

COMMITTEE REPORT

Date: 14 October 2010

Team: East Area

Ward: Osbaldwick

Parish: Murton Parish Council

Reference: 10/01827/FUL

Application at: The Homestead Murton Lane Murton York

For: Variation of condition 4 of planning approval 09/01125/FUL to allow for a replacement static caravan (resubmission)

By: Mr Peter James

Application Type: Full Application

Target Date: 15 September 2010

Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 The proposal is to vary, retrospectively, condition 4 of a planning consent for the siting of a gypsy caravan. The condition restricts the location to the area marked 'caravan' on the approved plan. This area is at the north-east corner of the application site and has a footprint of approximately 280 sq ft. The caravan that was on the site when consent was granted had a footprint of 276 sq ft. The applicant now seeks approval for a caravan with a footprint of 920 sq ft. The concrete hardstanding on which the caravan sits has been extended to accommodate the larger footprint.

PLANNING HISTORY

1.2 In June 2009 retrospective planning permission was sought for the change of use of land to a private gypsy site for a single gypsy family and the retention of a concrete hardstanding (09/01125/FUL). In October 2009 the East Area Sub-committee refused planning permission citing conflict with Green Belt policy. The decision was subsequently overturned at appeal. The Inspector attached the following condition (condition 4) to the planning permission:

'The development hereby permitted shall be carried out in accordance with the plans submitted with the application as varied by the 1:200 site plan amended on 15 October 2009 (the approved site plan). The area occupied by the static caravan/mobile home shall be restricted to the area marked 'Caravan' on the approved site plan and the area used for storage and/or car parking shall be restricted to the area shown hatched on the approved site plan.'

1.3 In June 2010 planning permission was sought to allow the siting of a caravan with a footprint of 1338 sq ft, which would have conflicted with condition 4. Planning permission was refused due to impact of the proposal on the Green Belt. Hence the current application, which seeks to allow a larger caravan than the one that was approved but smaller than the one that was subsequently refused.

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.

3.2 External

Murton Parish Council - No objection subject to the following conditions. Screening along the northern boundary to be reinstated; the parish council to be consulted on the details of the screening; the concrete base to be no larger than the caravan; the concrete base to be removed when the applicants vacate the site; the tree screening along the southern boundary to be provided as shown on the plans approved by the Inspector.

Public Consultation - The consultation period expired on 30 September 2010. No objections have been received.

4.0 APPRAISAL

KEY ISSUES

4.1 Impact on the openness and visual amenity of the Green Belt.

POLICY CONTEXT

4.2 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 exclude 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.

4.3 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.

4.4 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

4.5 The site comprises an enclosed area of land occupying approximately 0.125 hectares on the east side of Murton Lane. 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 yard is surfaced throughout in gravel apart from a concrete hardstanding at the north-east corner. Until recently a flat-roofed static caravan (the subject of the appeal) sat on the hardstanding. The applicant, his wife and their four children occupied the caravan. The caravan has recently been replaced by a larger "caravan", for which consent is now being sought.

4.6 For information, current legislation defines a caravan as, in essence, any structure designed or adapted for human habitation which is composed of no more than two separate sections and capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any other motor vehicle so designed or adapted. The dimensions should not exceed 20m long by 6.8m wide with an internal height no greater than 3.05m. It is considered that the caravan that is currently on the site complies with this definition.

4.7 Near the caravan is a domestic shed used by the applicant for storage. To the north of the site is grazing land. To the west is the public highway bounded by a 2m-high wall with a gated vehicular access. To the east of the site is a paddock (owned by the applicant) and to the south is a scrap metal business. Until a few months ago the application site was largely screened by a fence and conifer tree belt to the north, the 2m-high wall to the west and a timber fence to the south. The tree belt to the north has since been removed and replaced by a 2m-high wall, for which consent was not needed. Removal of the trees has resulted in the caravan being much more visible when viewed from across the open farmland. Within the last month the applicant has removed the flat-roofed caravan and replaced it with a larger, chalet-style caravan of the size for which planning permission is now sought.

IMPACT ON THE GREEN BELT AND VISUAL APPEARANCE

4.8 Under guidance in PPG2, 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. Very special circumstances could be where there is a demonstrable need for gypsy

accommodation that is not being met in non-green belt areas. The Inspector who considered the appeal acknowledged that there were a number of weighty considerations in favour of the proposal. These were: the significant need for additional gypsy sites in the York area; that the shortage was unlikely to be addressed at least until the end of 2011; that some of the sites to be allocated as part of the LDF process are likely to be in the Green Belt; the family's need for gypsy accommodation; the absence of any identified available site to which they could move; and the hardship they could face by being made homeless. The Inspector was firmly of the view that, taken together, these factors outweighed the harm (mainly due to inappropriateness) caused by the proposal. He concluded that the circumstances of the case were very special and justified the development, subject to conditions. These factors in support of the case for a caravan on the site remain valid.

