

COMMITTEE REPORT

Date: 17 March 2016 **Ward:** Bishopthorpe
Team: Major and **Parish:** Acaster Malbis Parish
 Commercial Team Council

Reference: 15/02861/FUL
Application at: Land On East Side Of Appleton Road Opposite Woodside Farm Appleton Road Bishopthorpe York
For: Construction of new vehicular access and associated access road
By: Ms Christine Pick
Application Type: Full Application
Target Date: 23 March 2016
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application seeks full planning approval for the construction of a vehicle access to, and a driveway within, an agricultural field on the eastern side of Appleton Road.

1.2 The 6m wide access would be sited to the southern end of the field boundary with the public highway. The internal drive - also 6m in width and approximately 31m in length (measured along the centre line of the roadway) - runs from the access into the site, then turns northwards and runs parallel with the front boundary of the site, before joining to the existing internal unsurfaced access track. The Design and Access Statement submitted with the application describes the access as constructed from standard E6 tarmac and the road from stone laid within a reinforcement mesh between pin kerbs.

1.3 The new access is proposed to replace the existing field entrance, located to the northern extent of the front field boundary, in order to allow access to three buildings on site that are proposed to be converted to residential use through permitted development rights under Class Q of the GPDO (2015) (application reference 15/01141/ABC3).

2.0 POLICY CONTEXT

2.1 Policies:

1. Yorkshire and Humber Regional Spatial Strategy – Green Belt policies YH9(C) and Y1 (C1 and C2).
2. National Planning Policy Framework (March 2012).

3. 2005 Draft York Local Plan (4th set of changes). Relevant policies include:

- CYGP1 - Design
- CYGB1 - Development within the Green Belt
- CYHE10 – Archaeology
- CYNE1 – Trees, Woodlands and Hedgerows

4. Draft York Local Plan (2014) Publication Draft – relevant policies include:

- SS2 – The Role of York's Green Belt
- D7 – Archaeology
- G14 – Trees and Hedges
- GB1 – Development in the Green Belt
- CC2 – Sustainable Design and Construction

3.0 CONSULTATIONS

3.1 The application was publicised by means of a site notice and notification to statutory consultees. The consultation period expired on 3.2.16.

INTERNAL

HIGHWAY NETWORK MANAGEMENT

3.2 No objection raised, subject to conditions requiring that the access is formed in accordance with drawing no. YEW/277/31/004B and visibility spays provided. An informative is requested re: construction of access.

DESGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (CITY ARCHAEOLOGIST)

3.3 The site is located within a broader Prehistoric and Romano-British landscape. This patch of land appears to have been relatively undisturbed apart from use as agricultural land. Cropmarks of unknown origin exist within the field adjacent. It is possible that excavations for the construction of the road may reveal or disturb archaeological features relating to the prehistoric-medieval periods. It will be necessary to record any revealed features and deposits through an archaeological watching brief on all groundworks. Requests condition ARCH2 on any consent that is granted for this application.

EXTERNAL

ACASTER MALBIS PARISH COUNCIL

3.4 No comments received.

4.0 APPRAISAL

KEY ISSUES

4.1 The key issues material to the consideration of this application are:

- Principle of development;
- Green Belt policy;
- Access and highway safety;
- Nature conservation;
- Archaeology;
- Other considerations.

POLICY BACKGROUND

4.2 The development plan for York comprises the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. These policies are YH9(C) and Y1(C1 and C2), which relate to York's Green Belt and the key diagram on page 2014 insofar as it illustrates the general extent of the Green Belt (figure 6.2). The policies require the inner and the rest of the outer boundaries to 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. The application site falls within the general extent of the Green Belt as shown on the Key Diagram of the RSS.

4.3 Central Government guidance is contained in the National Planning Policy Framework ("NPPF", March 2012). Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking. The principles include: seeking high quality design and a good standard of amenity for all existing and future occupants of land and buildings; protecting the Green Belt around main urban areas and recognising the intrinsic character and beauty of the countryside; taking full account of flood risk; contributing to conserving and enhancing the natural environment; and, conserving heritage assets..

4.4 Section 9 'Protecting Green Belts' says that the essential characteristics of Green Belts are their permanence and openness (paragraph 79). Paragraph 80 sets out the purposes of Green Belt. These 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. Paragraph 88 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very

special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

4.5 Section 10 'Meeting the challenge of climate change, flooding and coastal change' offers advice on locating new development to avoid increased flood risk.

4.6 Section 11 'Conserving and enhancing the natural environment' says that the planning system should contribute to and enhance the natural environment by, amongst other things, minimising impacts on biodiversity and providing net gains in biodiversity where possible as well as preventing adverse affects on pollution and land instability.

4.7 Section 12 'Conserving and enhancing the historic environment' requires local planning authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness. It advises consent to be refused where there is substantial harm unless it can be demonstrated that this is necessary to achieve substantial public benefits or where there is less than substantial harm, this be weighed against the public benefits of the proposal.

4.8 Although there is no formally adopted local plan, the City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Whilst it does form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. The policies are listed in section 2.1 above, but those considered to be compatible with the aims of the NPPF and most relevant to the development are: GB1 (Green Belt), GP1 (Design), GP15a (Flood risk) and HE10 (Archaeology).

