

## COMMITTEE REPORT

**Date:** 17 March 2016                      **Ward:** Wheldrake  
**Team:** Major and                              **Parish:** Wheldrake Parish  
                    Commercial Team                              Council

**Reference:** 15/02885/FUL  
**Application at:** Land At Grid Reference 469030 444830 Church Lane Wheldrake  
York  
**For:** Erection of four seasonal tents utilising existing access, the  
creation and maintaining of a footpath link, and the incorporation of  
a habitat enhancement plan  
**By:** Derwent Valley Glamping  
**Application Type:** Full Application  
**Target Date:** 21 March 2016  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 This is a full application for the change of use of land to allow the siting of four seasonal tents (described in some of the submitted documentation as Yurts) on land at Church Lane Wheldrake.

1.2 The site comprises an area of land located between Church Lane and the Lower Derwent Valley Nature Reserve. To the west of the site is a public footpath and Church Lane. Natural England offices are located on the site's south side. The Lower Derwent Valley Nature Reserve is located on the east side of the site. The Lower Derwent Valley National Nature Reserve (NNR) is a designated Ramsar site, Special Protection Area (SPA), Special Area of Conservation (SAC) as well as the Derwent Ings Site of Special Scientific Interest (SSSI).

1.3 The application site is an area of grass land which is raised above the level of the reserve but slightly below road level. The land area is approximately 2 Ha of which the applicant considers that 0.1 Ha will be covered by the development. The development is for the siting of four tents termed yurts because the tents are to be placed on the land permanently for a 17 week period each year, will be serviced with bathrooms and kitchens and appropriately furnished to provide ready accommodation for visitors. The timing of the 17 week period has been specified as May to September. The application includes the provision of car parking facilities. An existing access into the site will be utilised to provide vehicular access to the site. The red line area of the application has been confined to the area of each tent structure and the car parking area although the whole of the 2 Ha site is within the applicant's ownership. The description of development also refers to the creation of a footpath on the west side of the site. This path is already constructed and is

proposed as a public access extending an existing footpath to the south of the site. Habitat enhancement proposals include bat, bird and barn owl boxes within the site.

1.4 Additional information has been provided since the application was first submitted. This clarifies that:-

- The season for the tents runs between May and September.
- Construction and removal of the tents will be two days before and after the season.
- Toilets and showers will be in the tents and will discharge to sewers under the site
- Cooking facilities restricted to hob in tent and BBQ on patio
- No lighting required other than small light in tent
- Electricity will be provided as on other camp sites via pole outside tent
- There will be two people per tent
- Dogs camp fires and additional tents are not permitted to comply with Natural England's requirements
- A small chiminea would be used in each tent as a heat source
- Noise would be enforced through strict rules at the time of booking
- The grass around the tents would be maintained by hand mower once a week
- Mitigation of ecology through ecology mitigation and enhancement submission
- The site would work in close collaboration with natural England
- Employment level is a statement of fact and can not be proved.

1.5 The additional information also includes images of the proposed tents. The images indicate that the tents are to be 5 metres by 7.5 metres and 3.5 metres in height.

1.6 An additional plan has also been submitted which shows the position of the footpath as constructed and confirms that the footpath can be maintained and provided for public use. A condition requiring the footpath's retention would be acceptable.

## PLANNING HISTORY

1.7 There is no relevant planning history on the site.

## 2.0 POLICY CONTEXT

2.1 Please see paragraphs 4.2 to 4.15 of this report.

## 3.0 CONSULTATIONS

### INTERNAL

3.1 HIGHWAY NETWORK MANAGEMENT - Additional information is needed to show a paved cross over and turning area for parked vehicles.

3.2 COUNTRYSIDE AND ECOLOGY - required additional information to be submitted to understand the details of the application and to allow a Habitat Regulations Assessment to be undertaken. Following the submission of further information it is concluded that the submitted information does not alter the original comments that there is insufficient information for the council to undertake a Habitat Regulations Assessment screening opinion for likelihood of significant effects. The ecology report states that the proposed development has the potential to cause disturbance and displace wintering birds and breeding birds (including Schedule 1 listed species) and this issue has not been addressed. Currently it cannot be ascertained that the proposal would not adversely affect the integrity of the European sites and therefore the application should be refused on these grounds.

