

## COMMITTEE REPORT

**Committee:** East Area

**Date:** 15 October 2009

**Ward:** Osbaldwick

**Parish:** Murton Parish Council

**Reference:** 09/01125/FUL

**Application at:** The Homestead Murton Lane Murton York

**For:** Change of use of land to a private gypsy site for a single gypsy family and the retention of existing hard standing (retrospective)

**By:** Mr Peter James

**Application Type:** Full Application

**Target Date:** 11 August 2009

### 1.0 PROPOSAL

1.1 This is a retrospective application for the change of use of land to a private gypsy site for a single gypsy family and the retention of a concrete hardstanding for a residential caravan.

1.2 The application has been referred to committee at the request of Cllr Morley on the grounds that the application is within the Green Belt and has attracted much local concern. There are issues raised by the application, which should be addressed at a public meeting, i.e. the East Area Planning sub-Committee.

#### Planning History

1.3 The site has a long history. Ryedale District Council granted Yorkshire Water temporary consent to use the site as a construction compound while it laid a major sewer. Up to that point the land appears to have been agricultural. The land was not reinstated as agricultural land after the sewer's construction. Since 2000 planning permission has been refused for the erection of a bungalow, siting of a static caravan, erection of an agricultural building and use of the land to site touring caravans. The main reason for refusal in each case was impact on the Green Belt. In 1999 retrospective planning permission was granted for the erection of a 2m-high boundary wall along the frontage with Murton Lane. The use of the land was not specified. In 1996 planning permission was granted for the erection of a stable block in the paddock to the rear. The paddock is in the ownership of the current applicant.

1.4 Over the years the site has been used for a variety of unauthorised uses including storage, the siting of caravans, vehicle dismantling and building work. The appearance of the site has become increasingly urban in appearance.

1.5 In 2005 an enforcement notice was served against the siting of a non-residential static caravan. The caravan was subsequently removed.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

## 2.2 Policies:

CYGB1

Development within the Green Belt

CYH16

Residential sites for gypsies/travellers

## 3.0 CONSULTATIONS

### 3.1 Internal

Highway Network Management - No objections subject to details being submitted of the design/construction of the access, parking and turning areas.

City Development (Planning Policy) - The North Yorkshire Gypsy and Traveller Accommodation Assessment (GTAA) identifies a shortfall of 36 pitches in York. The council will meet the majority of this shortfall by identifying suitable sites through the Allocations DPD but searches by the council to date have not found any suitable sites. Where planning applications are submitted for new sites they should be considered against the need identified in the GTAA. The current application would contribute to satisfying this need. There are not enough suitable housing sites in the urban area to meet the council's housing land requirements over the next 20 years. Many of the potential housing sites identified in the Strategic Housing Land Availability Assessment (SHLAA) are in the green belt and would not therefore be suitable for housing. These could be looked at as potential gypsy sites should the need of meeting the shortfall in the GTAA outweigh the impact on the green belt. In the present case, whilst the proposed use constitutes inappropriate development in the green belt, the identified need for gypsy sites amounts to exceptional circumstances outweighing the impact on the green belt.

### 3.2 External

Murton Parish Council - Objection. The application infringes green belt policy; Development on the site would erode the green gap around Murton village and be contrary to the village design statement; Approval would be inconsistent with the council's normally strict enforcement of green belt policy in the area; There are sufficient gypsy sites/pitches in elsewhere in York/North Yorkshire; Occupation of the site could increase if the applicant's extended family were to reside there; There are already two caravans on the site; Use as a gypsy site would not enhance security in the area as stated by the applicant.

Public Consultation - The consultation period expired on 23 July 2009. 18 objections have been received raising the following planning issues: Infringement of green belt

policy; There are no special circumstances to overcome green belt policy; Approval of this application would be inconsistent with the council's normally strict enforcement of green belt policy in the area; Development in the green gap around Murton village is contrary to the village design statement; Impact on the character of the village; Impact on Murton conservation area; Use as a gypsy site would worsen security in the area; There are other gypsy sites/pitches elsewhere in the area; The site should be reinstated as open land; Approval would set an unwelcome precedent.

The adjacent scrap metal business has no objections to the application subject to planning permission not being sought to allow material to be stored on the site or to allow more than one family to reside there.

## **4.0 APPRAISAL**

### **4.1 Key Issues**

Impact on the Green Belt

Impact on the Character of the Village and the Conservation Area

Local Services

Highway Issues

Occupier and Neighbour Amenity.

