

COMMITTEE REPORT

Date: 18 February 2016 **Ward:** Rural West York
Team: Major and **Parish:** Upper Poppleton Parish
Commercial Team Council

Reference: 15/01836/FUL
Application at: The Gardens Boroughbridge Road York YO26 6QD
For: Conversion, extension and change of use of outbuildings and adjacent land to pre-school nursery (use class D1), associated car and cycle parking and widening of access
By: Mr And Mrs Nimmo
Application Type: Full Application
Target Date: 29 February 2016
Recommendation: Approve

1.0 PROPOSAL

THE SITE

1.1 The application site is 0.42ha in size. It forms part of a larger site owned and occupied by the applicant which extends to 9ha in size and which includes farmland and a large farmhouse called 'The Gardens' off Boroughbridge Road. The site is north-west and outside of York's main urban area and the residential suburb of Acomb. It is within the outer-ring road but wholly within the general extent of York's Green Belt and within Flood Zone 1 (low risk of flooding).

1.2 The application site comprises a modern barn constructed from blockwork with a lightweight corrugated steel roof adjacent to the farmhouse. Attached to the barn are three single storey stables blocks; two to the rear of the barn and one attached to the northern elevation. They are also constructed from blockwork with flat roofs. An open fronted shed is to the rear of the barn. The application site also includes part of a field to the south of the barn, an open area of hardstanding in front of the barn, the single width shared drive (with neighbours at Wheatlands House) and two triangular shaped parcels of land either side of the entrance on Boroughbridge Road. The parcel of land to the east of the drive is currently unmanaged grassland, bounded by a hedge. It contains a mature willow and mature sycamore and smaller specimens of holly, fir and crab apple. The parcel to the west is unmanaged grassland with mature hedgerow to Boroughbridge Road.

THE PROPOSAL

1.3 The applicant own "Muddy Boots Nursery" in York. The nursery currently operates from the Old Manor School site on Low Poppleton Lane, 0.4 miles to the east of the application site. They are seeking to relocate the nursery from the existing premises to The Gardens. The existing nursery provides an 80 place nursery (per day) and employs 27 members of staff.

1.4 The proposal involves converting and extending the modern barn and stables to reprovide the nursery and extend it to a 90 place nursery (per day) with 27 staff overall (maximum 19 on site per day). The extension includes inserting a first floor into the barn and infilling the area between the stables as well as a single storey extension the full length of the south elevation of the barn and attached stables. The existing gross internal floorspace is 315 sq.m and with the extension and conversion it will total 554 sq.m. This is an additional gross internal floorspace of 239 sq.m.

1.5 Following revisions to the plans, the single width drive will be widened from 4m to 6m. The triangular portion of land to the east of the drive will become an 18 space car park and an additional 2 disabled car parking spaces will be provided in front of the converted barn together with a turning area. Buggy and cycle parking enclosures, decking area and outside play areas are proposed to the west and south of the barn, bordered by low fencing. 2m wide footpaths will provide off-road pedestrian access from the car park and to the west of the drive to connect with the pedestrian refuge island on Boroughbridge Road and from there to the bus stops and residential areas by foot. Low level lighting is proposed in the car park and along the footpaths.

1.6 Original plans showed the removal of the hedgerow by the car park on Boroughbridge Road and two small sections to facilitate the creation of the footpath to the west of the access road. Two signs 2.5m in width were also shown on the plans on either side of the access. Revisions to plans now show replacement hedging placed to protect sightlines and a single totem-style sign.

1.7 The new nursery building will benefit from numerous large new windows and timber folding doors on the front, rear and south elevation and rooflights giving the nursery plenty of natural daylight and connecting it to the outside. To the north elevation, the character of the building reflects its previous use as stables with original doors retained and additional windows inserted. Decking and canopies will add to amenity and use of the outdoor space.

1.8 The blockwork of the barn will be painted white and the front gable will be timber panelled. The windows will be timber stained and the drawings indicate close boarded timber fencing to the buggy and cycle parks. To the rear is a first floor decking area (west facing).

1.9 The original submission did not include drainage information but this was subsequently received on 18th December 2015. Revised plans were also received to address highways concerns on 25th November 2015. A document titled 'Planning Support Document' which sets out the applicant's consideration of 'very special circumstances' to justify the harm to the Green Belt and a basic Transport Statement was received on 2nd December 2015. This was further expanded upon via email following additional request for information from highways.

PLANNING HISTORY

The Gardens, Boroughbridge Road

1.10 There is no recent planning history and it seems no record of an application to erect the barn. However, as the barn was reportedly constructed in the 1980s, due to this being more than four years, the building is now considered 'lawful' development.

