

## COMMITTEE REPORT

**Committee:** Planning Committee      **Ward:** Fulford  
**Date:** 23 October 2008      **Parish:** Fulford Parish Council

**Reference:** 07/01786/FULM  
**Application at:** Land Lying To The South Of York Designer Outlet St Nicholas Avenue York  
**For:** Erection of Class A1 Garden Centre and ancillary food hall and restaurant, including outdoor display areas, car parking and landscaping (resubmission)  
**By:** Dobbies Garden Centres Plc  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 25 October 2007

### 1.0 PROPOSAL

1.1 Planning permission is sought for a Dobbies retail garden centre (Class A1 - retail). The application site extends to 5.03ha in size on a site adjacent to the Designer Outlet shopping centre off the A19 south of Fulford at its intersection with the A64. It would stand to the south of the existing Designer Outlet buildings on land that was part of the former Naburn Hospital's football pitches and is now agricultural fields. Access to the site would be from the same road which serves the Outlet with a road off an existing internal junction to the south west of the main internal roundabout. An existing orchard of trees will be removed to make way for the new access into the site. A tree belt which currently runs through the middle of the site and ranges from between 20 and 50 metres deep will be removed to make way for the development. In both cases, some replacement planting is proposed.

1.2 The proposals comprise the following elements:

- i) Approx. 5300sqm of new build accommodation which includes the covered element of the garden centre and a restaurant, including outdoor seating.
- ii) A 400 space customer car park.
- iii) Outdoor display areas including polytunnels.
- iv) Display and demonstration gardens.
- v) A children's play area.
- vi) Garden buildings / conservatory display area.
- vii) Timber-construction 'Greenhouse' sustainability centre.

1.3 The application site is bounded to the north by the existing Designer Outlet centre and its internal access road and on the other three sides by agricultural fields. Lingcroft Lane, a lane which runs from the A19 (past the Persimmon Headquarters) down to Acres Farm and Acres bungalow forms the southern boundary of the site.

1.4 The site is within the Green Belt. A previous application was withdrawn, as issues raised by the Council could not be resolved prior to the scheme being presented to Planning Committee.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

### 2.2 Policies:

CYGB1  
Development within the Green Belt

CYS12  
Criteria for garden centres

CYSP7A  
The sequential approach to development

CYSP2  
The York Green Belt

CYSP3  
Safeguarding the Historic Character and Setting of York

CYNE1  
Trees, woodlands, hedgerows

## **3.0 CONSULTATIONS**

### INTERNAL

3.1 HIGHWAY NETWORK MANAGEMENT - The site lies within green fields to the south of the McArthur Glen building and would be accessed from a newly constructed roundabout on the current circulatory route around that building. A cross movement of vehicular traffic will in future be possible between the associated two parking areas.

3.2 The proposed 400 space car park is below the Authority's maximum parking standards for this type of use (574 spaces) and has been determined following an examination of the ratio of spaces to floor areas of seven other Dobbies Garden Centres in Scotland and the north of England which are claimed to operate satisfactorily. The parking area also includes space for 3 coaches.

3.3 40 covered cycle parking spaces for customers and staff are proposed, with the opportunity for a further 40 spaces if demand warrants. Experience elsewhere on the Designer Outlet site to date is that very few cycle trips are being made however this situation is likely to change with the construction of the Germany Beck housing scheme which will be within comfortable cycling distance.

3.4 There are two bus services currently serving the site. The first is the York to Selby service, which has a stop at the roundabout at the head of the access road off the A19 and currently operates with 4 buses per hour. The other is the Park and Ride service, which terminates at the Designer Outlet and operates on a 12-minute frequency service throughout the working day. All areas of the City lie within a 60-minute bus journey of the proposed Garden Centre. The existing stop within the Designer Outlet site would be situated some 300 metres from the Garden Centre and therefore discussions have taken place with the developer over the provision of an additional stop combined with shelter immediately adjoining the new access point.

3.5 The developer undertook a survey of customers visiting the Designer Outlet in July 2007 in order to gauge the likelihood of there being linked trips if a Garden Centre were to be constructed. 73% of the respondents indicated that they would visit both venues if development were to be allowed. Such a high percentage would obviously help to reduce the volume of extra traffic on the network which otherwise could have been predicted. In order to ensure these predictions can materialise, the developer would be required to construct a formal pedestrian link between the entry points of the two buildings, crossing the area of current parking.

3.6 An off road cycleway exists on the B1222 Naburn Lane between the bus/cycle access point to the Designer Outlet and the village of Naburn. There is a further off-road pedestrian/cycle link alongside the principal vehicular access route to the Designer Outlet from the dumbbell roundabouts on the A19 although as one would expect, current movement there is almost negligible.

3.7 The Germany Beck development will lie on the edge of the 2.5km isochrone for cycle journeys to the Garden Centre and therefore there is the potential to draw future residents utilising this mode of transport. The planning obligation attached to the consent for Germany Beck includes funding to create signalised crossing points for pedestrians and cyclists at the main access to the site on Fulford Road; signalisation of the Naburn Lane/Selby Road intersection and an upgrade of the pedestrian /cycle route between the two. There remains therefore a need to provide a designated route through the McArthur Glen site to the Garden Centre in order to encourage cycling trips and this should be conditioned as part of any approval.

