

COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Bishopthorpe
Date: 20 August 2009 **Parish:** Bishopthorpe Parish Council

Reference: 09/01146/FUL
Application at: Moor Farm Moor Lane Bishopthorpe York YO23 2UF
For: Change of use of agricultural building to storage (use class B8) and installation roller shutter doors
By: Mrs Julia Medforth
Application Type: Full Application
Target Date: 6 August 2009

1.0 PROPOSAL

1.1 The building is Dutch barn that has been clad in green profile sheeting. The building has two openings that would have roller shutter doors. The building would be split to provide two units. The building is sited towards the northern boundary of the site. The building abuts the boundary with Moor Lane, and with Mill House.

1.2 The application comes before committee at the request of Cllr Galvin, the reason being the potential impact to the neighbours.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: West Area 0004

Floodland GMS Constraints: Flood Zone 2

2.2 Policies:

CYGP17
Security shutters

CYSP2
The York Green Belt

CYSP3
Safeguarding the Historic Character and Setting of York

CYGP1
Design

CYNE6
Species protected by law

CYGB1
Development within the Green Belt

CYGB3
Reuse of buildings

CYGB11
Employment devt outside settlement limits

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT

3.1 No objections. It is apparent that the highway conditions relating to planning application 05/02521/FUL have not been implemented. Recommend conditions relating to turning areas, cycle storage, and improved vehicular access

COUNTRYSIDE OFFICER

3.2 This building, being open, potentially provides suitable roosting habitat for barn owl, which are known to be present in the surrounding area. During a site visit it was noted that there was evidence of use, and staining from bird droppings was seen on a ledge within the eastern end of the barn, which would act as a good perching site. Beneath this ledge, a large number of pellets belonging to barn owl were also discovered. The large number of pellets would indicate that the site is used regularly. The overall surrounding area is also very good for owls, with areas of rough grassland and farmland providing good foraging habitat. Barn Owls are protected under the Wildlife and Countryside Act (Schedule 1) and therefore will need to be taken into account when considering this application.

3.3 As the proposed scheme involves the closing in of the building, we would need to know how the presence of barn owls is to be taken into consideration with these plans, and what provisions will be made. This information would be needed before any consent is given, and I would be happy to advise on this matter if needed. Having also had a look at earlier applications at this site, it would appear that this issue has also been raised previously and again barn owls were found to be occupying the other buildings on site.

ENVIRONMENTAL PROTECTION UNIT

3.4 Have some concerns regarding the noise associated with the movement of vehicles and use of units may have a detrimental effect on the amenity of neighbouring residents. Recommend conditions relating to the hours of delivery and despatch, and no heavy goods vehicles to be used.

EXTERNAL CONSULTATIONS/REPRESENTATIONS

BISHOPTHORPE PARISH COUNCIL

3.5 No objections

LETTERS OF OBJECTION

3.6 Three letters of objection have been received, making the following points:

- Detrimental impact on the quality of the lives and environment of nearby residents
- In close proximity to dwellings and gardens
- Proposed development would introduce commercial traffic accessing the building causing pollution and noise disturbance
- Increased commercial traffic would cause a danger to children
- Properties have not been named on the plans submitted by the applicant
- There is a dispute regarding the boundary of the Dutch barn in respect of its encroachment onto a garden area belonging to one of the nearby residential properties
- The previous development of the adjacent agricultural buildings on site have not adhered to the use classes specified in the planning consent, complaints about resulting noise have been made by residents
- Moor Lane is a narrow, unlit cul-de-sac without pavements. It already suffers from current levels of traffic
- No consideration for the residents who are negatively affected by the intrusion into what was a previously quiet, safe, green and healthy environment
- Do not accept the result of the appeal to the Planning Inspectorate on the site. View an obtrusive industrial building, and the its suitability to the nearby occupants living environment should be seen as paramount and overriding important
- The immediate area (along with its green belt environs) has historically been used for agricultural purposes only
- For 5 months from October 2008 the Dutch barn and yard (16 metres from Mill House and The Old Stable) was used by sub-contractors to Yorkshire Water for storage of very heavy and noisy pipe cleaning plant. In view of the noise and heavy traffic that has been experienced in close proximity to dwellings the application would be environmentally unacceptable
- Moor Lane is already busy with traffic from the dwellings and Moor Lane Construction, passing vehicles have to pull onto the grass verges for clearance causing erosion to the road edges and verges
- Disturbance to nearby residents caused by noise created by roller shutter doors, noise created by the industry be it vehicles, machinery, radios, plus extra lighting with the possibility of security lights being installed
- The site has large rotting straw bales close to the boundary which may cause a rat infestation

4.0 APPRAISAL

RELEVANT SITE HISTORY

Relating to the building subject of the current application

08/00348/FUL - Retention of cladding on existing Dutch barn for continued agricultural use - Refused because of its impact on the openness and appearance of the Green Belt and the outlook and amenities of adjacent properties.

