

## COMMITTEE REPORT

**Date:** 8 November 2012      **Ward:** Fishergate  
**Team:** Major and      **Parish:** Fishergate Planning  
Commercial Team      Panel

**Reference:** 12/02534/FUL  
**Application at:** New Walk York  
**For:** Mooring for one vessel to be used as a cafe adjacent to Millennium  
Bridge  
**By:** Mr David Meigh  
**Application Type:** Full Application  
**Target Date:** 17 September 2012  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 This application seeks permission for a mooring on the towpath adjacent to the Millennium Bridge on the eastern side of the River Ouse. The proposal would involve setting nine mooring rings into the towpath and would be used by one boat for the sale of refreshments to the general public. The applicant anticipates that the facilities would be used during the day during the hours of 10.00am to dusk and the boat will be moved to a private mooring when not trading. The site is in the Green Belt and the New Walk/ Terry Avenue Conservation Area.

1.2 The application has been referred to the Committee for a decision as it has been submitted on behalf of City of York Council by Property Services. In addition, Councillor D`Agorne wishes the application to be determined by Committee in order that any interested parties can attend the meeting and make personal representations. He has also raised issues relating to the potential impact on trees, safe access for the elderly and increased litter.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: New Walk / Terry Avenue CONF

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

## 2.2 Policies:

CYSP3

Safeguarding the Historic Character and Setting of York

CYNE2

Rivers and Stream Corridors, Ponds and Wetland Habitats

CYNE8

Green corridors

CYHE3

Conservation Areas

CYGB1

Development within the Green Belt

CYL4

Development adjacent to rivers

## 3.0 CONSULTATIONS

Design, Conservation and Sustainable Development

3.1 Notwithstanding the incorrect description of the Horse chestnut as an Elm, I have no objection to the proposals. It is a very low key intervention to facilitate an amenity suited to the location adjacent to the public open space and benches; furthermore the sight of a temporary additional barge along the river would be welcomed. The area to be re-graded is relatively slight and much of the upper material at least is built up silt.

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3.2 No objections

Cllr D'Agorne

3.3 Raise concerns in relation to the reprofiling of the bank and the potential impact on the health of the nearby tree.

3.4 Do not object to the proposal itself but ask that consideration be given to the potential for increased litter in the area and more picnic benches would have an impact on the ability to mow the grass and greater footfall could further compact root zones of trees that are already stressed by such compaction.

3.5 Whilst it may not be possible to provide a disabled ramp, a simple steel handrail should be provided for the steps and a post/ posts and chain installed at the end of the towpath, just to the south of the moorings where it abruptly terminates with a sheer drop into the river. Minor levelling to provide a path from the railway line to the top of the steps is all that is needed to provide safe pedestrian access without disturbing tree roots.

## Publicity

3.6 The deadline for comments was 4.9.2012. No comments have been received.

## **4.0 APPRAISAL**

### Key Issues

4.1 The key issue in this case is the visual impact of the scheme with regards to whether it is appropriate development in the Green Belt, the impact on the conservation area and the waterway setting.

### The proposal

4.2 The proposal would involve setting 9 mooring rings into the towpath for the use of one boat. Repairs to the existing riverbank steps using matching materials would be undertaken and a small area of tactile paving at the top of the steps would be installed. Re-grading of the riverbank to remove river deposits may also be required although it is understood that these works may be implemented prior to the application being considered at Committee by colleagues in Flood Risk Management. This is a result of the silt along New Walk needing to be removed and re-profiled as it is causing stress to the riverbank revetments. The applicant has confirmed that where the re-grading of the river bank profile affects a Horse Chestnut tree, any re-grading work would be hand dug to avoid damage to the roots.

4.3 The existing river towpath is accessed by steps at either end. The applicants have confirmed that it is not possible to provide a ramped access because of the existing trees and the change in level of the river bank. Furthermore, the proposal does not include a handrail to the steps down to the lower towpath or a footpath from the cycle/pedestrian path to the steps. This followed consultation with the Flood Risk Manager and Landscape Officer when it was agreed that any structures would cause an obstruction to the flow of the river which would result in the collection of debris when the river is in flood.

4.4 The proposed mooring would be leased by the Council and under that agreement, the Council would ensure that the boat operator provides bins and ensures that the area is kept free from litter.

The Parks and Open Spaces section have trialled two picnic tables in this location to assess whether any associated problems are likely to arise. The tables are made of recycled plastic where the seats and tables are fixed together and affixed to the site. To date, no problems have been experienced with respect to flooding issues or anti social behaviour. Parks and Open Spaces intend to add another two tables in this location. The application indicates that provided the tables are positioned to let a lawnmower through, there are no issues with grass cutting.