3.8 Analysis of vehicle trips at existing Dobbies Garden centres shows a peak between late morning and early afternoon on a weekday with a maximum combined flow (in and out) of 260 vehicle movements per hour. On a Saturday it occurs mid-afternoon with a maximum combined flow of 400 vehicles per hour. In comparison, the peak traffic periods on the adjoining highway network occur between 5pm and 6pm on a weekday and between 12.15pm and 1.15pm on a Saturday. More critically, the percentage impact of the Dobbies development on the A19 Fulford Road to the north is expected to be no greater than 2% in the PM peak and 8% in the Saturday peak. The Saturday peak is based upon a much reduced background peak hour flow.

3.9 Information taken from the Authority's SATURN transport model in order to examine the 2021 scenario (which includes all committed developments) again showed that the dumbbell roundabouts and Designer Outlet access road roundabout

would all operate well within their theoretical capacities, with no more than single vehicle queue lengths.

3.10 In conclusion therefore it is considered that this development would not have a significant adverse impact on the movement of traffic on the adjoining highway network due to the off-peak nature of the peak customer demand. The location of the development, on the very edge of the urban area and adjoining the outer ring road is well placed to minimise additional vehicle movements through the heart of the City and has the added advantage of being in very close proximity to a Park and Ride service. With conditions to secure improvements to bus stop facilities, pedestrian links, cycle links and the submission and agreement of a Green Travel Plan, it is felt there are no highway reasons to substantiate a refusal of the application.

3.11 ENVIRONMENTAL PROTECTION UNIT (AIR QUALITY) - Due to the traffic generation likely to be associated with the Dobbies Garden Centre proposal, a DMRB air quality impact assessment has been undertaken. The results of this study indicate that the general reduction in pollutant concentrations as a result of cleaner vehicle technology is likely to outweigh any additional emissions arising in future years as a direct result of this development. There is therefore unlikely to be a measurable deterioration in local air quality as a result of this particular development. On this basis, there are no air quality grounds on which to recommend refusal of this application.

3.12 ENVIRONMENTAL PROTECTION UNIT (CONTAMINATED LAND) - A contaminated land report has been submitted in support of this application. Are in agreement with the findings of the report that there are no significant pollutant linkages. Further contaminated land investigation is not therefore required.

3.13 ENVIRONMENTAL PROTECTION UNIT (NOISE AND NUISANCE) The proposed development site is to the south of the existing designer outlet, there are a number of residential properties on Lingcroft Lane to the south of the development site, one within 90 metres of the development. Whilst the unit request conditions be placed on the development to minimise its impact. These include restriction on deliveries to the hours requested in the application form. Also request that the opening hours be restricted to those requested in the application. Do not consider that the operation of specific plant and machinery on the site once it is in operation would adversely affect the residents due to the distance, noise that would affect residents would be unacceptable on the site.

3.14 The lighting of the car park area and the outside plant sales area could impact on the residents as the site is currently a vacant field. In order to minimise the impact of the proposed lighting recommend lighting scheme be submitted and agreed in writing and then implemented and maintained in accordance with the scheme. Such a scheme should include the following:

- a contour map with illumination levels of the area to be lit and the spill beyond the lit area given in lux in the horizontal plane;
- the angle of the lights and details of the beam - whether asymmetric or otherwise;
- the height of the lighting stanchions; and
- the luminance level in lux in the vertical plane at the windows of the nearest residential properties.

3.15 Again, due to the distance between the proposed cafe and the residential properties, there is unlikely to be a nuisance issue arising from the development.

3.16 ECONOMIC DEVELOPMENT UNIT - The EDU welcomes job creation in the City but not at the expense of well thought out planning policy. It is recognised that development within the Green Belt has to be on exceptional circumstances, consider that the proposal is no more than a standard garden centre and does not warrant the "exceptional circumstances" argument.

3.17 Whilst Economic Development welcome good quality retail employment opportunities in the City, in this instance it does not seem that an "exceptions case" has been made for this retail use within the green belt to either Planning or Economic Development.

3.18 ENVIRONMENT, CONSERVATION AND SUSTAINABLE DEVELOPMENT (LANDSCAPE ARCHITECT) - States the development would be contrary to the 'Greenbelt and Open Countryside objectives' contained within the draft Local Plan. Not only would it would impact on the open character of the greenbelt, both physically and visually as viewed from Howden Lane and more particularly from sections of the B1222, it would also constitute a complete change of character of the site from open agricultural land to built-up retail. The development would be more noticeable in the winter months when lighting becomes a more conspicuous element in the broader darkened landscape, and deciduous screening is less effective.

3.19 Visual factors such as existing landscape features, distance, the existing outlet, and proposed woodland planting, would eventually help mitigate the visual impact of the development; nonetheless, the 'extension' to the outlet would still constitute an encroachment into the greenbelt. The scheme brings development right up to the range of buildings belonging to Acres Farm, thereby reducing the spatial setting and separation that typically surrounds and characterises a farmstead.

