

## COMMITTEE REPORT

**Committee:** West/Centre Area

**Ward:** Rural West York

**Date:** 15 March 2009

**Parish:** Hessay Parish Council

**Reference:** 09/00069/FUL

**Application at:** Oakview Farm Low Moor Lane Hessay York YO26 8JT

**For:** Retention of existing equestrian dwelling, garden and garage as permanent residence (resubmission)

**By:** Mr M.A. Lord

**Application Type:** Full Application

**Target Date:** 17 March 2009

### 1.0 PROPOSAL

1.1 Planning permission is sought for the retention of an existing dwelling, which was granted temporary planning permission in 2005. Permission is also sought for a small extension to the dwelling, a double detached garage and associated garden area in connection with the dwelling. The dwelling comprises of a lounge/dining room, kitchen, a bathroom and two double bedrooms. It is finished in a white render incorporating UPVC double glazed windows and patio doors. The property is drained to a septic tank and the existing dike. Access to the proposed development is shown via an existing minor road.

1.2 This scheme seeks the permanent retention of the aforementioned buildings, following the expiration of the temporary consent.

### SITE

1.3 The application site is located approximately 1km to the south west of the centre of Hessay, along a single lane track called Low Moor Lane. The site abuts the clay pigeon shooting centre, which lies to the north of Wetherby Road. The site occupies an area of approximately 4.00 hectares.

1.4 The site is bounded by native hedging and mature trees. The site includes a Dutch barn, outside horse walker stables and lean-to, in conjunction with the elements above which the applicants is seeking permission for.

### HISTORY

- 7/127/08878A/FUL – Erection of hay barn – Approved – 14/02/97
- 97/01616/FUL – Change of use of existing agriculture, breeding and breaking of horses – Approved – 18/02/98
- 97/01617/OUT – Outline application for erection of dwelling – Refused – 10/12/97

- 98/01770/FUL – stationing of caravan/mobile home – Refused – 03/11/98
- 00/01100/FUL – Temporary siting of mobile home – Refused – 03/08/00
- 04/00621/FUL – Siting of temporary mobile home in connection with agricultural equestrian unit – Permitted 27/01/05
- 08/02238/FUL – Permanent retention of temporary dwelling – Withdrawn – 08/01/09

1.5 The previous application was approved, against officer recommendation, in 2005 (04/00621/FUL). 3 conditions were attached to the approval. The conditions limited the duration of the dwelling to 3 years, required the prior approval of the colour of the building and restricted the use of the temporary dwelling to a person currently or last employed in agriculture.

#### REASON FOR THE APPLICATION BEING PRESENTED TO PLANNING COMMITTEE

1.6 The application is being presented to planning committee at the discretion of officers.

## 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Air safeguarding : Air Field safeguarding 0175

City Boundary : York City Boundary 0001

DC Area Teams : West Area 0004

2.2 Policies:

CYSP2  
The York Green Belt

CYGP1  
Design

CYGP4a  
Sustainability

CYGP14  
Agricultural Land

CYGP15  
Protection from flooding

CYGB1  
Development in the Green Belt

CYGB3  
Extension to existing dwellings

### **3.0 CONSULTATIONS**

#### INTERNAL

##### HIGHWAY NETWORK MANAGEMENT (HNM)

3.1 The Council's highway network management officer did not object to this proposal.

##### ENVIRONMENTAL PROTECTION UNIT

3.2 The Environmental Protection unit raised no objections to this proposal.

##### YORK CONSULTANCY - DRAINAGE ENGINEER

3.3 A Flood Risk Assessment (FRA) should be submitted for approval to the Marston Moor IDB and to the EA. In terms of surface water drainage the drainage engineer has no objections.

#### EXTERNAL

##### HESSAY PARISH COUNCIL

3.4 The parish Council did not raise any objections to the application.

##### MARSTON MOOR INTERNAL DRAINAGE BOARD (IDB)

3.5 The IDB noted that they would normally request that the surface water from any new development should be controlled to the equivalent discharge from a greenfield site. However as the IDB have no recorded issues arising from the uncontrolled discharge from the site to Low Moor drain, as a consequence they accept the existing system.

3.6 The IDB suggested a condition to carry out a feasibility study for the use of a sustainable urban drainage system (SUDS). If the results indicated such a scheme were appropriate, such a scheme should be implemented.