#### Relevant planning policy

4.5 The National Planning Policy Framework reaffirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open: the essential characteristics of Green Belts are their openness and their permanence. The Framework confirms that the construction of new buildings as inappropriate in Green Belt (these are re-iterated in policy GB1 in the Local Plan) and lists the exceptions to this such as limited infilling in villages. Other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include engineering operations and local transport infrastructure.

4.6 The Development Control Local Plan was approved for Development Control purposes in April 2005: its policies are material considerations where they reflect the National Planning Policy Framework.

4.7 The site is within the New Walk/Terry Avenue conservation area. The conservation area includes the river walkway from Skeldergate Bridge south to the Millennium Bridge on the west side of the river. The area is characterised by the relationship between the natural form of the river and the landscapes which border it, and the way the river opens out onto the Foss Basin to the north and Fulford Ings to the south. In the area where the mooring is proposed the tree-lined recreational pedestrian/cycle route along the river is referred to as contributing to the character of the conservation area. Local Plan policy HE3 states that within conservation areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area.

4.8 The site is regarded as being within a green corridor. Such areas are discussed in policies SP3 and NE8 of the Local Plan. Policy SP3: Safeguarding the Historic Character and Setting of York advises a high priority will be given to the protection of the historic character and setting of York, which includes environmental assets and landscape features, including the river corridors and green wedges which run into the heart of the city from the surrounding countryside. NE8 also seeks to protect these features from development and advises that planning permission will not be granted for development which would destroy or impair the integrity of green corridors.

4.9 L4 relates to development adjacent rivers. L4 states that planning permission will only be granted for development adjacent to rivers where there would be no loss to established recreational interests and uses, the proposed development would complement the existing character of the area and the navigational capacity of the river would not be decreased.

#### Impact on the Green Belt

4.10 Planning permission is sought for the physical attributes of the mooring and is not required for the use of the boat as a cafe. This follows an assessment that the use is not permanent as the boat would be moved every night to a private mooring available to the owner and it would be a seasonal use. The Leisure Services Department, who operate the Council moorings, would retain control over the mooring through the lease/licence agreement.

4.11 Case law has established that the physical attributes of a boat mooring are engineering operations for which planning permission is required. As detailed in paragraph 4.2, the National Planning Policy Framework confirms that engineering operations "are not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt".

4.12 The installation of nine mooring rings set into the towpath and the associated works to repair the existing river bank steps and install a small area of tactile paving at the top of the steps would not be considered to be harmful to the openness of the Green Belt.

#### Impact on the setting

4.13 The character of this part of the Conservation Area is discussed in paragraph 4.4. The relevant policies of the Local Plan (HE3, SP3, NE8 and L4) all require a sympathetic approach to development in this area. It thus needs to be considered whether the proposed mooring complements/is in character with the area or whether its introduction would detract from the area.

4.14 The tree-lined recreational pedestrian/cycle route along the river contributes to the character of this part of the conservation area. Officers consider the proposed mooring for the use of one boat to operate as a cafe adjacent to the public open space and benches is a low key intervention which is suited to the character of the area. The presence of a temporary additional boat along the river is welcomed.

4.15 The proposal is deemed to comply with policy L4. There is no evidence that wildlife would be adversely affected, there would be some loss of space from where recreation (fishing in this case) would be affected, however sufficient space would be retained and the walkway and cycle way along the river would not be affected.

Navigational capacity of the river

4.16 The Canal and River Trust (formerly British Waterways) have been consulted but no response has been received to date. The Local Planning Authority has no evidence that the scheme would have any adverse impact on navigation of the river.

## **5.0 CONCLUSION**

5.1 Officers do not consider that the installation of nine mooring rings set into the towpath and the associated works to repair the existing river bank steps and install a small area of tactile paving at the top of the steps would be harmful to the openness of the Green Belt.

5.2 With respect to the impact on the setting, the use of the mooring by one boat to operate as a cafe adjacent to the public open space and benches is considered to be a relatively low key intervention which is suited to the character of this conservation area and the temporary presence of a narrow boat is considered complementary to its riverside setting. The application is therefore recommended for approval.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years -

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

Dwg No: 12041\_2 Rev A dated 16/5/2012  
Supporting Statement dated September 2012  
Flood Risk Assessment dated May 2012  
Design and Access Statement dated July 2012

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

## **7.0 INFORMATIVES: Notes to Applicant**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the openness of the Green Belt, the impact on the character and appearance of the conservation area and the waterway setting. As such the proposal complies with the National Planning Policy Framework and Policies SP3, NE2, NE8, HE3, GB1 AND L4 of the City of York Development Control Local Plan.

#### **Contact details:**

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