

COMMITTEE REPORT

Date: 7 July 2011 **Ward:** Fulford
Team: Major and **Parish:** Fulford Parish Council
 Commercial Team

Reference: 11/00868/FUL
Application at: York Designer Outlet St Nicholas Avenue York
For: Temporary siting (5 years) of public ice rink on coach park
By: Mrs Maria Farrugia
Application Type: Full Application
Target Date: 1 July 2011
Recommendation: Approve

1.0 PROPOSAL

1.1 This application relates to land at the Designer Outlet in Fulford, specifically the coach park adjacent to the south entrance walkway. The proposal is for the use of the land for the operation of an outdoor recreational ice rink in November, December, and January for the next five years. The ice rink would operate between the hours of 08:30 to 21.30 during this period.

1.2 The rink itself would measures 30 by 27 metres, with a canvas skate hire building to the west and a café, office and first aid facility opposite to the east of the ice rink. A ticket office would be located to the south of the rink.

1.3 Members will recall that an ice rink operated at this site last year having moved from its previous location in the city centre. Last year's event was the subject of a temporary planning consent which has now expired. Following its commercial success the applicants wish to run the ice rink from this location for the next five years. This application has been brought before East Area Planning Sub Committee as the previous one year consent was approved by committee. A site visit is recommended so that members can fully appreciate the concerns of local residents.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land

City Boundary York City Boundary 0001

DC Area Teams East Area (1) 0003

2.2 Policies:

CYGB1
Development within the Green Belt

CYGB13
Sports facilities outside settlements

CYGP23
Temporary planning permission

CYGP1
Design

3.0 CONSULTATIONS

INTERNAL

3.1 Environmental Protection Unit (EPU) - During last years event a number of complaints were received regarding noise from the generator associated with the ice rink. Visits from EPU found that noise from the operation of the generator was giving rise to elevated noise levels inside residential dwellings on Naburn Lane. The noise was not a statutory nuisance, however residents felt it resulted in a loss of amenity. As a result the operator turned off the generator at 22:00 hours each day and an alternative mains power source was provided to operate the chiller units required to maintain the ice rink. This approach is proposed within this application with further investigations planned to see if mains power can be used for 24 hours a day. However, since it cannot be guaranteed at this stage that mains electric can be used all day, two conditions have been recommended. These relate to the use of only one electric generator at any one time, and that no generator may be used between 22:00 and 09:00 hours. These conditions should be added to all conditions, which were attached to the previous approval.

3.2 Highway Network Management and Transport Planning - No objections to proposed development. Options for promoting sustainable

transport choice are still being discussed; an update will be given at Committee.

EXTERNAL

3.3 Fulford Parish Council - Object to the application on the following grounds:

- The proposal represents inappropriate development in the Green Belt;
- The development is not one of those listed as suitable within the Green Belt and it is a new use not linked to the existing car park, therefore the proposal is by definition inappropriate in the Green Belt and very special circumstances are required to overcome this harm;
- The proposed facilities are not essential for the operation of an ice rink;
- The footprint, height and mass of the various structures would impact on the openness and visual amenities of the Green Belt;
- Any screening benefit from the existing trees is lost in the winter and the white plastic walls and roofs of the marquees have an unattractive appearance;
- The Parish Council accept that the use and buildings would be temporary, however Green Belt Policies make no allowance for temporary permissions and therefore very special circumstances are still required to overcome the presumption against this development;
- The additional lighting and significant level of noise would have a severe detrimental impact on bats or other animals in the area;
- English Nature should be consulted on the proposals in relation to the impact on bats;
- The sound report submitted with the application demonstrates that the nuisance from noise generated by last years` event was sufficient to cause complaints from nearby residents, therefore the proposal either needs to run off mains electricity or further noise mitigation must be provided;
- Photographs are submitted to show that last year the event resulted in significant parking and road safety issues with overspill parking observed on grassed and other unallocated areas;
- Coaches were not directed to the Blue Zone as conditioned but were instead assigned to park along a two-way access road resulting in dangerous obstruction of crossing points;
- The parking provision at the outlet is already inadequate during peak trading times having a total capacity of only 2800 vehicles, last winter the highest recorded vehicles peaked at 8160 which is an increase of more than 500 cars on the previous years peak;
- If more joint trips were made visiting both the ice rink and the shopping centre, this would create longer periods of car parking which further aggravates the parking problems;

- Last year the winter was particularly harsh and therefore is not an accurate guide for potential future users; and
- No evidence of recent sequential testing of alternative sites has been provided.

3.4 Ward Councillor - Comments were received from Cllr. Aspden. Whilst no objection was made, Cllr Aspden wanted to highlight the concerns of local residents and stated that conditions should be put in place in order to protect their amenity. The comments also pointed out the Green Belt status of the site and highlights that special circumstances should be clearly outlined in order to justify the proposal.

3.5 Police Architectural Liaison Officer - There have never been any crime or anti-social behaviour issues associated with this facility. No objections.