1.11 Other history includes:

- 6/127/8/PA Planning application to demolish the old disused cottage and erect a bungalow: Refused 22.01.1975
- 6/127/53/PA Planning application to extend the property: Approved 02.06.1976
- 6/127/115/OA Planning application to erect a house and garage: Refused 09.01.1980
- 6/127/53A/PA Planning application to erect a self-contained flat over the existing garage: Refused 02.02.1988

Other

1.12 Of relevance to this application, it also worth commenting on formal planning application/pre-application advice the applicant has sought in relocating the nursery from the Old Manor School.

- 14/00577/PREAPP The applicant sought pre-application planning advice for the erection of a single storey building for a children's nursery at NTL Communication Service Limited, Millfield Lane, Nether Poppleton and the Council considered that in principle it was being acceptable. The applicant subsequently advised this option was not being pursued and a number of other sites were being investigated, including sites in the Green Belt. The applicant was encouraged to seek formal pre-application advice about further sites and that it would be unlikely that permission would easily be granted for a large nursery in the Green Belt.

1.13 The government has introduced a provision for the conversion of agricultural buildings to nursery use through Part 3, Class S of the amended the Town and Country (General Permitted Development) Order (2015). However because the application involves operational development including extension to the barn and the size of the nursery, and land within its curtilage brings it over the threshold it means it falls outside the permitted development rights under this provision and a full planning application is necessary.

2.0 POLICY CONTEXT

2.1 Draft Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: West Area 0004

York North West Boundary GMS Constraints: York North West Boundary CONF

2.2 Policies:

City of York Draft Local Plan adopted for Development Control Purposes (2005)

CYSP2: The York Green Belt

CYGP1: Design

CYGP9: Landscaping

CYGB1: Development within the Green Belt

CYGB3: Reuse of buildings

CYC7: Criteria for childrens nurseries

City of York Council Emerging Local Plan Publication Draft (2014)

Policy CF1: Provision of community facilities

3.0 CONSULTATIONS

INTERNAL

Childcare Sufficiency Group

3.1 The Childcare Sufficiency Group strongly support the application. Under the Childcare Act 2006 Local Authorities are required by legislation to secure sufficient childcare, so far as is reasonably practicable, for working parents, or parents who are studying or training for employment.

3.2 The existing nursery building is not really fit for purpose and provides only temporary accommodation. The CYC Capital and Asset Board agreed on 3rd June 2015 that the building should be vacated and demolished as soon as possible to

capture full capital receipt from the sale of the land for future development and because maintenance costs are increasing.

3.3 There is also a lack of alternative buildings in this area of York which would be suitable for use as a nursery. Current providers in the local area are close to capacity across all age ranges. This application is for the relocation of an existing nursery and if the application was refused and the existing nursery closed down, there would be a sufficiency issue for childcare for all ranges in this part of York.

Planning and Environmental Management (Forward Planning))

3.4 Highlight how the application site is within the Green Belt and therefore the presumption in favour of sustainable development contained within the NPPF does not apply to this site. They also note that the proposed car park for the nursery is within the north-western section of strategic housing site ST29 "Land at Boroughbridge Road" in the emerging Local Plan although this Plan is currently on hold subject to review of housing sites. It is noted that the area of land which falls into ST29 is however within the applicant's ownership.

3.5 The emerging Local Plan identifies part of the site as within a designated Historic Character and Setting Area which are important for preserving York's historic character and setting. The site is also within an 'Area Retaining the Rural Setting' in the 2013 update to the 2003 York Green Belt Study and it is therefore necessary to demonstrate very special circumstances to justify the nursery development in this location.

3.6 Forward Planning have reviewed the 'very special circumstances' case put forward by the applicant. They accept that a full review of alternative sites has been undertaken and that on the basis of the information submitted there are no acceptable alternatives that are deliverable or viable for the nursery. The need for the new site is clear and the proposals involve the conversion of existing redundant outbuildings which are of permanent and substantial construction and are capable of conversion without major reconstruction. The proposed design of the building will also be more in keeping with the local landscape which is welcomed. The visual impact of the proposals on the openness of the Greenbelt should be assessed together with highway impact. Overall no policy objections are raised.

Highway Network Management (HNM)

3.7 Following receipt of further information requested, HNM have no objections to the proposed development. The development consists of a relocated nursery on the A59, just inside the ring road. The applicant has provided details of current usage of their premises which is close in capacity to the proposed development.

3.8 Revised plans show the access widened to 6m in width to accommodate two-way traffic. Sight lines are to be created by alterations to the boundary treatment.

There will be an intensification of use of this access, however officers anticipate a minimal increase in the traffic generated in the vicinity as the nursery is relocating from a plot approximately 600m away.