3.20 The scheme is also contrary to policy NE1 in that there would be a net loss of tree cover (including the area covered by the old orchard). The existing woodland belt along the southern boundary is approximately 20m in width, broadening out to 50m around the recycling bay. The majority of this would be removed and replaced along the southern boundary of the application site with a woodland belt of approximately 6m width, regularly broadening out to around 27m. The west boundary would be screened with a woodland belt of 12m, which is comparable to the existing woodland belt along the B1222, which is approximately 10m in width. The interior of the site would be predominantly of hard construction either in built form or paved (albeit porous).

3.21 COUNTRYSIDE OFFICER - With regard to the Ecological assessment, agrees with the findings that the botanical and general ecological value is probably fairly limited, there are several areas of concern and one fairly major disagreement with regard to this application.

3.22 Much of the woodland/screen planting is recent and re-creatable, nonetheless it is still a substantial block in a relatively poorly wooded area and does still provide good breeding habitat for many more common birds and cover for mammals etc.

This may include species such as Hare, Yellowhammer and Song Thrush all of which are on the 'of concern' lists as showing substantial declines nationally. The loss of such areas needs to be addressed and mitigated for, bearing in mind the timescales needed to establish any interest. Similarly the hedges, although unlikely to fulfil the criteria for protection under the Hedgerow Regulations, are substantial and similarly provide both landscape interest and wildlife value to the locality.

3.23 The main concern, however rests with the removal of the remnant of the old orchard. Orchards as a whole are nationally in decline and under threat and are considered to be valuable habitats in their own right, particularly for invertebrates. In the Vale of York and Pickering they were an Environmental Stewardship target habitat. In this area, whilst never a major land use, historically they are significant and of interest. Around York, they were developed in the 19th Century with the advent of the railway. This enabled the rapid transport of produce needed for supplying seasonal fruit and so small orchards were planted close to the new railway system. Elsewhere they were developed on hospital and occasionally school sites to enable food to be produced on site. In York, officers are only aware of this one and the old orchards at Clifton Hospital. Both of these were probably planted as part of the hospital rationale. Elsewhere in the Vale of York and Pickering there are just a few scattered examples, for instance at Bulmer.

3.24 Because of this, it is proposed to include orchards in the York Biodiversity Action Plan currently under review. As such, every effort should be made to retain this feature as part of the structure of the Outlet landscape and its proper management encouraged. Replacement planting is not necessarily of benefit to older established habitats which are more dependent on continuity of the resource, although more detailed examination may be necessary in this case.

3.25 SUSTAINABILITY OFFICER - The details submitted broadly cover the key issues of the Interim Planning Statement and that of GP4a. The following aspects are welcomed:-

- The design and commitment to build to a BREEAM 'very good' standard
- Use of local, natural and responsibly sourced materials.
- Sustainable drainage
- Green roofs
- Native planting and protection of ecology
- Utilisation of the local Park and Ride
- Pedestrian linkages and cycle stores

3.26 Furthermore, the development's measures to reduce energy and also to generate 10% of the site's energy demand from a low carbon source - biomass boiler (with the use of solar panels for pre-heating water) are also welcomed. However, further details are requested to clearly demonstrate exactly how this 10% will be generated from the measures outlined above. Renewable forms such as wind, solar and earth are more sustainable forms of energy generation. The educational opportunities that will also be incorporated into this development should it receive planning permission.

3.27 ARCHAEOLOGIST - States the applicant has submitted an archaeological statement that sets out the archaeological background to the site and suggests that the Local Authority may require an archaeological evaluation prior to determination.

3.28 He states the University Campus 3 development site occupies a similar geological and topographic position to the Dobbies site, and an archaeological evaluation has proved of limited value in predicting the scale of archaeological survival on that site. The archaeology has only been mapped and understood through the large scale stripping of topsoil, cleaning of revealed subsoil surfaces and sampling of archaeological features.

3.29 A similar process will be required on this application site should consent be granted in order to map and understand the surviving archaeological features and deposits that may be preserved. Therefore the topsoil strip of the site must be carried out under archaeological supervision. The archaeological work will include publication of a report on the results and deposition of artefacts and ecofacts with the Yorkshire Museum. Provision for public access must also be made.

3.30 A detailed condition requiring an Archaeological Scheme of Investigation is recommended should permission be granted.

3.31 CITY DEVELOPMENT - Highlights Planning Policy Guidance Note 2 (Greenbelts), PPS6 ( Planning for Town Centres) as well as Development Control Local Plan Policies GB1 (Development in the Green Belt); S12 (Garden Centres); SP7a (The Sequential Approach to Development); S2 (Out of Centre Retail Warehouses); GP4a (Sustainability) as being relevant.

3.32 It states the Green Belt has been though the York Green Belt Local Plan Inquiry and progressed through to the 4<sup>th</sup> Changes to the Draft Local Plan. The development is classed as being inappropriate in the green belt as it does not fit within any of the categories which are acceptable in GB1 and so very special circumstances would be needed to justify the development. The harm created, against the other considerations would need to be considered. 3 tests are offered namely the need for the development, the availability of non Green Belt sites, and why the site is suitable location.