#### NEIGHBOURS

3.7 A site notice was posted adjacent the site. No objections have been received from any neighbours or interested parties.

### **4.0 APPRAISAL**

4.1 The main considerations are:

- Principle of development;
- Impact upon the Green Belt;
- Sustainability; and
- Flood risk/ drainage.

## POLICY

4.2 Planning Policy Statement 'Planning for Sustainable Development' (PPS1) aims to protect the quality of the natural and historic environment. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.3 Planning Policy Guidance note 2 'Green Belts' outlines the history and extent of Green Belts and explains their purposes. It describes how Green Belts are designated and their land safeguarded. Green Belt land-use objectives are outlined and the presumption against inappropriate development is set out. Visual amenity factors are described and policies regarding new building and re-use of old buildings are summarised.

4.4 Planning Policy Statement 7 'Sustainable Development in Rural Areas', states that new building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled; the Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all.

4.5 PPS7 further states that development should be given to the re-use of previously developed (brownfield) sites in preference to the development of green field sites. Planning Authorities should ensure that the quality and character of the wider countryside is protected and where possible enhanced. Agricultural land (Grades 1, 2, and 3a) should be taken into account; Local Planning Authorities should seek to use areas of poorer quality land (3b, 4 and 5) in preference to higher quality. Paragraph 27 sets out the LPAs should recognise the roles and support development proposals that will enable farming and farmers to:

- Become more competitive, sustainable and environmentally friendly;
- Adapt to new and changing markets;
- Comply with changing legislation and associated guidance;
- Diversify into new agricultural opportunities; or
- Broaden their operations to 'add value' to their primary produce.

4.6 Planning Policy Statement 'Development and Flood Risk' (PPS25) explains how flood risk should be considered at all stages of the planning and development process in order to reduce future damage to property and loss of life. It sets out the importance the Government attaches to the management and reduction of flood risk in the land-use planning process, to acting on a precautionary basis and to taking account of climate change. The planning

system should ensure that new development is safe and not exposed unnecessarily to flooding by considering flood risk on a catchment-wide basis. It should seek where possible to reduce and certainly not to increase flood risk. It should help ensure that flood plains are used for their natural purposes, continue to function effectively and are protected from inappropriate development. The guidance also outlines how flood risk issues should be addressed in regional planning guidance, development plans and in the consideration of planning applications.

4.7 The Yorkshire and Humber Plan, Regional Spatial Strategy to 2026 was published in May 2008. It defines York as a main urban area which should, in accordance with policies YH4, YH5, YH7, Y1, E1 and H2 be the focus for economic and housing development in the sub-region. York is highlighted in the guidance as being of regional significance and development should be accommodated to build on the success of its economy in a sustainable way which respects its historic character.

4.8 Policy Y1 (York Area sub area policy). This policy lists 7 key areas for the development of York. The 7 key areas are: (1) Roles and functions of places; (2) Economy; (3) Environment; (4) Transport; (5) Strategic patterns of development; (6) Regionally significant investment priorities; and (7) Joined up working. Of particular relevance to this application are the following points:-

- (Environment) Protect and enhance the particular biodiversity, landscape character and environmental quality of the York sub-area;
- (Strategic patterns of development) Focus most development on the sub-regional City of York, whilst safeguarding its historic character and environmental capacity;
- (joined up thinking) Promote partnership approaches to economic diversification, regeneration, housing distribution, development and flood risk management through the York sub area.

4.9 Policies YH9 and Y1 of the Yorkshire and Humber Regional Spatial Strategy (May 2008) sets out the extent of the City of York Green Belt.

4.10 Other relevant policies include:-

- E7 – Rural economy
- ENV10 – Landscape.

4.11 Policy SP2 'The York Green Belt' of the City of York Local Plan Deposit Draft states that the primary purpose of the York Green Belt is to safeguard the setting and historic character of the City of York and is defined on the Proposals Map. Although the rural part of the Local Plan area is predominantly open countryside and protected for its own sake, virtually all land outside the main settlements is designated as Green Belt in this Local Plan. Whilst separate national planning guidance exists for both the open countryside (Countryside - Environmental Quality and Economic and Social Development (PPS7) and Green Belts (PPG2), a general presumption against

unnecessary or inappropriate development runs through both sets of guidance, combined with the objective of redirecting this development towards existing settlements.

