

## COMMITTEE REPORT

**Committee:** East Area  
**Date:** 11 September 2008

**Ward:** Haxby And Wigginton  
**Parish:** Wigginton Parish Council

**Reference:** 08/01866/FUL  
**Application at:** Rose Cottage Sutton Road Wigginton York YO32 2RB  
**For:** Removal of condition 3 of planning permission 07/01224/FUL relating to erection of new workshop [personal occupancy condition]  
**By:** Mr Martin Hallowell  
**Application Type:** Full Application  
**Target Date:** 16 September 2008

### 1.0 PROPOSAL

1.1 The application seeks the removal of condition 3 of a previous permission comprising (1) conversion of pole barn to commercial store room including external alterations and (2) construction of single-storey, commercial workshop of 216sqm. The buildings would be used in connection with the applicant's light industrial engineering business.

1.2 Condition 3 restricts the permission to the applicants only and requires the use of the new workshop to be terminated at such time as the applicants cease to occupy the premises.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

2.2 Policies:

CYGB1  
Development within the Green Belt

CYGB11  
Employment devt outside settlement limits

### 3.0 CONSULTATIONS

3.1 Internal

None

3.2 External

Wigginton Parish Council - Objection to the removal of Condition 3. It should be amended to limit the permission to occupants of Rose Cottage. This amendment would safeguard the use of the store room and workshop as ancillary to the premises of Rose Cottage.

Public Consultation - The consultation period expires on 2 September 2008. At the time of writing no responses had been received. Members will be updated at the meeting.

## **4.0 APPRAISAL**

### **4.1 Key Issues**

- impact on the openness of the Green Belt
- compliance with Government Circular 11/95 - "The Use of Conditions in Planning permissions"

### **4.2 Policy Context**

Policy GB1 of the City of York Draft local Plan states that within the Green Belt, planning permission for development will only be granted where: (a) the scale, location and design of such development would not detract from the open character of the Green Belt; (b) it would not conflict with the purposes of including land within the Green Belt; and (c) it would not prejudice the setting and special character of the City of York; AND it is for one of the following purposes: agriculture and forestry; or essential facilities for outdoor sport and outdoor recreation; or cemeteries; or limited extension, alteration or replacement of existing dwellings; or limited infilling in existing settlements; or limited affordable housing for proven local needs; or limited infilling or redevelopment of existing major developed sites; or minerals extraction, provided high environmental standards are attainable; or highways works or other essential engineering operations including waste disposal; or park and ride facilities; or 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.

Policy GB11 states that planning permission will only be granted for new industrial and business development outside defined settlement limits in the green belt and open countryside where: (a) it involves the re-use or adaptation of an existing building or is for a small scale extension to an existing building; and (b) it provides a direct benefit to the rural economy and the local residential workforce.

### **The Application Site**

4.3 The site consists of a group of former farm buildings including farmhouse, pole barn and other agricultural-type outbuildings. The house has a dedicated access from Sutton Road. The outbuildings have a separate, wider access from Sutton Road. The whole of the site lies within the Green Belt, outside development limits. Whilst the area includes a range of uses it is predominantly agricultural and largely open. Officers understand that the applicants are in the process of moving

their business from Hessay to the site but they have yet to implement the permission to which condition 3 relates.

#### Reason for Application

4.4 The applicants are seeking removal of the condition on the grounds that it prevents them raising finance for the new workshop. They state that lenders would not have any security if anything untoward happened to the applicants and/or their business. Further, they consider that the condition does not comply with the tests of reasonableness set out in Government Circular 11/95 relating to the use of conditions in planning permissions.

#### Impact on the Openness of the Green Belt

4.5 Central government advice in Planning Policy Guidance Note 2 ("Green Belts") states that the construction of new buildings in the green belt is inappropriate unless it is for a tightly restricted range of purposes. Industrial development is considered to be inappropriate and therefore, by definition, harmful to the green belt.