3.33 The outstanding policy issues to previous application 07/0772/FULM were as follows:

- Economic benefit and need for the development: The revised planning policy supporting statement submitted with the current application outlines that developers have now held discussions with the Council's Economic Development Department regarding the economic need of the proposal and benefits it would bring to the City. Clearly, the DC officer should consult the Economic Development Department as part of the consultation on this proposal, especially as the supporting statement places great emphasis on the discussions with the Economic Development Department particularly from a tourism rather than a retail perspective.

- Sequential test - outstanding issues: The previous application failed to provide a fully justified sequential test, since it did not fully consider all the retail allocations in the City of York Local Plan (4th Set of Changes). It was also suggested by the Council that the western part of Hungate (inc Stonebow House & BT building - outside the Hungate allocation) and Clifton Moor (in full) should be considered as part of the sequential test. These are sites which the Council has suggested at the pre-application stage should be considered as part of the sequential test.

3.34 In terms of the suggested retail allocations (Castle Piccadilly, George Hudson Street, Land at Foss Islands and Hungate) the supporting statement refers to the sites and dismissed them all since they argue they would either be too small, too constrained, or the Council would be unlikely to support such an application on these sites. City Development accepts that the suggested sites would not be suitable locations for a Dobbies Garden Centre in its currently proposed format. The site west of Hungate has been dismissed on the grounds of it being too small, it has tenanted buildings on site so would be unlikely to be available in the short term and that the Council would not support such uses in a historic / conservation sensitive location. Again, City Development accepts the views of the applicants that the site west of Hungate would not be a suitable location for a Dobbies Garden Centre in its currently proposed format.

3.35 In terms of Clifton Moor, the developers state that the Council wishes in particular for the site at the eastern end of Clifton Moor (E3a.14) be considered as part of the sequential test. This has been dismissed since it is only 2.5 acres in size, whereas the minimum size for a Dobbies development is 10 acres. With the exception of the Grain Stores at Clifton Moor (which is dismissed in terms of uncertainty relating to timescales for development), a full assessment of Clifton Moor does not appear to have been undertaken (the submission states Clifton Moor does not meet the 'environmental credentials' required by Dobbies). However, officers are not aware of any other sites of a suitable size at Clifton Moor to meet the developer's proposed format for the development.

3.36 In terms of retailing issues, Policy S12 states garden centres may be acceptable within or adjacent to defined settlement limits subject to criteria including that the majority of the site must be used for the cultivation or sale of plants and (c) the type of goods sold is restricted to those directly related or ancillary to horticultural purposes. The submitted documentation suggests that sales of plants and horticultural products would amount to 32% of sales, contrary to criterion c of the policy.

3.37 Additionally, a judgement should be made as to whether the sustainability appraisal is acceptable and meets the requirements of the Council - the views of the Council's Sustainability Officer should be sought as part of the consultation.

## EXTERNAL

3.38 FULFORD PARISH COUNCIL - Object. The proposal is on Green Belt land and the proposal is inappropriate development in the Green Belt and by definition is therefore harmful to the Green Belt. Do not consider the very special circumstances



mentioned by the applicant to constitute reasons that clearly outweigh the harm which would accrue to the Green Belt although accept that there would be some economic benefits to the City in terms of employment creation and that the transport infrastructure is already present.

3.39 Following on from the recent decision at the nearby Germany Beck site, there can be no ambiguity that the sites are in the Green Belt despite the status of the Local Plan. Given the Secretary of State's view on this there is no doubt as to the green belt status of the application site. Strongly disagree with the view that the land in question is of relatively low value. Parish Council consider that the land provides valuable Green Belt functions in preserving openness and safeguarding the countryside from encroachment. Both these functions are mentioned in PPG2. The openness of the Green Belt is already compromised by the Designer Outlet and the cumulative impact of that development and this along with the possible future development of the adjacent reserved land would seriously impact on the openness.

3.40 If approved and the very special circumstances argument is accepted then it sets a precedent which would place at risk many other areas of Green Belt around York.

3.41 HIGHWAYS AGENCY - Initially objected over concerns about the potential increase in traffic at the A64/A19 interchange and out onto the A64 which they control. Any updated comment received will be reported at the meeting.

3.42 ENVIRONMENT AGENCY - Objected over concerns over the extent of surface water runoff and asked for an FRA to be submitted to show that the development will not cause or increase flooding as a result. Stated that runoff rates should not exceed the Greenfield run-off rate of 1.4 litres per second per hectare. Soakaways would need to be shown to be an effective method of surface water run-off. Matter remains outstanding.

3.43 NEIGHBOURS AND THIRD PARTIES - Nearby houses on Lingcroft Lane were consulted by letter, site notices were placed around the site and a press notice was placed in the local paper. The one letter received from Cllr. Aspden, the local Member for Fulford stated that he was objecting on behalf of local residents on the following grounds:

- the site lies within the Green Belt
- there ought to be a general presumption against building in the Green Belt
- very special circumstances have not been shown by the developer.
- the land at present safeguards the countryside
- any development will set a precedent for further building on Green Belt.