3.9 Car parking meets Appendix E standards of the DCLP for the number of places and staff proposed. Due to its proximity to the ring road and more than 500m from the existing nursery, officers feel that the vast majority of trips will be by car to this venue. It is likely that the car park will be mostly occupied by staff, particularly when the nursery is fully occupied. They envisage that the majority of parents will arrive to the nursery by car for convenience compared with other more sustainable methods. The nursery is providing a drop off area near the building entrance with turning. Due to the length of the driveway, vehicles should be able to stack and manoeuvre adequately without affecting the A59. Cycle parking is included but not detailed.

3.10 Standard planning conditions and informatives are proposed relating to providing details of access and car and cycle parking, and for parking and turning areas to be laid out before occupation. Vehicle sight lines will also be protected via condition.

Planning and Environmental Management (Countryside and Ecology)

3.11 No objections but minor amendments to plans and a condition on bird mitigation (nest boxes) and informatives on nesting birds and non-native invasive species is advised.

3.12 The proposals for the car park including the removal of trees is unlikely to have a significant impact on biodiversity and could be mitigated by the 'gapping up' the eastern boundary hedgerow with native species. The in-hedge tree opposite the pedestrian refuge should be retained and the gap off-set. The introduction of limited lighting in this area, if sensitively designed is unlikely to have a significant impact as Boroughbridge Road is already well lit. Low level bollard lighting would be preferable over downlights.

Planning and Environmental Management (Landscape Architect)

3.13 The site falls within a stretch of greenbelt that separates the built up edge of the city and the outer ring road and Poppleton village beyond. There is a distinct change from the urban context to the open, agricultural landscape. The hedgerows and trees on Boroughbridge Road and the open fields beyond are fundamental to the landscape character within this zone. The farmsteads and properties within this area of greenbelt are fairly incidental to view.

3.14 The change of use is not objectionable in landscape terms however the introduction of a car park at the site entrance represents a limited but marked intrusion into the open greenbelt, and is out of character with the rural arable landscape. As it is a relatively short distance between the residential edge to the

ring road/Poppleton, a cautionary approach is advised over further incremental degradation of the rural greenbelt character along this critical stretch.

3.15 The trees of most significance are retained within the proposed car park. The proposed transplanting of existing trees provides a setting for the car park but is little compensation for the overall effect. Whilst the removal of the hedge is not objectionable as it is of little value in itself being largely bramble, the hedge line is an important long-standing feature of Boroughbridge Road. The proposed replacement hedge is supported and a suitable landscape condition is proposed to ensure it is established.

Flood Risk Management (FRM)

3.16 Drainage investigations undertaken by the applicant concluded that traditional SuDS for the disposal of surface water was not possible and that the site would need to be drained to the public sewer via attenuation with a storage tank and pump. A Drainage Statement was submitted which set out the principles of the proposed drainage of the site for both foul and surface water. This was reviewed by FRM.

3.17 FRM have no objections to the development in principle subject to the attachment of conditions relating to separate systems of drainage for foul and surface water; the approval of details of foul and surface water drainage; and that buildings should not be occupied until drainage works are complete.

Public Protection (PP)

3.18 PP have advised that given the location and the proximity of the A59, noise in the area is already elevated. It is anticipated that noise from the nursery at the farmhouse and Wheatlands House will be masked by background noise. No objections are raised subject to the attachment of conditions that restricts hours of operation of the nursery to protect the amenity of nearby properties, to address any unexpected contamination associated with the farm and the provision of an electric vehicle charging point.

EXTERNAL

Yorkshire Water

3.19 No response received.

Ainsty Internal Drainage Board (IDB)

3.20 Do not object to the proposals but raise concerns that the water from the development is likely to run into Golden Farm Dyke, a Board maintained asset. This watercourse currently conveys large amounts of water and additional discharge may

result in an increased likelihood of flooding. The risk of flooding should be reduced and where possible, surface water should be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development. Drainage problems exist in the area and the LPA must be satisfied that surface water will be satisfactorily disposed of and should not affect neighbouring properties.

Upper Poppleton Parish Council

3.21 Has no objections but comments that the application is for a major change of use to commercial enterprise by conversion of farm outbuildings. There is a narrow concealed private drive for access and egress onto congested section of A59 at times of peak traffic. There is no pavement on the side of the entrance and the access drive also serves two other properties which would be affected by increased traffic.

Neighbours

3.22 Site notice expired: 24.09.2015

Supporting comments

3.23 The Council has received 23 supporting comments from neighbours, existing nursery customers and staff. They note the existing high quality nursery facility and the need for a permanent new site. The proposals are considered exciting and will provide an improved space for the children, particularly additional inside space and access to the outdoors. The nursery is an established nursery for the local community and the proposed site is ideally located at the heart of the community with good access by car, on foot or by bicycle.

3.24 Two additional letters of support are contained in the submitted planning statement from the head teacher of Carr Infant School and the Vice Principal of Poppleton Ousebank Primary School. They comment that the current premises is not suitable for the needs of young children, the proposed site will provide improved premises and general supporting comments for the nursery.