4.12 Policy GP1 'Design' of the City of York Local Plan Deposit Draft includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

4.13 Policy GP4a 'Sustainability' of the City of York Local Plan Deposit Draft requires proposals for all development should have regard to the principles of sustainable development. All residential developments will be required to be accompanied by a sustainability statement. The document should describe how the proposal fits with the criteria specified in policy GP4a and will be judged on its suitability in these terms.

4.14 Policy GP14 'Agricultural Land' of the City of York Local Plan Deposit Draft states that planning permission will only be granted for development that would result in the loss of the best and most versatile agricultural land (defined as grades 1, 2, and 3a) if an applicant can clearly demonstrate that very special circumstances exist which determine that the proposal can not be located elsewhere.

4.15 Policy GB1 'Development within the Green Belt' states that 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; and 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 an approved use - (i) agriculture and forestry; or (ii) limited extension, alteration or replacement of existing dwellings; or (iii) limited infilling in existing settlements; or (iv) limited affordable housing for proven local needs; or (v) limited infilling or redevelopment of existing major developed sites; or (vi) reuse of existing buildings. All other forms of development within the Green Belt are considered inappropriate. Very special circumstances will be required to justify instances where this presumption against development should not apply.

4.16 Policy GP15a 'Development and Flood Risk' states that the use of sustainable drainage systems to mimic natural drainage will be encouraged in all new developments, in order to reduce surface water run-off. The policy also seeks to control the capacity of existing and proposed receiving sewers and watercourses and long term run-off from development sites and requires

that new development should always be less than the level of pre-development rainfall run-off.

4.17 Interim Planning Statement: Sustainable Design and Construction (approved by Planning Committee on 22<sup>nd</sup> November 2007).

## PRINCIPLE OF DEVELOPMENT

4.18 Policy YH9 and Y1 replace Policy E8 of the North Yorkshire Structure Plan. The Regional Spatial Strategy was adopted in May 2008. Policy Y1 'York' states that the outer boundary of the York Green Belt is 6 miles from York city centre.

4.19 In order to establish a permanent Green Belt boundary the Council carried out a Green Belt review between 2000 and 2002. This review assessed the requirement for land as well as appraising sites to establish the extent to which they fulfilled Green Belt requirements. Work carried out for the Green Belt review was incorporated into the third set of changes which were subject to extensive consultation in February 2003 although these changes were never formally approved for Development Control Purposes.

4.20 PPG2: Green Belts (1995) confirms that most important attribute of Green Belts is their openness (paragraph 1.4). It also identifies the five purposes for including land in a Green Belt are – checking unrestricted sprawl; prevention of coalescence of settlement; safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and assisting in urban regeneration (paragraph 1.5).

4.21 These purposes tie in with the Deposit Draft City of York Local Plan's strategic objectives, in particular strategic policy SP3 which aims to safeguard the setting and historic character of the city. It identifies that one of the most critical element to this is the series of green wedges which run into the heart of York from the surrounding areas of open countryside. They also tie in with policy GB1 'Development in the Green Belt' of the latest Draft Local Plan, which highlights in part permission will only be granted for development where it would not conflict with the purposes of including land within the Green Belt and where it would not prejudice the setting of the city.

4.22 PPG2 identifies that the use of land within the Green Belt has a positive role in a number of objectives, namely to provide opportunities for access to the open countryside for the urban population; provide opportunities for outdoor sport and outdoor recreation near urban areas; to retain attractive landscapes, and enhance landscapes, near to where people live; to improve damaged and derelict land around towns; to secure nature conservation interest; and retain land agricultural, forestry and related uses (paragraph 1.6). This advice on the use of land in the Green Belt is also reflected in the draft Local Plan and the draft Regional Spatial Strategy.

4.23 An essential feature of Green Belts is their permanence (PPG2 paragraph 2.1) and that Green Belts are established through development

plans (paragraph 2.4). Where detailed boundaries have yet to be established it is important that the boundary is defined so that it will endure (paragraph 2.8).

4.24 Section 3 'Control Over Development' of PPG2 confirms there is a general presumption against inappropriate development within the Green Belt, and that inappropriate development is by definition harmful to the Green Belt. It goes on to state that such development should not be approved, except in very special circumstances. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (paragraph 3.1-3.2).