3.3 LANDSCAPE - Overall the site and surrounding landscape is of a high quality and sensitive to the introduction of these exclusive man-made structures, which, although intended to be seasonal, are fairly permanent in their appearance, and also involve the introduction of hard standing. The topography is very uneven - would not like to see the creation of levelled platforms and roadways and parking spaces; furthermore it is not just the presence of the yurts, but also the cars and all the additional paraphernalia. not against yurts in the open countryside, especially ones with an appreciative view of the lngs, but this isn't the right location - too publicly exposed in relation to views and visitors to Wheldrake lngs.

3.4 FLOOD RISK MANAGEMENT TEAM - comments to be reported.

## EXTERNAL

3.5 WHELDRAKE PARISH COUNCIL - Object to the application. The Parish Council are concerned about the impact on the greenbelt and would like to seek clarification on this matter. There were also concerns raised regarding insufficient information on the application.

3.6 NATURAL ENGLAND -In considering the European site interest, Natural England advise that the Council are the competent Authority under the Habitat regulations. The conservation objectives for each European site explain how the sit should be restored and/or maintained and may be helpful in assessing potential impacts (if any). The information submitted does not include information to demonstrate that the requirements of the habitat regulations have been considered.

3.7 Natural England advise that the proposals are not necessary for the management of the European site. There is currently not enough information to determine whether the likelihood of significant effects can be ruled out. The proposal has the potential to cause disturbance to bird species. The period when birds would be most vulnerable to disturbance would be during the winter months and the spring breeding period April to late May. Tents should be avoided during these periods. A

mitigation strategy should be sought from the applicant in order to inform the Habitat Regulations assessment; this should include measures to demonstrate that disturbance to Special Protection Area birds is unlikely to occur.

3.8 Concerns about the impact of the development on the Reserve as a Site of Special Scientific Interest are similar to concerns about the impact on the Special Protection Area.

3.9 YORKSHIRE WILDLIFE TRUST - Insufficient information within the planning application for the authority to carry out an Appropriate Assessment under the Habitats Regulations. The Lower Derwent Valley (LDV) SPA SAC SSSI and Ramsar site, is internationally important for a wide range of bird species. The Trust agree with the comments of the Councils ecologist and also considers that It may be necessary to have bird survey data as to the use of the field by birds important for the SPA. Would like evidence of the applicant's assertion that two full time and two part time jobs will be created by the development. Concerned that the approval of the scheme on only limited evidence will set a precedent for similar schemes adjacent to the reserve in other council areas. This could lead to a cumulative impact on the nature reserve.

3.10 Three letters of objection have been received covering the following points:-

- On many visits to the nature reserve before dusk never failed to see at least one barn owl hunting over the field on which the development is proposed. It therefore must be concluded that this field is an important resource for the local barn owl population and is used on a daily basis.
- Local barn owl population may decline as a result of the development
- The proximity to the National Nature Reserve makes a development such as this entirely inappropriate. The reserve is a haven for wildlife and for considerate wildlife watchers. Introducing a campsite adjacent to the reserve will create unacceptable levels of disturbance.
- There is a lack of detail with the application which suggests that the applicant has not taken the ecological interest of the site seriously.
- Wheldrake Ings is an internationally renowned site for birds and needs preserving and developing for wildlife, not taking over by humans.
- Barn owls are considered by the objector to be a species at risk in Yorkshire.

## **4.0 APPRAISAL**

4.1 Key Issues:-

- Principle of the development - Green Belt
- Character and appearance of the area
- Habitat Regulation Assessment
- Access and parking Arrangements

- Drainage
- Other considerations - very special circumstances

## PLANNING POLICY

4.2 The site is located within the general extent of the Green Belt on the south side of York.

### National Planning Policy Framework

4.3 Paragraph 14 of the National Planning Policy Framework (NPPF) says that at the heart of the NPPF is a presumption in favour of sustainable development for decision taking this means that where the development plan is absent, silent or relevant policies are out-of-date granting planning permission unless specific policies in the framework indicate development should be restricted. (Foot note 9 indicates restrictions include Green Belt locations, sites protected under the Birds and Habitats directive and Sites of special scientific interest).

4.4 The core planning principles in paragraph 17 of the NPPF says planning should support economic growth; among other things protect the Green Belt around urban areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities and contribute to conserving and enhancing the natural environment.

4.5 Section 3 of the NPPF says that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

4.6 Section 9 of the NPPF says that the essential characteristics of Green Belts are their openness and their permanence (para.79). One of the five purposes of including land within the Green Belt is to assist in safeguarding the countryside from encroachment (Paragraph 80). Once defined Local Planning Authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land (para.81).