Objections

3.25 The neighbours at Wheatland House who share the drive to the proposed nursery have no objections in principle to the nursery. However they explain that access and egress to their property is via an easement over the shared driveway, which is part of the land owned by the applicant and themselves. They are concerned over landownership and also believe that the splay to the drive entrance is owned by the Council.

3.26 Responding to the original submission, the neighbours raise strong concerns about the impact of nursery traffic severely compromising their ability to access and exit their property at peak times as the drive is single width. They raise safety concerns for pedestrians using the single width drive. They hope a better solution can be achieved.

3.27 Electricity and water supplies to their property run beneath the proposed application site and should be maintained during construction and operation of the nursery. They also raise concerns over possible light pollution if any security lights are installed.

4.0 APPRAISAL

KEY ISSUES

4.1 The key issues are considered to be:

- Principle of the relocation of the nursery
- Green Belt
- Design
- Landscape and ecology
- Access and highways
- Drainage
- Impact on neighbour amenity

PLANNING POLICY CONTEXT

National Planning Policy Framework

4.2 The National Planning Policy Framework (March 2012) (NPPF) sets out the Government's overarching planning policies, paragraph 14 advises that at its heart is a presumption in favour of sustainable development, of which there are three interdependent dimensions: economic, social and environmental. Development of a strong, responsive, competitive economy; strong, vibrant and healthy communities whilst protecting and enhancing the natural and built environment is promoted. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise, and there is a presumption in favour of sustainable development. However as paragraph 14 explains, for decision taking this means approving development proposals that accord with the development plan without delay unless specific policies indicate development should be restricted, which includes policies on Green Belt (foot note 9). As explained further below, the presumption in favour of sustainable development in this instance does not apply as the proposals are defined as inappropriate development within the Green Belt.

4.3 Twelve core planning principles are identified (paragraph 17), which include the need to support sustainable economic development; always seeking high quality design and a good standard of amenity for existing and future occupants of land and buildings; promoting the vitality of urban areas and protecting Green Belts around them; encouraging the reuse of existing resources including the conversion of buildings; and encouraging non-car modes of travel.

4.4 The NPPF does not contain specific policies relating to nurseries. However at paragraph 70 within the section 'promoting healthy communities' it states that planning decisions should aim to deliver the social, recreational and cultural facilities and services the community needs. It should guard against the unnecessary loss of valued services and facilities, especially those that meet day-to-day needs. Such services should be able to develop and modernise in a sustainable manner so that they are retained for the benefit of the community.

4.5 The NPPF at section 9 explains the importance of Green Belts; their fundamental aim being to prevent urban sprawl by keeping land permanently open; the essential characteristics being openness and permanence. Included at paragraph 80 is the desire to safeguard the countryside from encroachment. Inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 87). When considering planning applications, substantial weight should be 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.

4.6 The construction of new buildings is inappropriate development in the Green Belt. Exceptions include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Limited infilling is also included in the exceptions at paragraph 89. Other forms of development are also not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in it. These include the re-use of buildings provided that they are of permanent and substantial construction (paragraph 90).

Saved policies from the Regional Spatial Strategy

4.7 The application site falls within the general extent of the York Green Belt as shown on the Key Diagram of the Regional Spatial Strategy (the Yorkshire and Humber Plan) (RSS) saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. Policies YH9 and Y1 (C1 & C2) and the key diagram on page 215 of the RSS form the statutory Development Plan for York. The general extent of Green Belt is identified in 'Figure 6.2: York sub area context diagram'. 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.

4.8 Whilst the general extent of the York Green Belt in the RSS key diagram is irregular in shape, it is clear from policy Y1(C)(1) that the western outer limit is intended to be about 5 miles from the city centre. The key diagram also shows the inner limit on the west side of York as being about one-third the distance from York city centre than the outer limit. The application site is 2.5 miles from York city centre. Notwithstanding the indicative nature of the RSS and that the detailed inner boundaries of the Green Belt around York have yet to be defined, it is considered that these dimensions place the site within the general extent of the York Green Belt.

Development Control Local Plan

4.9 The City of York Draft Local Plan (incorporating 4th set of changes, April 2005) has been adopted for Development Control purposes (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are however 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. Policy SP2 on York's Green Belt states that the primary purpose of the York Green Belt is to safeguard the setting and historic character of the City of York. Policy GB1 states that planning permission will only be given for development in the Green Belt where the scale, location and design of such development would not detract from the open character of the Green Belt; and it would not conflict with the purposes of including land within the Green Belt; and it would not prejudice the setting and special character of the City of York AND it should be for one of several purposes including the reuse of existing buildings. All other forms of development within the Green Belt are considered inappropriate. Very special circumstances will be required to justify instances where this presumption against development should not apply.