## **4.0 APPRAISAL**

### **4.1 Main issues:-**

- Green Belt designation
- Very Special circumstances.
- Economy, Job Creation and 'Need'

- Impact on openness.
- Traffic generation.
- Sustainability.

4.2 The most relevant Development Control Local Plan Policies are listed under Section 2.0 (Policy Context). Relevant national and regional policy is also referred to below.

## GREEN BELT DESIGNATION

4.3 The development plan consists of the Regional Spatial Strategy and this contains within it, policies aimed at controlling development in the Green Belt. It also confirms the outer extent of the Green Belt at round 6 miles from the Centre of York. These policies largely reflect National guidance contained within Planning Policy Guidance Note (PPG) 2 (Green Belts). PPG2 defines the purpose of Green Belts and also defines what constitutes appropriate forms of development in the Green Belt. Para. 3.12 of PPG2 also states the importance of maintaining the openness of the Green Belt.

4.4 Although the inner boundary of the Green Belt is not defined in any adopted local plan, the site is remote from the edge of any settlement and occupies a position in open countryside in what can only be described as a rural location. The site is some way into the area defined as Green Belt in the draft local plan and it is noted that in determining recent called-in planning applications on edge of settlement sites such as Germany Beck and Metcalfe Lane, the Secretary of State considered those sites to be within the green belt. Therefore there can be little doubt that the application site here is within the Green Belt.

4.5 The five purposes of Green Belts are defined in PPG2. These include preventing the sprawl of large built up areas, preventing neighbouring towns merging into one another, assisting in safeguarding the countryside from encroachment, preserving the special character of historic towns and to assist in urban regeneration by encouraging the recycling of derelict land around towns. Whilst officers acknowledge that the proposals are not considered to result in the coalescence of settlements, the development does result in additional sprawl out from an established site (what was the former Naburn Hospital) and which represents a significant encroachment into the countryside. Whilst acknowledging that the proposal will not have a significant visual impact on the setting of the historic city, a feature of York is the encirclement of green belt around it which helps to frame it. Officers consider that each new incursion into the Green Belt further erodes this character. Development on what is a Greenfield site also discourages the recycling of derelict Brownfield land in urban areas. Overall therefore, officers consider the proposal is not consistent with the purposes of Green Belt.

4.6 Para. 3.4 of PPG2 states that the erection of new buildings in the Green Belt is inappropriate unless it is for the following purposes; agriculture and forestry, essential facilities in connection with outdoor sport and recreation, limited extension to existing dwellings, limited infilling in existing villages and the limited infilling or redevelopment of major developed sites. This guidance is consolidated in RSS and draft local plan policies. Retail uses, including garden centres are not included within

this definition and therefore the proposal represents inappropriate development in the Green Belt.

4.7 Inappropriate development is by definition harmful to the Green Belt. The erection of a new garden centre does not fall within any of the above categories and therefore represents inappropriate development in the Green Belt. Such development should not be approved, except in very special circumstances. In such cases, para. 3.2 of PPG2 states that the onus is on the applicant to prove that permission should be granted. Permission should only be granted for otherwise inappropriate development where the applicant has proven that very special circumstances exist that outweigh the harm caused to the Green Belt by reason of inappropriateness or any other harm.

#### VERY SPECIAL CIRCUMSTANCES

4.8 Essentially therefore, the key point for Members to consider is whether there are very special circumstances which exist which outweigh the harm to the Green Belt by reason of inappropriateness. The applicant has put forward a number of reasons why they consider that very special circumstances exist. In summary these are i) Harm to the Green Belt is low. ii) The proximity in the draft local plan of 'safeguarded land' which abuts the application site iii) Proximity to the Designer Outlet centre iv) Proximity to existing infrastructure v) The horticultural nature of the Dobbies concept is in line with green belt objectives and vi) The uniqueness of the leisure and horticultural experience of the Dobbies concept. vii) Sustainable design. Each of these is considered below:-

i) Harm to the Green Belt is 'low'.

4.9 The 'Green Belt appraisal' carried out by the Council in 2003 looked at the relative merits of every area of green belt land around the City and did not define this site as occupying an important site when assessing the land in relation to the purposes of having Green Belt (see para. 4.5 above). The applicant is claiming therefore that the site takes on less significance and is of 'lower relative green belt value than large swathes of land around the city'. However nowhere in PPG2 does it state that green belt land should be ranked in this way when assessing harm. The site is in the green belt and is therefore bound by the policies that go with it. Para.1.7 of PPG2 says that '...although Green Belts often contain areas of attractive landscape, the quality of the landscape is not relevant to the inclusion of land within a Green Belt or to its continued protection. The purposes of including land within green belt are of paramount importance and are an overriding planning consideration and take precedence over land use objectives'. Officers therefore do not consider this to represent very special circumstances.

ii) The proximity in the draft local plan of 'safeguarded land'.