4.7 Paragraph 109 says that the planning system should contribute to and enhance the natural and local environment and soils by protecting and enhancing valued landscapes, recognising the wider benefits of ecosystem services and minimising impacts on biodiversity. Paragraph 118 seeks to conserve and enhance biodiversity; it says that development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect should not normally be permitted. Paragraph 119 confirms that the presumption in favour of development at Paragraph 14 of the

NPPF does not apply to sites requiring assessment under the Birds or Habitats directives.

4.8 The NPPF says at Annex 1, paragraph 216, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Weight may also be given to relevant policies in emerging plans according to the stage of preparation.

#### Development Plan

4.9 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 for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

#### Local Plan

4.10 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.

4.11 The relevant policies applicable to this application include: GP1: 'Design' which requires that development among other things respects or enhances the local environment; policy V1 'visitor related development' encourages appropriate visitor related development, V5 'caravan and camping sites', GB1 'Development in the Green Belt' and policy NE4a 'International and National Nature Conservation Sites'.

4.12 Policy GB1 says that planning permission for development will only be granted where development would not detract from the open character of the Green Belt, it would not conflict with the purposes of including land within the Green Belt and development would not prejudice the setting and special character of York. Policy V5 says that planning permission for new caravan/camping sites outside settlement limits will only be granted provided:

- a) The number of pitches does not exceed 20; and
- b) There will be no pitches for static caravans; and

- c) The proposal does not involve the erection of permanently-sited ancillary buildings other than toilets/washrooms and a site office; and
- d) The site is associated with an existing settlement and of a compatible scale to the settlement; and
- e) The site is readily accessible by public transport; and
- f) There is no adverse effect on the openness of the Green Belt; and
- g) It provides a direct benefit to the local residential workforce; and
- h) The approach roads are suitable for caravans; and
- i) There is no adverse effect on the provision of local services; and
- j) The proposal is complimentary to recreational opportunities in the vicinity; and
- k) It provides a direct benefit to the local residential rural community.

4.13 Policy NE4a says that where development could have an adverse effect, directly or indirectly, on an international or national nature conservation site it will only be permitted where the reasons for the development clearly outweigh the special nature conservation value of the site.

### Emerging Local Plan

4.14 The planned consultation on the Publication Draft of the City of York Local Plan, which was approved by the Cabinet of the Council on the 25 September 2014, has been halted pending further analysis of housing projections. The emerging Local Plan policies can only be afforded weight at this stage of its preparation, in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight is limited. The most relevant of the document's policies is policy EC6 which says that York's rural economy will be sustained and diversified through, among other things, permitting camping and caravan sites for holiday and recreational use where proposals can be satisfactorily integrated into the landscape without detriment to its character, are in a location accessible to local facilities and would not generate significant volumes of traffic. Seasonal occupancy should be conditioned on visitor accommodation.

### Wheldrake Village Design Statement

4.15 The Wheldrake Village design statement sets out characteristics of the setting of the village. In noting the key characteristics of the village setting it says (page 11) that the village is approached from open countryside on all routes and that grass verges and hedgerows beautify the approach roads. Key issues include the need for connections between public footpaths and the lack of circular walks. Guidelines say that the open character of the Green Belt should not be affected and for the design of development seek to protect verges and the International and national nature conservation designations should be strictly enforced.

In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the

general extent of the York Green Belt) is the National Planning Policy Framework (NPPF). It is against this Framework that the application proposal should principally be addressed.

## ASSESSMENT

4.16 The 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.

4.17 Although paragraph 14 of the NPPF sets out a presumption in favour of sustainable development, in accordance with the footnote referenced within paragraph 14 the presumption in favour of sustainable development does not apply in Green Belt locations.

4.18 Paragraph 89 and 90 of the NPPF set out those developments that may be considered exceptions to inappropriate development in the Green Belt. Paragraph 89 refers to certain exceptions for new buildings; as the proposal does not relate to new buildings this paragraph is not relevant. Paragraph 90 lists other development that may be considered as not inappropriate. This does not include the change of use of land. It is Officers opinion that the change of use of the land to seasonal camp site does not fall within any of the exceptions to inappropriate development identified in paragraphs 89 and 90 of the NPPF. It therefore constitutes inappropriate development within Green Belt. Paragraph 87 says that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 says that substantial weight should be given to any harm to the Green Belt and that '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.