4.25 In terms of operational development, the construction of new buildings within the Green Belt is inappropriate unless it is for one of a number of specific purposes (paragraph 3.4). These purposes are agricultural and forestry; essential facilities for outdoor sport and recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it; limited extension, alteration or replacement of existing dwellings; limited infilling in existing villages; and limited infilling or redevelopment of major existing sites identified in adopted local plans. This advice is reiterated in Local Plan Policy GB1.

4.26 An application was submitted in 1997 for the erection of a permanent dwelling at the site along with the change of use of the land for the use as breeding and breaking of horses. Permission was granted by Harrogate District Council for the change of use of the land, however the erection of the dwelling was refused. The applicant appealed against the Council's decision to refuse permission for a dwelling and against a condition restricting the number of horses to be kept on the site to 7. The appeal against the dwelling was subsequently dismissed and the condition was varied to read 'no more than nine horses in training for racing shall be kept on the site unless otherwise agreed in writing by the local planning authority'<sup>1</sup>. During 1998 permission was sought for the stationing of a caravan on the site to be used as a dwelling in connection with the equestrian use. Permission was also refused on the grounds that the dwelling on this site was inappropriate development within the Green Belt and that insufficient justification had been submitted to prove the very special circumstances required.

4.27 The Inspectors decision also stated that the erection of a dwelling was inappropriate development within the Green Belt as horse related developments do not fall within the planning definition of agriculture. He stated that the theft of equipment was not a justification to have an on-site dwelling and that the limited number of horses kept on the site would not justify the dwelling on the grounds of animal welfare and stated that it may be necessary to have occasional night time attendance during foaling. The

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<sup>1</sup> A copy of the inspectors report is attached.



Inspector suggested that the applicant should look at moving closer to the site, preferable within Hessay, in order to reduce travelling times. With regard to the issue of noise from the gun club the Inspector felt that measures that had been taken to alleviate existing problems would mean that it would be less likely to occur to a significant extent at the application site. In conclusion he stated that there was insufficient justification of need for the proposed dwelling.

4.28 Since the Inspectors decision the level of use at the site has intensified. The applicant states that they have limited the number of horses in training to 9 but also have 15 other horses, either brood mares, foals and yearlings. They also have 70 Suffolk Cross ewes on site. When assessing the justification for temporary agricultural dwellings PPS7 states that 'if a new dwelling is essential to support a new farming activity, whether on a newly created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, wooden structure which can be easily dismantled , or other temporary accommodation.' It goes on to state that it should satisfy the following criteria:

4.29 (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm building is often a good indication of intentions) '

4.30 The applicant has been located at Oak View farm since 1994 and has a long history of training and breaking horses. New buildings have been erected at the site and financial investment is clear. It is considered that this criteria is met.

4.31 (ii) functional need. A functional test is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:  
(a) in case animals or agricultural processes require essential care at short notice;  
(b) to deal quickly with emergencies that could otherwise cause serious loss of crop produce'

4.32 The applicant states that a dwelling on the site would allow for the essential ongoing supervision, management and welfare cover of all livestock on the unit including pregnant and foaling mares and lambing sheep. The British Horse Society consider that where horses are stabled/or kept in grazing paddocks overnight supervision should be available in case of illness, casting in their box which requires assistance in getting the animal free, fire, theft of horses and to add a deterrent from intruders.

4.33 Previously, when officers assessed this information, it was considered that the Brood mares which foal between April and July and ewes lambing in the winter months do not justify the need for a permanent on site presence. This opinion was supported by the previous appeal case where the Inspector stated that it may be necessary to have occasional night time assistance

during foaling, but for the number of horses involved in the enterprise, it could be accommodated without the need for an on-site dwelling.

4.34 Previously an agricultural assessment was undertaken, on behalf of the Council, by Mouchel. Whilst there is a disparity between the number of horses permitted to be trained by the applicant and the number of horses which are presently on site, the consultant established that there was a functional need for labour requirement on the site. In conjunction with the ewes being bred on site and the significant investment which has been made in terms of the size of the holding. In light of the continued use of the premises for a farm and horse training facility and that there has been a dwelling present on the site for over 3 years and also the fact that the business has grown further since previously considered by committee, it is believed that the functional need is now met.

4.35 (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis'

4.36 The applicant has previously provided audited accounts which show that the business had a profitable turnover. These accounts were checked and the Council considered that this requirement was been met. Furthermore the applicant states that the business has grown further since this time. This view is supported by the applicant's agent who has provided some supporting information.