4.9 At this stage, policies in the 2014 Publication Draft Local Plan are considered to carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application.

SITE AND PLANNING HISTORY

4.10 The application site relates to an existing field on the east side of Appleton Road, north of its junction with Broad Lane and approximately 1km west of the settlement of Acaster Malbis. There are three small buildings on the site, lying adjacent to the northern site boundary. Access to the site from Appleton Road is currently via a field entrance at the northern end of the site's front boundary, immediately south of the buildings. The surrounding area is flat and open in character and primarily used for agricultural purposes. The site falls outside defined settlement development limits, within the general extent of York's Green Belt.

4.11 It is understood from the application documentation that the land was originally part of the airfield located south of Acaster Malbis and that the buildings were used in association with this use. The predominant use since the Second World War has been for agricultural purposes. A previous application seeking prior notification under Class Q of the General Permitted Development Order was refused in 2015 on the grounds that the existing access was inadequate to serve three residential properties due to poor visibility along Appleton Road for vehicles exiting the site. A further prior approval submission is before the Council for determination (ref.15/01141/ABC3) and is dependent on the outcome of this application.

4.12 Planning applications for surrounding land have been allowed where it relates to agriculture and horsiculture purposes. The use of the land to the east for community football pitches with related buildings was refused in 2004 and 2005. Permission was refused for a large general purposes agricultural storage building on land to the north in 2004, with a subsequent application for a modest stable building being granted in 2005.

PRINCIPLE OF DEVELOPMENT

4.13 Whilst the RSS has otherwise been revoked, its York Green Belt policies have been saved together with the key diagram which illustrates the general extent of the Green Belt around York. These policies comprise the S38 Development Plan for York. The policies in the RSS state that the detailed inner and rest of the outer boundaries of the Green Belt around York need to be defined to protect and enhance the nationally significant historical and environmental character of York. The Key Diagram of the RSS and the 2005 Draft Local Plan proposals map identify the site within the general extent of Green Belt. The site is considered as having Green Belt status when assessing the merits of the proposed development against the National Planning Policy Framework and Guidance, relevant local plan policies and other material considerations. In accordance with footnote 9 to paragraph 14 of the NPPF, the usual presumption in favour of sustainable development established by the NPPF does not apply in Green Belt locations.

GREEN BELT POLICY

4.14 Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence. Paragraph 80 sets out the five purposes of the Green Belt:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;

- to preserve the setting and special character of historic towns; and,
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.15 Paragraph 88 of the NPPF establishes that 'substantial weight' should be given to any harm to the Green Belt,. Paragraph 87 states that inappropriate development that is, by definition, harmful to the Green Belt, should not be approved except in 'very special circumstances'. Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

4.16 In terms of the Green Belt status of the site, the main considerations are:

- whether the proposal constitutes inappropriate development in the Green Belt;
- its effect on the openness of the Green Belt and the purposes of including land within it;
- any material considerations in support of the proposal;
- if it is inappropriate development, whether the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

4.17 Paragraph 90 of the NPPF lists the other forms of development that are not new buildings and that are considered not to be inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These include engineering operations. Whilst there is no specific definition in the NPPF of openness, the courts have considered that it relates to the lack of buildings or development; therefore, it is the loss of unbuilt on land that would have a harmful effect on openness.

4.18 The engineering operations proposed would replace undeveloped grassland with a hard surfaced access and constructed driveway measuring 6m in width by approximately 31m in length. As such, and in light of the above, the proposal would not preserve the openness of the Green Belt and would not safeguard the countryside from encroachment. The proposal, therefore, constitutes inappropriate development that is, by definition, harmful for the purposes of the Green Belt policy tests. In accordance with paragraph 88 of the NPPF, substantial weight is given to this harm. 'Very special circumstances' must exist that outweigh the harm to the Green Belt by reason of inappropriate, and any other harm identified below, for the development to be acceptable.

IMPACT ON OPENNESS AND GREEN BELT PURPOSE

4.19 In addition to the harm by reason of inappropriateness, consideration also needs to be given to other harm to the Green Belt. The NPPF states that the essential characteristics of Green Belts are their openness and their permanence.

4.20 The proposal would replace a 4m wide field access and informal track, which are physically and visually related to the existing buildings on site and commensurate with the agricultural use of the land, with a formal 6m wide access and internal roadway, which is visually separate and requires a wider opening in the characteristic field hedgerow. It is noted that the existing field gate is to be removed and the hedgerow continued to compensate for the loss of the hedgerow to the new access. The internal roadway would be screened to from views of the site, to an extent, by the hedgerow along the front boundary and the replacement vegetation. The width of the roadway within the site, after the initial 10m could be reduced to allow single passage. Regardless, the physical and visual separation of the proposed access from the built form on site would cause harm, albeit limited, to the open character and visual amenity of the Green Belt as it would increase the extent of development on this agricultural field.