The applicant made an appeal to the Secretary of State which was allowed and planning permission granted.

07/02513/FUL - Cladding of existing agricultural building and change of use to class B8 storage and distribution - Refused as the proposals were defined as "inappropriate development" which harmed the open character of the Green Belt because of the extensive alteration required and that the cladding would harm the visual amenities of adjacent properties.

Relating to other buildings on the site

05/02521/FUL - Change of use of agricultural buildings to commercial storage use (Class B8) and installation of external cladding (re-submission) - Approved

05/00045/FUL - Change of use of agricultural building to business use (class B1) and installation of external cladding - Withdrawn

02/03811/FUL - Erection of pitched roof agricultural buildings and upgrading of existing access road - Approved

KEY ISSUES

1. Visual impact on the Green Belt
2. Impact on neighbouring properties
3. Impact on highway safety
4. Other Issues

ASSESSMENT

PLANNING POLICY

4.1 Planning Policy Statement 1 - 'Planning for Sustainable Development' 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.

4.2 Planning Policy Guidance 4 - Industrial, Commercial Development and Small Firms states that planning permission will normally be granted for commercial and industrial activities unless there are specific and significant objections such as relevant policy, unacceptable noise, smell, safety, and health impacts or excessive traffic generation. The fact that an activity differs from the predominant land use in any locality is not sufficient reason, in itself, for refusing planning permission. The intensification of the use of the site should be considered. Speculative development should be considered on their land-use planning merits

4.3 Planning Policy Statement 7 - Sustainable Development in Rural Areas states Planning Authorities should ensure that the quality and character of the wider countryside is protected and where possible enhanced. In the countryside the reuse of buildings for economic development is usually preferred

4.4 Planning Policy Statement 9 - Biodiversity and Geological Conservation aims to protect and enhance the quality of the natural environment. Many individual wildlife species received statutory protection under a range of legislative provisions. Local Authorities should ensure that these species are protected from the adverse affects of development. Planning Authorities should refuse planning permission where harm to the species or their habitats would result in the need for, and benefits of, the development clearly outweigh the harm.

4.5 Planning Policy Guidance 24 - Planning and Noise aims to protect the amenity of the nearby occupants from an unacceptable degree of noise disturbance.

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

4.7 Policy SP2 'The York Green Belt' in the City of York Council Development Control Local Plan (2005) states that the primary purpose of the York Green Belt is to safeguard the setting and historic character of the City of York.

4.8 Policy GP1 'Design' 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.

4.9 Policy GP17 ' Security shutters' states that planning permission for external solid roller shutters will only be granted where the shutters do not cause an adverse impact on the appearance of the building to which they are to be attached or its locality. Where external shutters are used, particularly in the City Centre, shopping areas and Conservation Area the shutter and its housing shall be coated and installed so as to minimise its visual impact. Innovative, sympathetic designs will be encouraged that incorporate appropriate materials and colouring.

4.10 Policy NE7 'Habitat Protection and Creation' states that Development proposals will be required to retain important natural habitats and, where possible, include measures to enhance or supplement these and to promote public awareness and enjoyment of them. Within new developments measures to encourage the establishment of new habitats should be included as part of the overall scheme

4.11 Planning Policy Guidance note 2 'Green Belts' sets out the purposes of including land within Green Belts and establishes specific categories of development that are

appropriate within Green Belts. All other development is deemed inappropriate and therefore harmful to the Green Belt. For such development to be acceptable in Green Belts very special circumstances must be demonstrated to show that the harm is outweighed by other considerations. The boundaries of the Green Belt are detailed on the Proposals Map of the City of York Council Development Control Local Plan and this site clearly falls within the Green Belt. Policy GB1 'Development in the Green Belt' follows the advice contained in PPG2 in stating that permission for development will only be granted 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 the City, and is for a type of development listed as appropriate development. All other forms of development are considered to be inappropriate and very special circumstances would be required to justify where the presumption against development should not apply.