4.10 Policy GB3 on the re-use of buildings in the Green Belt that planning permission should be granted provided that the reuse does not have a materially greater impact than the present use on the openness of the Green Belt; that the buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction; and the proposed reuse will generally take place within the fabric of the existing building and will not require extensive alteration, rebuilding or extension; and the form, bulk and general design of the buildings are in keeping with their surroundings; and ... there is already a clearly defined curtilage.

4.11 GP1 sets out general policy on design. In summary it states that development proposals will be expected to respect and enhance the local environment, be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials

and avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment. Development should ensure that residents living nearby are not unduly affected by noise, disturbance or overlooking.

4.12 Policy GP9 on landscaping states that where appropriate development proposals will be required to incorporate a suitable landscaping scheme, and this must include an appropriate range of indigenous species; and reflect the character of the locality and surrounding development; and form a long term edge to developments adjoining or in open countryside.

4.13 The DCLP contains a policy (C7) on Children's Nurseries. Planning permission will be granted for the development of, or the change of use to, a children's nursery provided that adequate internal and external play space is provided; that there will be no adverse impact on neighbouring amenity and that the proposed development is well served by footpaths, cycleways and public transport routes.

York Local Plan Publication Draft (2014)

4.14 Following the motion agreed at Full Council in October 2014, the Publication Draft of the York Local Plan is currently not progressing through its statutory consultation pending further consideration of the Council's housing requirements and how it should meet those requirements. The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

4.15 Policy CF1: 'Provision of community facilities' supports the development of strong, supportive and durable communities where every community has access to quality community facilities to meet day to day needs. Any new community facilities should be in locations which are well served and linked by public transport and easily accessible by walking and cycling. Policy CF3 relates to the provision of new nurseries or extensions of existing, rather than relocations.

4.16 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the National Planning Policy Framework (NPPF). It is against this Framework that the application proposal should principally be addressed.

CONSIDERATION

Principle of the relocation of the nursery

4.17 The NPPF advises that sustainable development consists of three interdependent dimensions; economic, social and environmental. Development of a strong, responsive, competitive economy; strong, vibrant and healthy communities whilst protecting and enhancing the natural and built environment is promoted. It is recognised that the existing nursery provides good quality childcare for the local community (Ofsted inspection, 04.12.2012) and that the relocation will serve to strengthen the nursery as a business and continue to provide good quality childcare in an enhanced and improved setting. The number of positive responses to the consultation, further supported by the Council's Childcare Sufficiency Group and the head teacher and vice principal of the local primary schools positive comments underline this assessment. In these respects the proposals accord with fundamental principles of the NPPF (paras. 14 and 17).

4.18 It is also accepted that the existing premises for Muddy Boots Nursery at the Old Manor School Site is not a long term option. Consultation with the Council's Childcare Sufficiency Group established strong support for the relocation of the nursery and of the shortfall in nursery provision in this part of York should the existing nursery not be able to relocate, and subsequently close.

4.19 Sustainable development seeks to support economic development and the strengthening of communities and whilst this is a private day nursery, it also offers wider sustainable objectives of enabling parents to return to work. It is also able to provide free early (pre-school) education for three and four year olds. As evidenced by the applicant, recent legislation is extending this to a further 15 hours for eligible families, increasing the demand for early childcare further. The NPPF (paragraph 70) and Publication Draft Local Plan (2014) Policy CF1 generally supports community facilities and the need to guard against the unnecessary loss of valued services and facilities, especially those that meet day-to-day needs.

4.20 The proposed nursery will provide an attractive setting for a nursery with access to a large outside play area. The free flow between inside and outside space is a critical aspect of early years' education and the proposed building further capitalises on its location through the use of large windows and doors to bring the outside in. Various rooms and storage areas are created within the extended building. The proposals are considered to accord with DCLP Policy C7 Nurseries.

Green Belt

4.21 However, bearing in mind the above discussion, the application site is located within the general extent of the Green Belt as described in the RSS; is shown as being within Green Belt on the proposals map in the DCLP and retained within the Green Belt in the emerging Local Plan. Therefore restrictive Green Belt policies

apply. The presumption in favour of sustainable development and provision of community facilities in determining applications does not apply.

Inappropriate development, harm to openness and purposes of Green Belt

4.22 The application involves the conversion of a now redundant agricultural building and the extension of the building. The existing gross internal floorspace is 315 sqm and through the conversion and extension the total gross internal floorspace proposed will be 554 sqm, an increase of 239 sq.m. Whilst some of this will be the insertion of first floor accommodation in the barn, the footprint of the extension is approximately 180sqm. The proposals also involve the widening of the access, creation of an 18 space car park, buggy store and cycle store, new footpaths, fencing, decking, lighting and signage.