4.10 In the City of York draft Local Plan 4th set of changes an identification of 'reserved land' has been included adjacent to the application site. The applicant claims that this is proof of the Council's preference to see land around the Designer Outlet developed and as having merit in planning terms for additional development. However, policy GP24a states that permission on those sites will only be granted

for development required in connection with existing uses or alternative uses which preserve the open nature of the land and will not prejudice the potential future comprehensive development of the site after the Local Plan period has ended. The accompanying text stresses that such sites are not allocated for the development at the present time. The designation of this nearby site as safeguarded land has not been the subject of an examination through a public inquiry. It seems to have little obvious link to any other site. It must also be noted that this site is next to the application site, not on it. Officers do not consider this to represent very special circumstances.

iii) Proximity to the Designer Outlet centre.

4.11 The Designer Outlet buildings already make an impact on the character of the area. However, these buildings were permitted as a replacement of existing buildings (Naburn Hospital) as opposed to a complete new build as in this case. The Council sought to mitigate the impact of the original outline approval (approved by Selby District Council) with significant and substantial landscaping so as to ensure that the buildings enjoyed a landscaped setting. The use was also justified under a now revised policy that allowed out of town retail development. The existing development is a product of the prevailing planning policy at the time and should not be used to justify further development in the Green Belt just because it is next to it.

4.12 The proposals for the garden centre include a very extensive new building and a 400 space car park separate from the already large car parks at the Designer Outlet centre. The proposal would result in the loss of existing established trees, would result in significantly narrower landscape buffers between the edge of the site and the existing buildings and most importantly would extend significantly away from the existing site and hence reduce the openness of the green belt to a large degree. This 'very special circumstance' could be repeated again and again in the future if further development is proposed on adjacent sites to this one and the argument is made there that it is in 'close proximity to Dobbies'. Officers do not consider this to represent very special circumstances.

iv) Proximity to existing infrastructure.

4.13 Like above, the presence of existing infrastructure on adjoining land it is not a reason for justifying further extension into the Green Belt. Officers do not consider this to represent very special circumstances.

v) The horticultural nature of the Dobbies concept is in line with green belt objectives.

4.14 The applicant states that 'the quality of the horticultural and leisure experience offered by a Dobbies garden centre is unique amongst garden centre operators'. This, it is said, is because they encourage local residents to visit and linger 'gaining advice from trained professional staff' and customers view many of these products in 'scene setting' surroundings. They also have a series of 'interactive educational programmes of events' which enable visitors to learn about the natural environment. They would also offer educational classes to local school parties.

4.15 Officers contend that this is simply a service the applicant chooses to offer as opposed to something that represents very special circumstances. The applicant is applying for an A1 retail use. There is a significant amount of covered sales space and display areas for garden furniture and buildings where one would have expected mostly outdoor space for the growing of plants if one was promoting the horticultural aspect of the business. Furthermore, those plants being sold would be imported to the site for sale as opposed to being grown and cultivated on the site. Many of the operational benefits referred to above would accrue if carried out on any site, not just this green belt site. Officers do not consider this to represent very special circumstances.

vi) The uniqueness of the leisure and horticultural experience of the Dobbies concept.

4.16 The applicant has applied for an A1 retail use and is not seeking consent for a leisure use. Essentially the applicant states that their sites offer a unique attraction amongst garden centre operators by including children's play space, mazes, woodland walks etc. The applicant contends that Dobbies is a visitor attraction which will bring visitors into York who otherwise may not come. Officers again consider that this is just an element of what is a retail use first and presumably this would be the same if carried out on any site. It is not justification to locate such a use in the Green Belt. Officers also contend that York already has a significant tourist base and does not require this to attract visitors to the city. Officers do not consider this to represent very special circumstances.

vii) Sustainable Design.

4.17 The proposal has recently been amended so as to show the building constructed out of timber and this will apparently be the first timber framed garden centre in the Country. The timber would be sourced locally and would, according to the applicant, 'help promote the sustainability credentials of the City of York' and create a new visitor attraction. Officers acknowledge this and welcome the commitment to sustainable development that the applicant proposes across the proposal (notwithstanding the 400 space car park). However, officers consider that this is something that all developers should be striving to achieve, given up to date government guidance in PPS1 and other policies within the RSS and circulars on climate change and sustainable development. Full regard to sustainable design, construction and operation should be considered as the norm, as opposed to a matter that represents very special circumstances.

4.18 Officers conclude that none of the above points represent cases where very special circumstances outweigh the harm caused to the Green Belt either individually or collectively

4.19 The applicant has referred to previous Council and Inspectorate decisions relating to development in the Green Belt as follows: -

- Monks Cross – An employment site which the Council resolved to grant approval for but an inspector at the Call-in Inquiry dismissed, as he found no overriding need.

- Next Generation, Hull Road – Approved by Committee in 2000, as meeting a recognised need for tennis facilities, and providing a significant leisure and recreational facility in an accessible location. Community and economic benefits were also used to justify the exception.
- Stirling Road, Clifton Moor - Allowed on appeal as the inspector found a need for the development, considered the sequential test, impact on the character of the landscape and views of the Minster and other benefits.

