harm to the openness and permanence of the Green Belt. It also conflicts with the Green Belt purposes of preventing encroachment into the countryside and coalescence of development. 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 at paragraphs 4.22 to 4.24 below.

DESIGN AND LANDSCAPE CONSIDERATIONS

4.16 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 (2005) Policy GP1 (Design) and D1 (Placemaking) of 2018 Draft Local Plan and, therefore, these policies are considered to accord with the NPPF. The policies require 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.

4.17 The site is not currently visible from the public land. The Public Realm team and the Landscape Architect have no objections to the proposed development however they seek further details on the play equipment and a detailed design of the landscaping, this could be sought via condition. The proposed layout is not considered to result in harm to the landscape or the visual amenity of the area. The applicant has advised that the land would be maintained by a Management Company. As such it is considered that the S106 for the adjacent land could be varied to include the management of this land as well.

4.18 Comments have been received from the Skelton Park Golf Course, they are concerned regarding the lack of boundary treatment between the application site and the neighbouring golf course and the health and safety implications. There does not currently appear to be a fence separating the golf course from the application site. The plans show a native species hedge demarcating the boundaries of the proposed open space together with trees to the north west boundary.

4.19 The use of the site as public open space is not considered to result in visual harm to the area. As with the neighbouring golf course the character of the application site will alter by being open to public access, however this is not considered to result in additional harm.

DRAINAGE

4.20 Part of the site would include the formation of an attenuation basin (1 in 6) in association with a drainage scheme for the neighbouring proposed housing development. In addition underneath the site the applicant proposes attenuation tanks to be buried between the basin and the proposed housing which discharge to the basin and Hurns Gutter. As such the basin and the drainage infrastructure would require an easement, revised plans have been sought from the applicant.

ECOLOGY

4.21 An ecology survey was submitted in support of the application. The species-poor neutral grassland habitat is considered to be common throughout the country and is assessed as being of low conservation significance. If created and managed well the land could make a positive contribution to local biodiversity in the long term. Further details of the planting proposals could be sought via condition

RESIDENTIAL AMENITY

4.22 The proposed formal children's play space would be set sufficient distance from the proposed nearby existing and proposed dwellings to prevent disturbance. The public open space would be a benefit to the residential amenity of the housing development and also the wider village

ASSESSMENT OF OTHER CONSIDERATIONS

4.23 Paragraphs 143-144 of the NPPF advise that permission should be refused for inappropriate development in the Green Belt unless other considerations exist that clearly outweighs 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.

4.24 The proposed development by virtue of the proposed range of planting would result in increase in the biodiversity of the site. Given the proximity to the site of the proposed housing it is likely that the site would be informally used as amenity space whether planning permission was granted or not. The proposed development would result in increase in public amenity open space above what could be created on the neighbouring development. The NPPF encourages development which are inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. The large area of public open space would be an enhancement of the public open space facilities available in Skelton, and would benefit the village as a whole. The Local Plan Evidence Base Study: Open Space and Green Infrastructure Update (September 2017) sets out that there is a deficit of amenity green space and children play areas in this ward. Whilst there is some harm to the openness of the greenbelt it is unlikely that the proposed development would result in visual harm to the area, the landscaping will eventually screen much of the impact from the surrounding area.

4.25 These are considered to be cumulatively 'very special circumstances' that are considered to clearly outweigh the definitional harm to the greenbelt and the harm to the openness and permanence of the Green Belt.

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 143 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 some harm 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 three of the five Green Belt purposes. Substantial weight is attached to the harm that the proposal would cause to the Green Belt.

5.3 It is considered that the net gain to biodiversity and the provision of public open space provided for the benefit of the wider village are very special circumstances that are considered to outweigh the definitional harm to the openness and permanence of the greenbelt even when substantial weight is given to any harm to the Green Belt.

6.0 RECOMMENDATION: Approve subject to the following conditions and a variation of the S106 agreement for the outline planning permission (14/01478/OUTM) to ensure that the open space land is adequately maintained in perpetuity

1 TIME2 Development start within three years

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

Drawing Number R/2133/5b received 05 February 2019;

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 commencement of the development hereby approved, details of the proposed play equipment shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with these approved details.

Reason: To ensure that adequate facilities are provided.

4 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and agreed in writing by the Local Planning Authority. The report of the findings shall include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

5 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite

receptors.

6 Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

7 In the event that unexpected contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be submitted to and agreed in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed planting plan in accordance with the approved Landscape Masterplan (Drawing Number R/2133/5b received 05 February 2019) which shall include the species, stock size, density (spacing), and position of trees, shrubs, bulbs and other plants; seeding mix, sowing rate and mowing regimes where applicable. It will also include details of tree pits and support and ground preparation and fencing. Any trees or plants which die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme. The full scheme shall be implemented prior to the occupation of the 70th dwelling of planning permission 18/01558/REMM and 14/01478/OUTM.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the entire site, since the landscape scheme is integral to the amenity of the development. To ensure there is access to open space during the construction of the development when some of the dwellings become occupied.

9 The parts of development hereby approved not being used for drainage infrastructure and site compound (for planning permission 18/01558/REMM) shall be implemented prior to the occupation of 40 of the dwellings (of planning permission 18/01558/REMM). Prior to the occupation of the 70th dwelling (of planning permission 18/01558/REMM) the open space development hereby approved shall be completed.

Reason: To ensure that the development takes place. Development approved by 18/01558/REMM is not acceptable without the open space hereby approved. To ensure that the works take place at the appropriate time and that the occupants of the adjacent housing development have access to the open space.

10 Where it is intended to create semi-natural habitats, all species used in the planting proposals (Drawing Number R/2133/5b received 05 February 2019) shall be locally native species of local provenance unless otherwise agreed in writing with the local planning authority.

Reason: To conserve and enhance biodiversity by preventing the spread of non-native species and those of no local provenance.

11 Before the commencement of and during the development/change of use, adequate measures shall be taken to protect the retained trees on this site (as shown in Drawing Number R/2133/5b received 05 February 2019) in accordance with BS5837:2012. The means of protection shall be implemented prior to the stacking of materials, the erection of site huts or the commencement of building works.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area.

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 (paragraph 38) 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:

- Requested revised plans
- Requested additional information
- Use of Conditions
- Use of legal agreement

2. INFORMATIVE:

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

3. LEGAL AGREEMENT

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

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