### Openness

4.19 Paragraph 79 establishes that openness is an essential characteristic of Green Belt. The proposal will necessitate the improvement of the vehicular access into the site, will necessitate the provision of some hard standing, which would be there permanently and would introduce canvas tents and decked areas which would be there for a portion of each year. Additionally during the time that the site is unoccupied the infrastructure associated with the provision of electricity and drainage turning areas for vehicle and the formalisation of the access entrance with new hardsurfacing would remain. Although the site has established boundaries to the road frontage, the land is very open to its eastern and southern side and the footpath along the western side of the site. It is Officers' opinion that the combination of the visibility of the site, the necessary parking areas and access improvements (likely to be permanent) and the additional traffic movements that the development



would impact on the openness of the Green Belt as more of the site would appear developed.

## Purposes of Green Belt

4.20 The purposes of Green Belt set out in paragraph 80 of the NPPF are to check 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 use of derelict or other urban land. Officers consider that in this relatively isolated location the addition of tents and ancillary works would appear intrusive and so would conflict with the purpose of safeguarding the countryside from encroachment, thereby causing additional harm to the Green Belt.

## CHARACTER AND APPEARANCE OF THE AREA

### Visual Amenity

4.21 The site is located next to Church Lane; adjacent to the lane is a substantial tree belt which shields much of the site from the road although the existing access point from the road has been cleared and opened up somewhat since officers visited the site as part of a pre-application submission. The site's eastern and southern sides are open to the nature reserve and to the Natural England Offices. There is a public right of way on the southern side and a raised platform on the Natural England site from which you can view the nature reserve. In addition the footpath that runs next to the tree belt on the west side is open to the land and the reserve beyond. From all these vantage points the site is very visible and in fact provides an integral part of the overall experience of the views to and from the nature reserve. It is considered that the introduction of development on to the field would seriously diminish the setting of the nature reserve as experienced by visitors.

### Noise and Disturbance

4.22 The applicant has clarified a number of points since submitting the application. In the main the protection of the site from noisy visitors is to be controlled by a set of rules the details of which will be provided to visitors when booking the accommodation. In addition to this it is indicated that the tents will be limited to two occupants, each tent will be lit by a single light, heating will be provided via a chiminea and cooking will be by barbecue on patio areas and in the tent on a hob.

4.23 The additional tent elevations provided do not reflect these submitted details. The images show a bedroom with four beds and significantly more than one light, the cooking facilities and level of comfort within the tents suggest that the appearance of the units will be much more imposing than the description suggests.

In any case in Officers' opinion the use of chimneys and barbeques and the provision of facilities to make the best use of outside space does not lend itself to the maintenance of a tranquil atmosphere as one would currently experience late in the evening at this site.

4.24 Overall it is considered that the proposal would not be compatible with the prevailing character of the area, would detract from the open rural setting of the nature reserve and would cause significant harm to the character and appearance of the area. This is contrary to the core planning principle of the NPPF of recognising the intrinsic character and beauty of the countryside and GP1 of the DCLP which similarly expects proposals to respect or enhance the local environment.

### Sustainability

4.25 It is generally accepted that visitors to caravan and camping sites are more likely to arrive by car. The site is close to the village of Wheldrake and although there is a public footpath along part of the site towards the village there is limited footpath access to the village along the road and no dedicated cycle routes. Access to the city is via an infrequent bus service. The site has a moderate level of sustainability but overall it is considered that visitors to this site are likely to access services within the village and within York using their cars.

### HABITAT REGULATIONS ASSESSMENT

4.26 The Lower Derwent Valley National Nature Reserve as a European protected site is afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). Under the Habitat Regulations the Council as the competent authority must make a judgement under Regulation 61 and 62 as to the 'likely significant effect', if any, of the scheme on the European designated sites before permission is granted. The project is not directly connected with or necessary to the management of any European site and therefore a Habitat Regulation Screening opinion will need to be made by the Local Planning Authority. It is accepted practice that the promoter (the applicant in this case) provides sufficient information to rule out the need for appropriate assessment under the Habitat Regulations. Currently there is a lack of information to ascertain that the project would not adversely affect the European sites. The ecology report states that the proposed development has the potential to cause disturbance and displace wintering birds and breeding birds. The Draft Habitat Enhancement Plan submitted does not address any concerns as to the potential impact on birds using the designated sites. Based on the information submitted it is not possible to carry out a screening opinion under the Habitat Regulations other than to conclude that an appropriate assessment is required. This would present a ground for refusal of the application. Furthermore without ascertaining the impact of the development on the reserve, the application conflict with advice in the NPPF (paragraphs 109, 118 and 119) which seek to conserve and enhance biodiversity. In particular paragraph 119

says that the presumption in favour of development does not apply where development requiring an appropriate assessment under the Birds or Habitat Directives is being considered, planned or determined.