4.6 The proposed workshop building would be 18m long, 12m wide and 5.6m high. Its footprint would be 216sqm, compared to the pole barn's footprint of 104sqm. The workshop would be a significant addition to the volume of buildings on the site. Moreover, it would be located to the east of the pole barn, ie wholly beyond the group of existing buildings. It would be easily visible from the north, south and east. Whilst the design and materials of the workshop would be typical of new commercial/agricultural buildings in the countryside the workshop would, due to its size, design and appearance, significantly detract from the open character of the green belt.

4.7 It was for the above reasons that officers recommended refusal of the application for the erection of the workshop. Nevertheless the Committee wished to support the applicants' business and felt that the proposal comprised a laudable use of vacant buildings. Whilst members were concerned about the impact on the green belt the predominant view was that the personal circumstances of the applicant were sufficiently exceptional to justify consent - on condition that it be personal to the applicants. Officers remain of the view that the workshop is inappropriate development in the Green Belt, contrary to PPG2 and policies GB1 and GB11 of the Draft Local Plan.

#### Compliance with Circular 11/95

4.8 The Circular requires that all planning conditions satisfy a number of tests particularly, in this case, that they be necessary and reasonable. A condition may be unreasonable because it is unduly restrictive and effectively nullifies the benefit of the permission. Whilst officers sympathise with the applicants for any difficulties the condition may cause regarding raising finance for the construction of the workshop this is not considered to be a planning issue. The condition is considered reasonable in that it would not affect the applicant's use, enjoyment or operation of the workshop or business.

4.9 The Circular states that whilst it is seldom desirable to make a condition personal to a named person there can, in exceptional circumstances, be strong compassionate or other personal grounds for granting permission for a purpose that would not normally be allowed at the site. However, the Circular goes on to state that such a condition is scarcely ever justified for the erection of a permanent building, the principle issue being that the building is likely to remain in situ long after the personal circumstances that allowed to be erected have passed. Whilst the condition requires the use of the workshop to terminate at such time as the applicant ceases to occupy the premises, it does not require the building to be removed at that time (that in itself would be a wholly unreasonable requirement). Thus any harm that may otherwise be caused (in this case, the impact on the openness of the Green Belt) would remain irrespective of the condition restricting the use/occupation to a particular person. Thus, in planning terms, it could be argued that the condition serves no useful purpose and as such is unreasonable.

#### Other Matters

4.10 The parish council have requested that the condition to be amended so that the permission is limited to occupants of Rose Cottage. Amending the condition in this way would not protect the long-term openness of the green belt, which is the essence of government policy in PPG2 and the main concern of officers.

### 5.0 CONCLUSION

5.1 Condition 3 was attached due to the personal circumstances of the applicant and to enable a viable light engineering business to be established on the site. However, it is considered that the condition conflicts with the advice in Circular 11/95, which states that a personal planning permission is scarcely ever justified for the erection of a permanent building. For this reason, on balance, it is recommended that the application be approved and condition 3 removed.

### 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 VISQ8 Samples of exterior materials to be app

3 Prior to the development hereby permitted being brought into use, the existing access serving the site shall be reconstructed with 7.5 m radius kerbs to give a minimum access width of 6 m and that part of the access extending 20 m from the carriageway shall be constructed to the satisfaction of the Local planning authority and in accordance with City of York Highway Authority standard detail STD1.

Reason: To ensure a satisfactory means of access to the site for all classes of users of the site and in the interests of highway safety.

4 Prior to the commencement of the development hereby permitted the surface

water drainage ditch at the access to the site shall be piped in to the specification of the drainage authority and the satisfaction of the Local Planning Authority.

Reason: To ensure a satisfactory arrangement of surface water and highway drainage in the interests of the amenity of the area and to ensure the structure can satisfactorily bear the traffic loads associated with the proposed use.

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| 5 | HWAY8  | IN Position of Gates - 20              |
| 6 | HWAY10 | Vehicular areas surfaced, details reqd |
| 7 | HWAY19 | Car and cycle parking laid out         |
| 8 | HWAY31 | No mud on highway during construction  |
| 9 | HWAY35 | Servicing within the site              |

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

### 1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- visual appearance
- highway issues
- neighbour amenity

As such the proposal complies with Policies GP1, GB1, GB3 and GB11 of the City of York Local Plan Deposit Draft.

### **Contact details:**

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