4.9 The applicant now argues that the size of caravan for which he has consent is too small for his family's needs. The approved caravan has two small bedrooms for his family of two adults and four children. By modern standards this level of provision would appear to be inadequate, particularly as two of the children are teenagers. The applicant's desire to live in a caravan that is larger than approved would appear to be justified.

4.10 In reaching his decision, the appeal Inspector balanced the needs of the family against the harm to the Green Belt caused by inappropriateness and any other harm caused by the proposal. He accepted that the site had a sense of enclosure, which was heightened by the fencing and coniferous trees along the northern boundary. He also considered that the development was limited in scale. He concluded that retention of the caravan would therefore cause only a small amount of additional harm to the openness of the Green Belt and to the purposes of including land in it.

4.11 The caravan that is now located on the site has a greater impact on the Green Belt than the application that was considered by the inspector. Firstly, the new caravan is much larger than the maximum size that was granted permission by the Inspector. Secondly, the removal of the tree belt along the northern boundary has increased the visibility of the site from the north, including from the public highway at Murton Lane. Thirdly, whilst consent is being sought for a particular size of footprint (14m x 6.8m) the applicant's chalet-style caravan is higher and more prominent than the more-usual flat-roofed type of caravan.

4.12 Nevertheless, officers consider that whilst the impact on the openness of the Green Belt is greater than for the approved scheme, the needs of the family amount to very special circumstances that would justify the granting of planning permission. However, such consent should be conditional upon the reinstatement of screening along the northern boundary. To this end the owner of the grazing land to the north of the site has no objection to the applicant planting a tree screen on this land adjacent to the shared boundary. The application boundary has therefore been amended to include the swathe of adjoining land where the trees would be planted. This would enable provision of the trees to be made a condition of approval. However, as the land is outside the applicant's ownership and control, he cannot ensure that the trees will indeed be provided and retained. Officers therefore

recommend that if Members are minded to grant planning permission, a Section 106 Agreement (or unilateral undertaking) should be entered into by the applicant and the adjoining landowner to ensure that the trees are provided and retained. A condition should also be attached specifically requiring previously approved trees along the highway boundary (but within the applicant's ownership) to be provided and retained.

5.0 CONCLUSION

5.1 In reaching a decision, a balancing exercise has to be undertaken weighing harm to the public interest (in this case the openness of the Green Belt) against the human rights and personal circumstances of applicants. Officers consider that the applicant's needs justify the approval of a larger caravan subject to adequate screening along the north and west boundaries.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 The residential occupation of the land hereby permitted shall be carried out only by Peter James and Theresa James and their resident dependants.

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

2 When the land ceases to be occupied by those persons named in Condition 1 above, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought onto, or erected on, the land, or works undertaken to it in connection with the use, shall be removed from the land and the land shall be restored to its condition before the development took place in accordance with a scheme and timetable that shall previously have been submitted to and approved in writing by the local planning authority.

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

3 No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 1 shall be a static caravan or mobile home), shall be stationed on the land at any one time.

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

4 The development hereby permitted shall be carried out in accordance with the plans submitted with the application as varied by the 1:200 site plan amended on (the approved site plan). The area occupied by the static caravan/mobile home shall be restricted to the area marked 'Caravan' on the approved site plan and the area used for storage and/or car parking shall be restricted to the area shown

hatched on the approved site plan. [Members to be updated at committee].

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

5 Within three months of the date of this permission detailed landscaping/screening proposals along the northern and western boundaries of the shall be submitted to the local planning authority and approved in writing. The scheme, which shall show the number, species, height and position of trees and shrubs shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: To minimize the visual impact of the proposals on the surrounding 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:

- impact on the openness and visual amenity of the Green Belt;
- landscaping;
- neighbour amenity;
- access and highway safety.

It is considered that the needs of the family in this case amount to very special circumstances that justify the granting of planning permission. As such the proposal complies with national planning advice set out within Planning policy Guidance Note 2 "Green Belts", and Policies GB1 and H16 of the City of York Draft Local Plan.

2. Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

Contact details:

Author: Kevin O'Connell Development Management Officer

Tel No: 01904 552830