## ACCESS AND PARKING ARRANGEMENTS

4.27 Highway Network Management require additional information about how vehicles will turn in the site and about the construction of the vehicular entrance. Were the application to be supported in principle appropriate conditions could secure the required detail.

## FLOODING/DRAINAGE

4.28 The site is bounded by flood zone 3 to the east and is partly located within flood zone 2 along the eastern side of the site. The location of the tents as shown on the submitted site location plan indicates that the tents will be placed in areas of the site that are in Flood Zone 1, low risk. Although Camp sites are classed as more vulnerable uses in the Flood Risk Vulnerability Classification set out in the National Planning Policy Guidance (NPPG) as the tents are located in areas of the site in flood zone 1 the development should not suffer from river flooding.

4.29 The comments of the Flood Risk Management Team on the drainage proposals for the site are awaited.

## OTHER CONSIDERATIONS - VERY SPECIAL CIRCUMSTANCES

4.30 It is the Applicant's view that the proposed development is appropriate development in the Green Belt. For the reasons set out in Paragraph 4.16 to 4.20 above Officers do not agree with this.

4.31 The applicant has set out a number of considerations within his statement that he considers weigh in favour of the development. These are:

- A positive impact on tourism in the area
- Benefits to the rural economy through the provision of new jobs
- Opportunity to bring revenue to the adjacent Natural England who own and maintain the adjacent Ings
- Provision of a footpath link along the western side of the site
- Habitat enhancements

These considerations are assessed below.

## TOURISM

4.32 On a general level it is accepted that tourism facilities benefit the rural economy. Local shops and pubs can benefit and there may be increase spend associated with visitors to York. The amount of benefit to the rural economy is limited because the number of tents proposed is small and is not quantified within the submitted information. However a small amount of benefit to the rural economy through the additional provision of facilities is considered to be associated with the use.

## NEW JOBS

4.33 The agent suggests that the siting of the tents for the 17 week period will provide two full time and two part time jobs. Further evidence of the number of jobs required has been requested, but none has been forthcoming. Officers consider that a use that operates for 17 weeks of the year with a week of preparation either side of opening is unlikely to generate the quantity of jobs suggested. A small amount of weight is however attached to job creation at a general level as it is accepted that new employment could be created.

## NATURAL ENGLAND

4.34 Natural England has provided advice on the detail of the scheme requesting further information in order that a Habitat Regulation Assessment can be undertaken. The consultation response does not detail any benefits to its own operation on the adjacent site. The applicant says that the use will bring additional visitors to Natural England's site but does not say how this will equate to additional revenue. It is noted that objectors say that the siting of the development will impact on barn owls and on their enjoyment of the site. Thus there may be a balance between lost and gained visitors. It is not clear that there would be any benefits to Natural England associated with the development.

## PROVISION OF A FOOTPATH LINK

4.35 The footpath link on the western side of the site is provided and is welcomed as an addition to the network of footpaths in the area. The link is already in place. Natural England as part of its response has not indicated that the link is of particular importance to its operation. The footpath is said to link public footpaths on the south and north of the site but there would still be a significant gap between the two adopted footpaths that is not linked via a safe route away from the road. This is not to take away from the efforts of the land owner in providing a length of dedicated footpath along the side of his land; more that its benefits have not been supported by Natural England; it does not link two existing footpaths and would make the site and the proposed scheme much more visible. On balance therefore the provision of the link is not considered to be a benefit of the proposed scheme.

## HABITAT ENHANCEMENTS

4.36 The application includes a habitat enhancement plan. That is a plan to encourage wildlife including birds to use the site. It does not however provide sufficient information to address how the proposed development may impact on the existing reserve. The ecology report suggests that there is potential for there to be displacement of birds on the reserve. The site already provides an open undisturbed setting for the adjacent reserve the provision of habitat enhancement is presumably to offset harm associated with the development on existing wildlife it is not considered a benefit of the scheme.