4.20 In citing these cases the applicant draws attention to the circumstances used to refuse or approve the schemes. It is accepted that such matters can represent very special circumstances, but clearly the merit in each must be assessed depending on the case being considered. For example the Dobbies proposal could not, as discussed, be seen as meeting a recognised need or providing a significant leisure or recreational facility.

4.21 In previous appeal decisions relating to garden centre proposals in the Green Belt, inspectors have commented that garden centres of the type and scale proposed would not normally fall within one of the recognised exemptions to green belt policy, although a small scale outlet on an existing nursery garden selling indigenous plants, shrubs and trees might reasonably be considered as an activity closely associated with the main horticultural use of a site and thus might not be inappropriate. A much larger garden centre of the type proposed, with a considerable proportion of imported stock, garden equipment and heavy landscaping materials, is not a use normally accepted.

#### THE ECONOMY, JOB CREATION AND NEED.

4.22 The applicant seeks to demonstrate that there is a qualitative and quantitative retail need for a garden centre of this nature within the York area and that there are no other suitable sites within the built up area. City Development agrees that there are no sites that would accommodate the development in its present format. However it should be noted that a development within the urban area could readily adopt a different more compact form, requiring much less on site car parking provision, and potentially involving more than one storey. There appear to be no operational reasons why the site needs to be in a rural location given that there is no notable element of horticulture, and products sold are (as with any other retail use) imported to the site.

4.23 Contrary to the applicant's assertion, Policy S12 does not support the proposal, as the site is neither 'within or adjacent to defined settlement limits' and only 32% of the goods sold would directly relate or be ancillary to horticultural purposes. Whilst there may be quantitative capacity for additional retailing in the City, there appears to be no evidence base demonstrating a quantitative need for an outlet selling goods in an out of town location (and with only 32% relating to horticulture). And there are no policies within the Draft Local Plan seeking to promote such a development. Whilst the applicant has sought to demonstrate that there would be a minimal impact upon the amount of goods sold in the City Centre, this does not amount to showing there is an overriding retail need. There are numerous outlets selling garden centre

products beyond the Wyevale and Deans sites mentioned by the applicant, including B&Q stores, Homebase (edge of Centre) and Barnitts (within the Centre). The assertion that the better quality of the goods and of the experience at a Dobbies centre justifies a further outlet for these types of goods in the Green Belt is not supported by officers.

4.24 In an appeal against a refusal by Mole Valley District Council in 1989 the Inspector disagreed with the claim a garden centre was an appropriate use because it embodied a leisure outlet. He further concluded that the fact that no other suitable site could be found for the use other than in the green belt, did not constitute special circumstances. Costs were awarded to the Planning Authority for unreasonable pursuance of the appeal where there was no reasonable chance of success. More recently, in the Wirral in 2007, an inspector similarly agreed that essential outdoor recreational facilities could be acceptable in the Green Belt but concluded that a polytunnel for the growth, sale and display of plants was part of a retail development. She remarked that customers may visit garden centres for recreational purposes but this was true of many shops. The Dobbies outlet, although it would include café and demonstration facilities, would be essentially a retail centre. It could only be described as a leisure or recreational destination as much as the Designer Outlet or Monks Cross Shopping Centre could.

4.25 In terms of economic need, clearly the Economic Development Unit (EDU), whilst acknowledging that any new retail outlet would involve job creation, recognises that the proposal does not represent a major employment generator which could potentially demonstrate very special circumstances for development in the Green Belt. The type of jobs created would be largely part time, relatively low paid jobs which would not have a significant impact on the York economy. Nor does EDU or accept the argument that the outlet would be a welcome leisure attraction. Officers agree with these conclusions that any economic benefits are insufficient to outweigh the presumption against inappropriate development in this location.

#### IMPACT ON THE CHARACTER AND OPENNESS OF THE GREEN BELT

4.26 Notwithstanding the debate over retail or economic need for such a development, it is also felt necessary to assess the impact of the development on the openness and character of the Green Belt. The comments of the Council's Landscape officer at para. 3.6 above are also relevant on this issue and members are referred to these. Officers consider that the development would encroach extensively into the Green Belt and would completely alter the appearance and character of the land to a degree which would cause significant harm to the character of the land and the openness of the Green Belt. Presently the land is typical open, relatively flat, agricultural land pierced by hedgerows. A deep and well established tree belt runs along the southern boundary of the Designer Outlet site and this would be ripped out to make way for the development. This would alter the perception and character of the land even from within the Designer Outlet site as currently this tree belt presents a well-defined green boundary and also marks the transition point between the more urban form of the shopping centre and the open Green Belt land beyond.

4.27 Whilst it is acknowledged that some quite extensive replacement tree planting will be carried out, this will still result in a significant net loss of trees across the site. The new southern boundary of the site with Lingcroft Lane will have a tree belt of only approx. 6 metres in places and whilst this will rise to nearly 30 metres at its deepest point, it is predominantly between 10 and 15 metres and the new buildings, car parks and lighting columns will be immediately behind these trees. Officers consider that this will alter the whole character and appearance of the land, particularly in the winter months when even views from longer distances such as from Howden Lane and the B1222 (Naburn Lane) will be harmed when lighting becomes a more conspicuous element in the broader darkened landscape, and deciduous screening is less effective. An example of this is already seen when one looks across towards the Designer Outlet from both the A64 and the A19, particularly at night.