4.37 (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by workers concerned'

4.38 The applicant states that there are no other (temporary/permanent dwellings available on the holding and no other dwellings are available in the locality that satisfies the functional needs of the business. The Council agree that there are no suitable building on the site which could be used as a dwelling. The applicant has not provided any information regarding residential properties for sale within the village of Hessay. Previously the Inspector concluded that the applicant had not systematically investigated the possibility of dwellings closer to the site and outlined a number of properties available within Hessay. He went on to state that the applicant 'has established the business on this site without a dwelling, and without any indication from the Council that a dwelling in this location would receive approval.' However, a brief assessment was undertaken by the Officer, it was noted that were no houses for sale within Hessay at that particular time.

4.39 (v) other normal planning requirements e.g. on siting and access, are satisfied. The siting and access are acceptable.

4.40 The information submitted with the application was previously forwarded to Mouchel Parkman, an agricultural consultant, for comments. They stated that the business had 16 horses in training and 6 Brood Mares. Based on the information they provided, the consultant concluded that there

was a financial and functional justification for the provision of a temporary dwelling on the site. This was based on an increased number of horses in training to that which is allowed by previous condition. The applicant states that he has 9 horses in training and an additional 5 being pre-schooled. Whilst it could be argued that the additional 5 young horses contravene the original condition imposed by the Inspector, it is noted that no nuisance has been caused by this increase in training horses, nor is there any proof of impact upon the Green Belt, etc. As a consequence, of the above and considering all other matters, it is considered that this business is acceptable use within the Green Belt and as such is recommended for approval.

## IMPACT ON THE OPENNESS OF THE GREEN BELT

4.41 The proposed buildings by virtue of their size and massing are not readily visible from a significant distance. The site is reasonably well screened by a mature hedge and trees. There are many examples within the Green Belt of lone agricultural holdings in fields and whilst not a prevailing characteristic of the Green Belt it is considered that this holding, would not have a detrimental impact upon the openness of the Green Belt.

4.42 The dwelling itself, whilst described as temporary, is far more than the usual temporary structure one would imagine. Whilst it would be possible to dismantle the unit and remove it from site, the structure is of a substantial construction and its appearance is acceptable within the Green Belt.

4.43 It is noted that there has been a small extension to the original dwelling. This extension forms a porch area and utility area. The extension is approximately 4.10 x 3.50 m in plan. The height does not exceed the height of the original dwelling. The applicant has also erected a double garage. This garage has a mono-pitch roof and is sited close to site boundary with Moor Lane. These extensions are considered to be relatively minor, when compared to the existing dwelling and farm buildings. The applicants states that they have also been erected for over 4 years.

4.44 As a consequence of the above, it is considered that the dwelling and garage are acceptable and satisfy relevant national, regional and local plan policy.

## SUSTAINABILITY

4.45 No sustainability statement has been submitted to satisfy policy GP4a. However the development has been there since 2005 and it is considered unreasonable to ask the applicants to retro-fit the dwelling to current standards. The site is, at present, of a very small scale and options for incorporating sustainability elements into the site are minimal.

## FLOOD RISK/DRAINAGE

4.46 These matters are considered to be acceptable, subject to the imposition of relevant conditions.

## 5.0 CONCLUSION

5.1 The retention of the buildings are recommended for approval, subject to adequate conditions, as the scheme satisfies policies SP2, SP3, GP1, GP4a, GP14, GP15a and GB1 of the City of York Development Control Draft Local Plan and National Planning Guidance PPS1, PPG2 and PPS7 and the Council's Interim Planning Statement: Sustainable Design and Construction.

## 6.0 RECOMMENDATION: Approve

1 The development hereby permitted shall be carried out only in accordance with the following plans:-

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or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

2 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A-E; of Schedule 2 Part 1 of that Order shall not be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

3 Within 3 months of the date of this approval, a written Flood Risk Assessment shall be submitted in writing to the Local Planning Authority. Once details have been agreed in writing with the Local Planning Authority any remedial works required shall then be carried within 6 months of the date of this approval, in strict accordance with the approved details and shall thereafter remain.

Reason: The Flood Risk Assessment should prove to the satisfaction of the Local Planning Authority, the Marston Moor Internal Drainage Board and the Environment Agency that the development will not suffer from flooding or fail the requirements PPG25.