4.37 In officers' opinion the considerations put forward by the applicant are not sufficient either individually or cumulatively to clearly outweigh the definitional harm to the Green Belt by reason of inappropriateness and other harms identified in this report (that is harm to the purposes and openness of the Green Belt, harm to the character and appearance of the area through visual impact and noise and disturbance, lack of information to assess the impact of development on the Lower Derwent Valley National Nature Reserve) and the very special circumstances necessary to justify the development do not exist. As advised by paragraph 87 and 88 of the NPPF development that is harmful to the Green Belt for which there are no very special circumstance should not be approved.

## **5.0 CONCLUSION**

5.1 The application site, undeveloped land to the east of Church Lane Wheldrake,, is considered to be within the general extent of the Green belt as defined in the RSS. The erection of tents on a season basis with associated car parking on the site is considered to be inappropriate development in the context of section 9, paragraph 89 and 90 of the NPPF.

5.2 The NPPF confirms at paragraph 87 that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 says that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

5.3 In officers' opinion the considerations put forward by the applicant; a positive impact on tourism in the area, benefits to the rural economy through the provision of new jobs, opportunity to bring revenue to the adjacent Natural England who own and maintain the adjacent Ings, provision of a footpath link along the western side of the site and habitat enhancements, are not sufficient to clearly outweigh the definitional harm arising from inappropriate development and other harm (that is harm to the purposes of Green Belt and openness, harm to the character and appearance of the area through visual impact and noise and disturbance, lack of information to assess the impact of development on the Lower Derwent Valley

National Nature Reserve) identified in this report and the very special circumstances necessary to justify the development have not been demonstrated.. As advised by paragraph 87 and 88 of the NPPF development that is harmful to the Green Belt for which there are no very special circumstance should not be approved.

5.4 Based on the information submitted it is not possible to carry out a screening opinion under the Habitat Regulations other than to conclude that an appropriate assessment is required. Therefore the application should be refused on these grounds. Without ascertaining the impact of the development on the reserve the application conflicts with advice in the NPPF (paragraphs 109,118 and 119) which seek to conserve and enhance biodiversity. In particular paragraph 119 says that the presumption in favour of development does not apply where development requiring an appropriate assessment under the Birds or Habitat Directives is being considered, planned or determined.

## **6.0 RECOMMENDATION: Refuse**

1 Policy YH9 and Y1 of the Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre. The site is identified as Green Belt in the City of York Development Control Local Plan (Approved April 2005). It is considered that the proposed development constitutes inappropriate development in the Green Belt as set out in section 9 of the National Planning Policy Framework which is by definition harmful to the Green Belt. No 'very special circumstances' have been put forward by the applicant that would clearly outweigh harm by reason of inappropriateness and any other harm, including harm to the purposes of Green Belt and openness, harm to the character and appearance of the area through visual impact and noise and disturbance, lack of information to assess the impact of development on the Lower Derwent Valley National Nature Reserve). The proposal is therefore considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt land', guidance within National Planning Practice Guidance (March 2014) and Policy GB1 of the City of York Development Control Local Plan (April 2005).

2 The Lower Derwent Valley National Nature Reserve as a European protected site is afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). Under the Habitat Regulations the Council as the competent authority must make a judgement under Regulation 61 and 62 as to the 'likely significant effect', if any, of the scheme on the European designated sites before permission is granted The project is not directly connected with or necessary to the management of any European site and therefore a Habitat Regulation Screening opinion needs to be made by the Local Planning Authority. The ecology report states that the proposed development has the potential to cause disturbance and displace wintering birds and breeding birds. The

application does not include sufficient information to rule out the need for appropriate assessment under the Habitat Regulations. In the absence of sufficient information the application is considered to conflict with the requirements of the Conservation of Habitats and Species Regulations 2010 and advice in paragraphs 109,118 and 119 of the National Planning Policy Framework which seek to conserve and enhance biodiversity and confirms that the presumption in favour of development does not apply where development requiring an appropriate assessment under the Birds or Habitat Directives is being considered, planned or determined.

## **7.0 INFORMATIVES:**

### **Contact details:**

**Author:** Diane Cragg Development Management Officer (Mon-Thur)

**Tel No:** 01904 551351

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

- Request for additional information with advice that the development represented inappropriate development in the Green Belt and could not be supported. Advice in line with an earlier pre-application submission.

However, the applicant/agent was unwilling to withdraw the application, resulting in planning permission being refused for the reasons stated.