4.12 Policy GB3 'Reuse of Buildings' states that proposals for the reuse of buildings outside of existing settlements in the Green Belt will be granted permission where a number of criteria are met:

- (a) the reuse would not have a materially greater impact on the openness of the Green Belt than the present use;
- (b) the buildings are permanent and capable of conversion without major reconstruction;
- (c) the proposed reuse will generally take place within the fabric of the existing building and will not require extensive alteration, rebuilding or extension;
- (d) the form, bulk and general design of the buildings are in keeping with their surroundings;
- (e) the buildings are not in close proximity to intensive livestock units or other uses that may result in a poor level of amenity for the occupier of the building;
- (f) there is already a clearly defined curtilage.

4.13 Policy GB11 'Employment Development Outside Settlement Limits' 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: it involves the re-use or adaptation of an existing building or is a small scale extension to an existing building; and it provides a direct benefit to the rural economy and the local residential workforce.

VISUAL IMPACT ON THE GREEN BELT

4.14 The building was originally a Dutch barn, that has subsequently been clad in green profile sheeting to match the other buildings on the site, which have approval for a B8 use class (storage and distribution) gained in 2006 (05/02521/FUL). The cladding was allowed after an appeal to the Planning Inspectorate. The Inspector considered that cladding the building did not negatively impact on the openness of the greenbelt. The proposed roller shutter doors are similar to those used in the other converted farm building and are not considered to cause undue harm.

4.15 The proposed change of use and re-use of the building would correspond with the allowed purposes set out in Policy GB1 of PPG2. The other agricultural buildings

on the site have been converted to B8 use and the converted building would be viewed in context with the other converted agricultural buildings it is considered that it would not negatively impact on the openness of the greenbelt. As the application is speculative and the users of the building unknown any possible intensification in use of the site cannot be predicted. However the building has been previously used for agricultural which would incorporate a certain amount of vehicle movements, etc. The building would probably have been used for the storage of straw or hay; however there is nothing to prevent the user of the building using it for a more intensive agricultural use, and in addition could cause disturbance to the occupants of the neighbouring dwellings. The proposal would see the building split into two small units, if there is an intensification of use of the site it is considered that it would be limited given the small size of the proposed units and therefore unlikely to have significantly greater impact on the openness of the greenbelt.

CHANGE OF USE

4.16 The proposed development would fit in with the criteria set out in Policy GB3 of the City of York Development Control Local Plan. By virtue of the small size of the proposed units the reuse is not considered to have a significantly materially greater impact than the existing agricultural use. The building is considered to be of a permanent and substantial construction and capable of conversion without major reconstruction. Since the building has been re-clad the building will not require further extensive alterations apart from the introduction of roller shutter doors to the entrances which is not considered to be a sizeable alteration, and not a reason that the proposal could be recommended for refusal on. The form and bulk and general design of the buildings are in keeping with the surroundings, with particular reference to the previously converted agricultural buildings. The building is within a clearly defined curtilage and would be viewed in association with the other converted buildings.

4.17 Policy GB11 'Employment development outside Settlement Limits' is also relevant as previously stated the reuse would be within an existing building. As the application is speculative no argument has been put forward by the agent/applicant to show that the proposed development would be of a direct benefit to the rural economy and the local workforce however taking into account the small scale of the units it is not considered that it would attract large companies but rather small local businesses.

IMPACT ON NEIGHBOURING PROPERTIES

4.18 There are dwellings in close proximity to the building. As discussed in the previous section the building has been used for agriculture in the past and therefore there is certain amount of vehicle movements, noise, etc that would be associated with this use. The change of use is speculative and the proposed vehicles movement and noise disturbance cannot be predicted. The size of the units are small and it is assumed that a small business would use these units and the traffic movements would be relative to the size of the business. The proposed use is B8 (Storage and Distribution) which in general tends towards lower traffic numbers than a B1 (Business) or B2 (general Industrial) use. It is considered that the B8 use could be conditioned with no permitted change to B1 if planning permission was allowed; to

protect the neighbours from intensification of development and noise disturbance that a B1 use may cause.

4.19 The proposed change of use would create two small separate units. The barn is in close proximity to the dwellings (converted farm buildings) adjacent. Environmental Protection Unit (EPU) has some concerns about noise disturbance to the neighbouring properties and would like the hours of despatch and deliveries conditioned. The other converted agricultural buildings on the site have a condition specifying the hours of operation and it is considered that it would be reasonable to apply the same hours to this proposal should planning permission be granted.

4.20 The Environmental Protection Unit have also requested that heavy goods vehicles shall not be used on the site, to prevent disturbance to the neighbours. However as the previous application for change of use on the site did not condition this restriction and therefore it is considered that it would be unreasonable to add the condition to this part of the site. In addition given the small size of the proposed units it is not considered that HGVs on the site would be a regular occurrence.