Security

### **4.2 Policy Context**

National planning advice contained within Planning Policy Guidance Note 2 (PPG2) states that development in the Green Belt is inappropriate unless it is for a very restricted range of purposes. They do not include use as a gypsy site. There is a general presumption against inappropriate development, which is, by definition, harmful to the Green Belt. Planning permission should not be granted unless very special circumstances exist to outweigh the harm caused by inappropriateness and any other harm.

Policy H6 of the Adopted Regional Spatial Strategy for Yorkshire and Humber (RSS) sets out guidance for the provision of sites for gypsies. It requires local authorities to assess the housing needs of gypsies and travellers in their areas. It requires LDFs, housing investment programmes and planning decisions to ensure there is adequate provision for gypsy and traveller sites. The RSS identifies a need for an additional 57 pitches in North Yorkshire up to 2010.

Draft Local plan policy GB1 - Within the Green Belt, planning permission for development will only be granted where: (a) the scale, location and design would not detract from the open character of the green belt; (b) it would not conflict with the purposes of including land within the green belt; and (c) it would not prejudice the setting and special character of the City of York; AND it is for one of a limited number of particular purposes, including 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.

Draft Local plan policy H16 - In determining applications for gypsy/traveller sites the following criteria will be taken into account: proximity to local services; the potential for safe access; the extent to which the site impacts on important open areas; visual integration with the surrounding area; and potential impact on the amenity of the environment, neighbouring properties, sensitive agricultural land or other land uses.

#### The Application Site

4.3 The site comprises a yard occupying approximately 0.125 hectares on the east side of Murton Lane. The yard is surfaced throughout in gravel apart from a concrete hardstanding at the north-east corner on which is located a static caravan occupied by the applicant and his family. Near the caravan is a domestic shed used for storage and a camper van used by the applicant's family. The highway frontage to the site comprises a 2m-high wall with a gated vehicular access. To the north is agricultural land, to the east is a paddock (owned by the applicant) with a small stable block and to the south is a scrap metal business. The site is largely screened from outside the site by a tree belt to the north, the 2m wall to the west and a timber fence to the south.

4.4 The site, which is in the Green Belt, abuts an agricultural swathe of land between Murton Village to the north and a commercial enclave to the south. The site is occupied by the applicant - Mr Peter James - his wife and their four children. They have lived in the caravan on the site for nine months in 2005 and continuously since 2008. Mr James is a Romany gypsy.

#### Impact on the Green Belt

4.5 National advice contained within PPG2 states that planning permission should not be granted for use of Green Belt land as a gypsy site unless very special circumstances exist to outweigh the harm caused by inappropriateness and any other harm. A very special circumstance that could justify approval is where there is a demonstrable need for gypsy accommodation that is not being met in non-green belt areas.

4.6 The changes to the planning system set out in the 2004 Planning Act require local authorities to include gypsies and travellers in their accommodation assessments and to demonstrate how the accommodation needs of gypsies and travellers will be met. Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites) acknowledges that there is a national shortfall in provision and requires local authorities to carry out a gypsy and traveller accommodation assessment (GTAA). The GTAA should identify the number of pitches that each local planning authority is required to deliver. The GTAA for North Yorkshire was approved by the County Council in June 2008. It shows that North Yorkshire has a shortfall of 113 pitches. This is well above the target of 57 pitches set out in the RSS (2005). The GTAA identifies a shortfall in the York area of 36 pitches.

4.7 Circular 01/2006 reiterates the general presumption against development in the Green Belt and advises that alternatives should be explored before Green Belt locations are considered. However, whilst the council is in the process of identifying suitable sites, so far none has been found in the urban area. It is unlikely that the council will be able to find, within settlement limits, sufficient sites to provide for the

shortfall identified in the GTAA - or even the number identified in the RSS. Bearing in mind that almost all of the CYC area outside development limits is in the Green Belt it is likely that at least some of the shortfall will have to be provided on Green Belt land. The European Court of Human Rights has found that the taking of enforcement action to require the removal of gypsy caravans interferes with gypsies' rights under Article 8 of the European Convention on Human Rights. The British courts have held that a balancing exercise has to be taken, weighing harm to the public interest against the rights and personal circumstances of applicants. In this context officers consider that, in the current case, very special circumstances exist to outweigh Green Belt policy, subject to the proposal being acceptable in all other respects.

### Visual Amenity

4.8 The application is for one caravan only. It is low in height and would be largely screened by the 2m-high wall along the highway frontage and by the fence and trees along the side boundaries. The site has had an urban appearance for many years. Whilst the mass of the caravan, shed and parked vehicles would have a visual impact it would be minor relative to the appearance the site would have without the change of use. Furthermore, it is not considered that the harm caused to the Green Belt due to the visual impact of the caravan and activity on the site is sufficient to outweigh the very special circumstances that support the application.