4.28 At a more local level, the scheme completely alters the setting of Lingcroft Lane by bringing development immediately up to this lane and very close to the range of buildings belonging to Acres Farm which, according to the Council's Landscape officer reduces 'the spatial setting and separation that typically surrounds and characterises a farmstead in the countryside'. The field at present is agricultural land and the whole character of this area north of Lingcroft Lane will be altered and whilst this is not a road generally used by the public, for the small number of residents who live down here, the development represents an unacceptable incursion into the Green Belt and towards their houses.

4.29 Officers therefore conclude that not only do the very special circumstances put forward by the applicant fail to outweigh the harm caused to the Green Belt by virtue of inappropriateness; they also fail to outweigh the significant harm caused by the development to the character and openness of the Green Belt.

4.30 Concern is expressed with regard to the loss of the wide belt of landscaping which frames the existing Designer Outlet site. Whilst individually the type and quality of tree they are not considered worthy of protection, as a group they do an important job in mitigating the effects of the Designer Outlet Centre and they formed part of the Council's attempts to mitigate the effects of the original approval on the landscape by creating a better landscaped setting in which the development should sit. Not only would their loss result in a significant net loss of trees across the site but also it would open up views both into and out of the Designer Outlet site, an impact that would be exacerbated by the presence of the Dobbies development. It was just this damaging presence on the landscape that the Council were attempting to militate against in their extensive landscaping proposal.

4.31 With regard to the old orchard shown to be lost to make way for the access into the development, the comments of the Council's countryside officer above at para. 3.9 are noted and clearly this orchard has some historic significance to the site's former use as a hospital. As a group of trees they do make for an attractive feature on the edge of the site and their loss is unfortunate. However, the proposal involves plans to replace these trees on either side of the access with similar trees, and officers do not consider that as a feature their loss can be as a reason for refusal.



4.32 At the time of writing this report, the objection of the Environment Agency stands with regard to surface water drainage and runoff. The applicant has been liaising with the Agency on this and it is expected that an engineering solution to this problem can be found.

4.33 Following the submission of extra information, the Council's highways officers have removed their objection following initial concerns over traffic generation on the A19 and A64. This support is subject to conditions. The final comments of the Highways Agency are awaited on this and will be reported if received.

4.34 With regard to neighbour amenity, the properties most affected by the development are a number of houses and a farm on Lingcroft Lane to the south. Whilst the development will significantly impact on their outlook and will alter dramatically the character of the land around them, the distances between the houses and the development are such that there should be no loss of their day to day levels of residential amenity through noise and disturbance or loss of privacy. This would be subject to conditions on hours of opening / delivery and the submission of a detailed lighting scheme.

## **5.0 CONCLUSION**

5.1 The proposed development essentially involves an additional retail facility with 400-space car park in an area of Green Belt. There appear to be no very special circumstances to outweigh the presumption against such a development within the Green Belt. The development does not comply with Policy S12 as it is neither within or adjacent to defined settlement limits, and the type of goods sold are largely not directly related or ancillary to horticultural purposes.

5.2 The proposal would involve the loss of a significant number of trees within the site and landscape screening from the boundary of the site. Whilst replacement boundary planting is proposed, this would be less substantial and would take a number of years to mature, and so would not adequately compensate for the mitigating impact that is currently provided in screening the Designer Outlet Centre. Together with the new buildings, there would be a resultant detrimental impact upon the character and openness of the Green Belt.

5.3 If Members are minded to approve the application, it would need to be first referred to the Government Office for a determination as to whether the matter should be called in for the Secretary of State to determine, as the proposal would represent inappropriate development on land designated as Green Belt.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: REFUSE**

For the following reasons:-

1. The development represents inappropriate development within an area of Green Belt. The Council considers that there are no very special circumstances that would outweigh the presumption against such development. As such the proposal is

contrary to guidance with Planning Policy Guidance Note 2 (Green Belts), and the Council's Development Control Local Plan Policy GB1 which states that development will only be granted for development where the scale, location and design 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 it would not prejudice the setting and special character of York, and is for one of a defined list of purposes (none of which include garden centres).

2. The proposal would result in the loss of a significant number of trees from within and along the southern boundary of the site, which would reveal views of the existing York Designer Outlet development and of the new development proposed as part of this application. The replacement planting would not adequately compensate for this loss, and as such the development is considered to be contrary to policy NE1 of the Council's Development Control Local Plan which states that trees or woodland that are of amenity value will be protected by, inter alia, refusing development proposals which will result in their loss or damage. The development is also contrary to PPG2 and Local plan policy GB1, in that the loss of the screen planting will adversely affect the openness and character of this part of the York Green Belt.

## **7.0 INFORMATIVES:**

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