4.23 Green Belt policy in the NPPF and DCLP defines the construction of new buildings as inappropriate development. Exceptions include that extension or alteration of a building provided that it does not result in disproportionate additions over the size of the original building. The footprint of the extension is calculated to be approximately 76% of the original footprint of the barn and stables. As such it is considered to be a moderate increase but being all single storey in height, subservient to the original building. Further, some of the extension between the stable blocks is considered 'infill' which on its own would fall within the exception.

4.24 Paragraph 79 of the NPPF indicates that openness and permanence are essential characteristics of Green Belt. Paragraph 80 of the NPPF sets out the purposes of Green Belt. These include, amongst others, to check the unrestricted sprawl of large built up area; 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. Considering whether the scheme overall preserves the openness of the Green Belt and does not conflict with the purposes of the Green Belt, the extensions to the building and in particular the creation of the car park, together with the ancillary elements such as the buggy and bicycle parks, fencing, decking, signage and footpaths will have a notable impact on the permanence and openness of the Green Belt in addition to the relatively modest extension to the building. The curtilage of the existing barn is clearly extended. As advised by the Council's landscape architect the proposed car park and access road will have a limited but marked intrusion into the open green belt and is out of character with the rural arable landscape. Forward Planning advise that the site is within an 'historic character and setting area' and 'area retaining the rural setting' in the 2003 Green Belt Study.

4.25 Whilst some mitigation of the visual impact of the car park is enabled by the landscape treatment and in particular the replacement hedge, it is concluded that overall, the proposals must be considered as 'inappropriate development' in the Green Belt as they do not wholly fall within the permitted exceptions and will have a permanent, although moderate and localised impact on the essential characteristics

of the Green Belt as set out in the NPPF and policies SP2, GB1 and GB3. The NPPF advises that inappropriate development is by definition harmful to the Green Belt and should not be approved except in 'very special circumstances'. The proposal would also cause some harm to openness and Green Belt purposes. Substantial weight must be 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 there are such other considerations which amount to 'very special circumstances' is assessed below at paragraph 4.35.

Design

4.26 The proposals are considered to be a significant positive enhancement to the existing building whilst still reflecting the agricultural history of the site. Whilst involving extension, these are single storey and thus the building will still appear subservient to the adjacent host farmhouse. The large windows, folding doors and large number of rooflights will draw in natural daylight and ventilation and views out. Level thresholds enable free flow for the children to inside and outside areas. Internally the building will be subdivided into a number of rooms, play areas, service areas and storage. Overall, it is considered the building to be of good design visually and for its intended purpose.

4.27 DCLP policy C7 on children's nurseries requires adequate internal and external play space to be provided and it considered the proposals will provide a high quality, valuable space. As such the proposals accord with this policy.

Landscape and Ecology

4.28 DCLP policy GP9 states that development proposals should include a suitable landscaping scheme and reflect the character of the locality. Being in the Green Belt and in an historic character and setting area, this is particularly important as underlined by the Council's landscape architect. However specific objections are not raised and it is considered that the revised plans, with replacement hedging together with permeable green "grasscrete" surface and retained and relocated trees will serve to mitigate the harm overall and the proposals acceptable overall.

Access and highways

4.29 Much discussion has taken place with the applicant regarding the highway impact of the proposals on the local road network and neighbours who share the access. The submitted Planning Supporting Statement contains a simple Transport Statement and subsequent to this submission, further information has been requested from the applicant.

4.30 Design revisions include a widening of the access to 6m in width to allow two-way flow of traffic. A new 2m wide footpath is shown to provide off-road pedestrian access from the car park and to the island on Boroughbridge Road. There are two disabled parking spaces and a turning area in front of the nursery. The car park provides spaces to meet the maximum parking standards contained within Appendix E of the DCLP. Whilst it is considered that in practice as the site is outside the urban area, although benefitting from bus services along Boroughbridge Road, most of the journeys will be by car and that staff will use the car park. It is likely that customers will drop-off children by stack parking on the drive. Secure, under cover cycle parking is shown. However, as the highways officer raised no objections overall, subject to compliance with the attached proposed conditions, and then the scheme is considered acceptable from a highways perspective.

4.31 Members are reminded that easements, or private rights of way, are a private civil matter between a property owner and the person/party who has the right of easement. The granting of planning permission does not override private rights of way or easements over land.

Drainage

4.32 The IDB identified that there were drainage issues in the area and investigations undertaken by the applicant confirmed that a traditional SuDS for the disposal of surface water was not possible and that the site would have to be drained to the public sewer via attenuation with a storage tank and pump.

4.33 An outline drainage scheme was submitted, which showed that the site will be developed with separate foul and surface water systems. Foul water will be pumped to the existing house drain connecting at a point close to the site boundary. Surface water will be drained from the new roof to the existing house drain and thus to the public sewer beyond. In order not to increase flows to the public sewer, surface water from the existing farmhouse will be diverted into the new drainage system for attenuation purposes. The Council's drainage engineers have confirmed that the details can be conditioned.