### Impact on the Character of the Village and the Conservation Area

4.9 The site is approximately 220m from Murton conservation area. The impact of the proposal on the conservation area is negligible. The site lies at the edge of the 'green gap' between the commercial enclave to the south and Murton village to the north. Design Guideline 32 of the adopted Murton Village Design Statement seeks to preserve this green gap to maintain the integrity of the village. The site already has an urban character and the proposed use would not significantly alter its appearance. Moreover, the boundary between the site and the agricultural land to the north is clearly marked by a fence and a substantial screen of trees. Therefore any visual impact of the proposal will not encroach into the green gap or diminish its purpose.

### Local Services

4.10 Whilst the facilities in Murton village are limited (post box, public house) it has a bus service to Osbaldwick and the centre of York. Facilities at Osbaldwick include shops, schools and a church. There are frequent bus services along Hull Road 750m to the south and there is a Park & Ride at Grimston Bar. Murton Lane is an advisory cycle route. However there are no pedestrian footpaths in the immediate vicinity of the site, nor street lighting. On balance whilst local services (including public transport) are limited in the immediate vicinity of the site the overall provision is considered to be adequate.

### Occupier and Neighbour Amenity

4.11 There are no residential neighbours in the vicinity of the site. The only immediate neighbour is the scrap business immediately to the south. The business premises mainly comprise a large shed and an open yard. The occupiers of the

caravan site could experience noise and dust nuisance, particularly caused by activities in the yard. However, the shed has no openings facing the application site and the yard is separated from the site by the shed. Any nuisance caused by the business is therefore unlikely to be significant.

### Highway Issues

4.12 The existing vehicular access is adequate for the traffic movements likely to be generated by the proposal. Whilst there is a lack of footways and street lighting in the vicinity of the site this is not sufficient reason to justify refusal. The council's highways officer has requested that details be submitted of access, parking and turning arrangements. The current access and the gravel surfacing have been in existence since at least 1999 when planning permission for the boundary wall was granted. Bearing in mind the low level of traffic generated by the current proposal, requiring submission of details is considered unreasonable.

### Security

4.13 Some residents are concerned that approval of the current application could/would lead to crime and anti-social behaviour. Officers understand that theft and vandalism (mainly directed towards local businesses) are a problem in the area. Much of the blame for this activity appears to be directed at the local gypsy community. However, there is no evidence to link the current applicant or the use of the site to local crime levels.

### Other Matters

4.14 A camper van is parked on the site, in addition to the static caravan. Whilst both vehicles are defined as caravans the use of the camper van is ancillary to the applicant's use of the caravan. Therefore separate consent for the camper van is not required. Control over campers and touring caravans on the site can be made a condition of approval.

4.14 Whilst the site is large enough to accommodate a number of caravans consent is being sought for just one. This should be made a condition of approval. Any future applications for additional caravans would be treated on their merits.

## 5.0 CONCLUSION

5.1 Whilst the proposal is inappropriate development in the Green Belt it is considered that very special circumstances exist justify approval. The application accords with policy H16 of the Draft Local Plan.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approved

1 The development hereby permitted shall be carried out only in accordance with the approved 1:200 site plan received 5 June 2009 or any plans or details subsequently agreed in writing by the Local Planning Authority as an 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 The land hereby approved shall be used only as a residential gypsy site and not for any other type of domestic or business use.

Reason: To safeguard the character of the area and the openness of the Green Belt.

3 The number of caravans at the site shall be restricted to no more than one static and one tourer at any one time.

Reason: To safeguard the character of the area and the openness of the green belt.

4 The occupation of the caravan site shall be restricted to gypsies and travellers as defined in ODPM Circular 01/2006, that is: 'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently but excluding members of an organised group of travelling show people or circus people travelling together as such'.

Reason: The development would be unacceptable unless justified by the local need for gypsy and traveller accommodation.

5 The area occupied by the static caravan shall be restricted to the area marked 'Caravan' on the approved 1:200 site plan received on 5 June 2009, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To maintain the character and appearance of the area.

6 The area used for storage and/or car parking shall be restricted to the area shown hatched on the 1:200 site plan received on 5 June 2009 and subsequently amended by City of York Council on ..... [TO BE ADVISED] ....., unless otherwise agreed in writing by the Local Planning Authority.

Reason: To maintain the character and appearance of the area.

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

1. In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to visual appearance, occupier amenity, neighbour amenity,

access, highway safety and impact on the openness of the Green Belt. As such the proposal complies with policies GB1 and H16 of the City of York Local Plan Deposit Draft.

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