4.21 Overall, it is considered that the proposed development fails to protect the essential characteristic of openness or to safeguard the countryside from encroachment, which is one of the five key purposes of including land within the Green Belt as set out in paragraph 80 of the NPPF. Therefore, in addition to definitional harm, it is considered that the proposal would result in further harm, albeit limited, to the open character of the Green Belt and the purpose for including land within it.

ACCESS AND HIGHWAY SAFETY

4.22 Two drawings have been submitted with the application showing different roadway layouts. The Council's Highway Network Management Team has raised no objection to the proposal in highway safety terms on the basis of drawing no. YEW/277/31/004B, which shows the roadway as described in section 1.0 of this report. The agent has confirmed that this is the correct drawing and is the basis on which the application should be determined. Conditions are requested by the Highway team to ensure that the access is formed in accordance with this drawing along with an informative about its construction. As such, the proposal is considered to be acceptable in highway terms and officers are satisfied that there would be no additional harm caused.

NATURE CONSERVATION

4.23 Section 11 of the NPPF deals with the conservation and enhancement of the natural environment. Paragraph 118 of the NPPF aims to conserve and enhance biodiversity, including the refusal of planning applications where development would

adversely affect Sites of Special Scientific Interest, ancient woodland and European protected sites.

4.24 There are none of the aforementioned designations close to the site that would be adversely affected by the development. Whilst there would be loss of existing hedgerow, this is proposed to be mitigated by replacement planting at the existing access to the site. The land within the site is grassland and of limited ecological value. As such, officers are satisfied that there is no significant harm to biodiversity, nor any further harm to Green Belt.

ARCHAEOLOGY

4.25 Section 12 of the NPPF requires LPAs to take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 139 states that non-designated heritage assets of archaeological interest should be considered subject to the policies for designated heritage assets. This is reflected in Local Plan Policy HE10.

4.26 The site is a relatively undisturbed area of land lying within a Prehistoric and Romano-British landscape and in close proximity to identified cropmarks. The City Archaeologist has requested that, in light of this, a condition be attached to require a watching brief on all groundworks as it is possible that the proposed works may reveal archaeological features. Therefore, subject to condition, the proposal would conserve identified non-designated heritage assets.

IMPACT OF CHARACTER AND APPEARANCE OF THE AREA

4.27 As set out at 4.20 and 4.21, the proposal is considered to be harmful to the open character of the green belt. For similar reasons i.e. physical and visual separation of the access from the built form on site and the extent of development on this agricultural field, notwithstanding the green belt location the proposal is equally considered to cause some harm to the rural character and appearance of the area.

OTHER CONSIDERATIONS

4.28 Paragraph 88 of the NPPF explains that 'very special circumstances' will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations.

4.29 The agent disagrees with officers' Green Belt assessment and conclusion that the proposal is inappropriate development that does not preserve the openness of the Green Belt and results in encroachment of it. As such, no Green Belt case has been submitted to justify the development, other than the Design and Access

Statement. This concludes that the proposed entrance and roadway will have no negative impact on the surrounding village or the immediate context.

4.30 The proposal would provide an access to the existing agricultural land and the buildings contained within it. The applicant's intention is to convert these three redundant buildings to residential use under permitted development rights and a prior approval application is currently before the authority pertaining to this. The conversion cannot take place without an alternative access to the current field entrance, which is considered to be inadequate for a more intensive use of the land in highway safety terms. National Planning Practice Guidance advises that unmet housing need is in itself unlikely to outweigh harm to the Green Belt and other harm to constitute very special circumstances. There would be a limited number of houses that would become available if the access roadway is allowed. Therefore, it is considered that the provision of housing to meet the City's housing need is not a compelling argument in this case. No other circumstances can be identified by officers.

4.31 As a result of the above, there are no material considerations in support of the proposal that are of overriding weight, either individually or collectively, in the consideration of the application to amount to very special circumstances.

5.0 CONCLUSION

5.1 The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 88 of the NPPF, and by definition causes harm to the Green Belt. The proposed development would cause additional harm to the openness of the Green Belt and conflict with one of the key purposes of the Green Belt. The definitional harm and other harm to openness and purposes of the Green Belt must be afforded substantial weight when applying the NPPF policy test - namely, 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.

5.2 It is considered that there are no other considerations in support of the application that, when considered individually and collectively, are compelling reasons to clearly outweigh the identified harm to the openness and purposes of the Green Belt to justify inappropriate development on a site within the Green Belt.

6.0 RECOMMENDATION: Refuse

1 Policies 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 agricultural field, the subject of this application, is located in Green Belt as identified in the City of York Development Control Draft Local Plan (April 2005). It is considered that the

proposed development consisting of engineering operations to create a new vehicular access and internal roadway constitute inappropriate development in the Green Belt as set out in Section 9 of the National Planning Policy Framework. As such, the proposal results in harm to the Green Belt by definition and harm to the openness of the Green Belt and conflicts with the purposes of including land within it. Substantial weight is attached to this harm. No 'very special circumstances' have been put forward by the applicant that would outweigh this harm, nor have any been identified by the Local Planning Authority. The proposal is, therefore, considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt Land' and City of York Draft Local Plan Policy GB1.

INFORMATIVE:

STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

1. 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. Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

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