Impact on neighbour amenity

4.34 The neighbours have not objected to the principle of the nursery and PP have advised that in this location with existing background noise levels and distance to Wheatlands House, no objections are raised from a neighbour amenity perspective. It is considered appropriate however to attach a lighting condition to agree details.

Other considerations - Very special circumstances (VSC)

4.35 Once the Council confirmed that they considered the proposals as being 'inappropriate development' in the Green Belt, the applicant was invited to set out the factors considered to amount to VSCs to outweigh harm to the Green Belt by

reason of inappropriateness and any other harm. These were presented in the 'Planning Support Document' received 2nd December 2015. Whilst various arguments were presented, officers consider that cumulatively the following may amount to VSCs:

- The short term nature of the current location;
- The lack of an alternative site within the built up area;
- The demand for and success of the nursery; and
- The relatively moderate and localised level of impact on the green belt given that it is a conversion with extension including infill of the existing barn and the other development associated with the proposals were not buildings themselves (parking, widened access, decking, minimal necessary infrastructure such as low level lighting and minimal signage).
- There is no other identified harm that cannot be mitigated through the revised plans or attached proposed conditions.

4.36 The applicant cannot remain within the Old Manor School site as it is to be redeveloped. They must find alternative premises if the nursery is to remain open. Their customer base is in this part of York, to the west of the city centre and they provide a valued community need for childcare and early years education.

4.37 Officers are aware that they have sought alternative locations, including the evidence of the pre-application enquiry for a building in Millfield Industrial Estate. Other sites were also examined and discounted for various reasons including being unsuitable, unviable or because owners sought more profitable alternatives. It is accepted that a full review of alternative sites has been undertaken and it is agreed that on the basis of the information submitted that there are no acceptable alternatives that are deliverable or viable for the nursery.

4.38 The nursery is popular and evidence has been gathered that it provides good quality childcare and should it no longer be operating, there will be a sufficiency gap with other providers in the vicinity being close to capacity. Moreover, under the Childcare Act 2006 Local Authorities are required by legislation to secure sufficient childcare, so far as is reasonably practicable, for working parents, or parents who are studying or training for employment. The Childcare Sufficiency Group strongly support the relocation of the nursery. The existing site is 0.4 miles away.

4.39 The proposals will improve the visual appearance of the existing barn and the character and design is appropriate to its context and a positive improvement of the local environment. Comprising extension of an existing building and soft landscaping of the car park, the overall impact on the permanence and openness of the Green Belt is notable but not significant.

4.40 Other than harm to the Green Belt by definition by reason of inappropriateness and harm to the openness and purposes of the Green Belt, the consultation exercise has resulted in no specific other harm caused by the proposals being identified. There is some impact on landscape character, but the impact has been mitigated and minimised through the submitted revised plans and landscape treatment. Any other potential harm has not been identified that could not be controlled by the imposition of conditions to any planning permission (such as highway impact).

4.41 Taking into account the above matters, very special circumstances are considered to have been evidenced to clearly outweigh the harm to the Green Belt and any other potential harm, when substantial weight is given to the harm to the Green Belt. Further, it should be noted that some elements of the extension of the building are infill and would be defined as permitted exceptions.

5.0 CONCLUSION

5.1 In conclusion, whilst the proposals are considered to be inappropriate development in the Green Belt, and therefore harmful by definition, for which the presumption in favour of development does not apply, the impact on the permanence and openness of the Green Belt is moderate in scale and localised. However any harm to the Green Belt should be given substantial weight in the planning balance.. No other harm has been identified that cannot be mitigated by the imposition of conditions to any planning permission. The particular considerations here cumulatively amount to very special circumstances, that in this particular instance are considered to clearly outweigh the harm to the green belt by reason of inappropriate development and localised limited harm to the purposes and openness of the Green Belt. As such the proposals are in accordance with core principles of the NPPF, and specific principles and policies protecting the Green Belt in Section 9 of the NPPF and Policies SP2, GB1 and GB3 of the DCLP.

5.2 The proposals for the relocation of the nursery will continue to provide essential high quality childcare in this part of York. The existing nursery is a valued community asset and its relocation will ensure it remains so. The design of the nursery building and associated play space, and the landscape mitigation will create an attractive nursery and setting meeting the wider aspirations of early years education provision whilst minimising any change to the established rural character in this particular locality. The current barn is not attractive and the proposals will significantly improve its appearance. Overall the proposals are considered to comply with relevant sections of the NPPF (paras 14, 17 and 70) and GP1, GP9 and C7 of the DCLP.