IMPACT ON HIGHWAY SAFETY

4.21 A number of concerns have been raised by occupants of the neighbouring properties regarding potential highway issues, Highway Network Management have not expressed any concerns regarding the potential intensification of the use of the road. They have requested that further details for the vehicles access onto the road with Moor Lane and further details of the turning areas and parking areas They were conditioned as part of the application for the change of use of the other agricultural building to B8 use, although it should be noted that these conditions have not been complied with and are subject on an enforcement investigation. It is considered that a condition upgrading the entrance to the site should be applied. However the conditions for surfacing of the turning area and parking has not been recommended as there is concerns that this may give the site an overly industrial and urban appearance in the green belt.

OTHER ISSUES

4.22 Evidence has been found that owls are using the existing building and therefore it is considered reasonable to condition details of owl access holes and owl boxes as part of the development. Under PPS9 the replacement or mitigation should provide a net gain in wildlife value. Some owls such as barn owls are protected under the Wildlife and Countryside Act (Schedule 1). PPS9 aims that development should enhance the quality of the natural environment.

5.0 CONCLUSION

5.1 The proposed change of use of the building is in line with Policies GB1 and GB3 of the City of York Development Control Local Plan. The proposed change of use is not considered to detract from the open character of the greenbelt. The building and its use would be viewed in context with the appearance and use of the previously converted agricultural buildings. By virtue of the small scale of the proposed units and subject to the following conditions the proposed change of use is not considered

to cause an undue loss of amenity to the occupants of the nearby dwellings or cause a harmful intensification of use of the site. Approval subject to the following conditions is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

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

Drawing Number 2005/05/05c received 28 May 2009;

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 TIME2 Development start within three years

3 The hours of operation, including deliveries to and despatch from the site, of this approved use shall be confined to

08.00 to 18.00 hours on Mondays to Fridays

08.00 to 13.00 hours on Saturdays

Not at all on Sundays or Bank Holidays

Reason: To protect the amenities of residents living close to the site.

4 No shall be no external storage, and no overnight/weekend storage of vehicles or any other item shall be stacked or stored outside of the building on the site without the prior approval in writing of the Local Planning Authority.

Reason: In the interests of visual amenity in this prominent open countryside and Green Belt location.

5 No development shall take place until details of the provision to be made for owl access holes and owl boxes for the use of Barn Owl have been submitted, together with details of the timing of the works, and these proposals approved in writing by the planning authority. The works shall be completed in accordance with the approved details and timing unless otherwise authorised in writing by the Council.

Reason: To take account of and enhance habitat of a Schedule 1 protected species. It should be noted that under PPS9 the replacement/mitigation proposed should provide a net gain in wildlife value.

Please note that under Section 1 and 99 of the Wildlife and Countryside Act 1981 it is an offence to intentionally damage or destroy any birds nest whilst it is in use or being built, or to deliberately damage or destroy a bat roost. It is also an offence to disturb any wild bird listed on Schedule 1 (includes Barn Owls) while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

6 Notwithstanding the submitted plans and prior to the commencement of the development hereby permitted full details of the method and design of any external illumination for the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason: In order to protect the amenities of neighbours and the character and appearance of the area from excessive illumination.

7 The building shall be restricted to a storage and distribution use (Class B8) only as specified in the Town and Country Planning (Use Classes) Order 1987, (or any provision equivalent to the Class in any Statutory Instrument revoking or re-enacting that Order with or without modification) unless a further change of use is granted planning permission by the Local Planning Authority.

Reason: As the Local Planning Authority considers the permitted use to be a low traffic and noise generator which is suitable for this location adjacent to residential properties and served by a narrow, substandard lane. The condition would allow the Local Planning Authority to consider changes to other uses with different characteristics.

8 HWAY5 Access improvements details required

9 There shall be no retail sales including ancillary retailing (as defined in Class A1 of the Town and Country Planning (Use Classes Order 1987)) from the development hereby approved without the express permission of the Local Planning Authority following receipt of a planning application in that respect.

Reason: This site and locality is not appropriate for commercial retail activity by virtue of its potential traffic and parking impact.

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 impact on the openness of the greenbelt, the impact on the residential amenity of the occupants of the neighbouring dwellings, habitat protection, and highway safety. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, Policies GP1, GP17, GB1, GB3, GB11, and

NE6 of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

Contact details:

Author: Victoria Bell Development Control Officer

Tel No: 01904 551347