5.3 The application is recommended for approval subject to the attachment of the following conditions.

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 and statements:-

- Location Plan, logged 10.08.2015
- Site plan and context (red and blue line) (026.01 Rev A) logged 08.12.2015
- Site plan as proposed (026.06 Rev B) received 22.01.2016;
- Site plan and context as proposed (026.11 Rev B) received 22.01.2016;
- Site entrance and car park as proposed (026.12 Rev. A) received 22.01.2016;
- Ground floor plan as proposed (026.07) logged 10.08.2015;
- First floor plan as proposed (026.08) logged 10.08.2015;
- West and east elevations and sections as proposed (026.09) logged 10.08.2015;
- South and north elevations as proposed (026.10) logged 10.08.2015;
- Design and access statement amended January 2016, received 22.01.2016; and
- Drainage Statement prepared by Stevensons Associates dated 18.12.2015.

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

3 The nursery's opening hours shall be restricted to 7.30am to 6.00pm Monday to Friday. It shall not be open on Saturdays or Sundays.

Reason: To protect neighbouring residential amenity

4 HWAY14 Access to be approved, details reqd

5 HWAY18 Cycle parking details to be agreed

6 HWAY21 Internal turning areas to be provided

7 HWAY23 Vehicular sight lines protected

8 HWAY19 Car and cycle parking laid out

9 One electric vehicle charge point shall be provided before the nursery is first brought into use? in a position first to be agreed in writing with the Local Planning Authority and thereafter retained in working order for the lifetime of the development. The point shall be retained for the exclusive use of zero emission vehicles.

Notes: Electric Vehicle Recharging Point means a free-standing, weatherproof, outdoor recharging unit for electric vehicles with the capacity to charge at 7kw (32A)

that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

10 In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of 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.

11 All lighting shall be positioned and angled to prevent glare, reflection or distraction to highway users and neighbouring residential properties.

Reason: In the interests of road safety and neighbouring residential amenity.

12 VISQ8 Samples of exterior materials to be app

13 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. It should be broadly compliant with the revised and approved plans:

- Site plan as proposed 026.06 Rev. B received 22.01.2016;
- Site plan and context as proposed 026.11 Rev. B received 22.01.2016 and
- Site entrance and car park as proposed 0.26.12 Rev. A received 22.01.2016.

This scheme as approved shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development 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 alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

14 The development hereby permitted shall not be occupied until mitigation comprising of a minimum of three bird nest boxes, suitable for use by swifts and swallows, have been installed/constructed within the site in accordance with guidance from a suitably qualified ecologist.

Reason: To take account of and to enhance the habitat for biodiversity and comply with Section 11 of the NPPF.

15 The site shall be developed with separate systems of drainage for foul and surface water.

Reason: In the interest of satisfactory and sustainable drainage.

16 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

17 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

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 order to achieve a positive outcome:

- Invited the applicant to set out any very special circumstances as the proposals were defined as inappropriate development in the Green Belt.
- Requested additional necessary highways information from the applicant which was submitted in a Transport Statement and subsequent emails.
- Requested the submission of a suitable drainage scheme.
- Requested confirmation of land ownership and submission of a 'red and blue line' plan.
- Requested revised plans to widen the access, create a separate off-road footpath along the drive, create adequate visibility spays, provide a replacement hedge, reduce the proposed signs to one smaller one, provide low level bollard lighting rather than LED lighting to the car park and access, specify the low fencing as no more than 1.2m in height, and retain the hedge tree opposite the pedestrian island.

2. HIGHWAY WORKS

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

3. NON-NATIVE INVASIVE SPECIES

The invasive species Himalayan balsam (*Impatiens glandulifera*) is present on site. The applicant is reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to "introduce plant or cause to grow wild any plant listed on Schedule 9 Part 2 of the Act" and prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features. Further information is available from the Non-native Species Secretariat (NNSS) web site at <http://www.nonnativespecies.org/home/index.cfm>.

4. NESTING BIRDS

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Trees, hedgerows and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees, hedgerows and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

5. DEMOLITION AND CONSTRUCTION INFORMATIVE

The developer's attention should also be drawn to the following:

- a) All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:
 - Monday to Friday 08.00 to 18.00
 - Saturday 09.00 to 13.00
 - Not at all on Sundays and Bank Holidays.
- b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228-1:2009 + A1:2014 and BS 5228-2:2009 + A1:2014, a code of practice for "Noise and Vibration Control on Construction and Open Sites".
- c) Best practicable means shall be employed at all times in order to minimise noise, vibration, dust, odour and light emissions.
- d) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.
- e) There shall be no bonfires on the site.

6. DRAINAGE

The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.

Drainage Design Considerations

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuDs). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided to discount the use of SuDs.

If SuDs methods can be proven to be unsuitable then In accordance with City of York Councils Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha shall be used for the above.

Contact details:

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