3.6 Third Parties - Five letters of objection have been received from four households, these are 32, 34, 42, and 50 Naburn Lane. The following points were made:

- Serious concerns about noise from the generator, which was a problem last year;
- The noise information submitted is not a fair reflection of the noise emitted, as there were occasions when the 'super silenced' generator had to be replaced with the use of a louder generator and the door to the compound was left open;
- In addition, there was a lack of quality and the following of a standard process when making the recordings so the date provided is not reliable;
- Sound readings were taken from different points on Naburn Lane and when there were increases in noise level the survey states that this was the result of traffic noise but it was actually from the generator, if the sound was from cars then a secondary survey should be done now to demonstrate that cars can produce that level of noise in this area;
- The sound records do not show an increase in sound when the secondary generator was used, however this must be inaccurate as the sound was unbearable;
- A lot of cars were parked on the grass verge in Naburn Lane during the event; this creates road safety issues as it is close to a blind bend in the road;
- Last year there was a disregard from organisers that this is a residential area;
- The site should be shut down at 9pm at the same time as the Designer Outlet, not 9.30 as applied for;
- The organisers are planning a larger event this year incorporating a German Market and fairground rides, but no details are provided for

these other uses and there is concern that this will bring more disruption to local residents;

- The area is of significance to wildlife, the proposal is entirely inappropriate for this area;
- Trees are not in leaf in the winter and therefore the ice rink is very visible from local houses;
- Last year the operators breached a number of planning consents including extreme noise, lighting being left on for the first 24 hours constantly, the operation of a funfair without consent, operating at 8am, inconsistent noise monitoring; and
- The noise and vibration from the event led to a loss of sleep and harm to health, 'super silent' generators or mains electricity should be used.

4.0 APPRAISAL

4.1 Key Issues:

- Impact on neighbouring amenity;
- Traffic and car parking; and
- Impact on the Green Belt.

4.2 As last winter was the first time the ice rink had been located at the Designer Outlet, there were a number of unknowns in terms of the commercial success of the facility in this location and the impact on neighbouring amenity and traffic and car parking. For this reason temporary consent was granted for a single time period so that it would be possible to monitor the impacts before determining whether it was a suitable use in the longer term. As part of the previous consent the applicants were required to gather information relating to visitor numbers, modes of transport used, and noise levels generated.

4.3 Information collected regarding visitor numbers to the Designer Outlet site between 18/11/10 and 09/01/11 showed an increase of around 9000 people in comparison to the previous year. This was the period when the Ice Factor was operational and represents an increase of a little fewer than 4%. In terms of visitors to The Ice Factor, numbers were down by around 6000 customers to just fewer than 31,000 compared to the previous years event in the city centre. Information collected from visitors to the ice rink (not including pre-booked tickets) showed that 76% of customers also shopped at the Designer Outlet showing a high number of linked trips. In terms of the transport mode used to travel to the venue, 81% arrived by car, around 19% by bus with just 57 visitors arriving by bike or on foot.

IMPACT ON NEIGHBOURING AMENITY

4.4 Objections to this application and complaints received during last years event show that there were occasions when The Ice Factor had a negative impact on neighbouring amenity. Complaints and objections are primarily focused on noise from the electric generators. Very few issues have been raised regarding noise from people or music or any negative impact from lights.

4.5 The nearest residential dwellings are on Naburn Lane, the curtilage of number 2 Naburn Lane being around 80m from the proposed ice rink. The carriageway of Naburn Lane, an internal circulation road within the Designer Outlet and a substantial area of landscaping are located between the proposed ice rink and the dwellings. It is understood that noise complaints were received during last year's event when the electric generator was first used. As a result of this the developer exchanged this generator for a quieter model, which significantly reduced the amount of noise generated and the complaints then stopped. There was an occasion where a back-up generator was required when the quieter primary generator developed a fault. Again this led to complaints about noise nuisance.

4.6 Following the receipt of consultation responses from neighbours and the Environmental Protection Unit, the Ice Factor have confirmed that the event will utilise mains electricity. Electric generators would only be used should mains electricity drop out. It is considered that this would overcome the concerns of a number of local residents, as electricity generators were the primary source of noise complaint from last year's event. Therefore, in order to protect neighbouring amenity it is recommended that a condition is added to any approval which states that mains electricity shall be used other than in an emergency.

4.7 The ice rink would be operational between 0930 and 2115 for public ice skating. The Ice Factor wish to operate ice skating lessons from 0830 to 0930 on weekends. The proposed hours of operation are outside of the particularly noise sensitive hours of the day and it is not considered that there would be any significant impact on neighbouring amenity. No lighting (other than security lighting) or public audio system would be used outside of the proposed operating times.

TRAFFIC AND CAR PARKING

4.8 The proposed ice rink and the associated buildings are sited within the coach park. The coach park can accommodate 38 coaches. While

the ice rink is in place, coaches would be re-directed to another part of the of the Designer Outlet's car park. This is the same process as was in operation last year and there were no known problems.

4.9 Photographs submitted by Fulford Parish Council show a number of cars parked on grassed areas inside the site during last years event. It is not known whether this was due to the car park being full, whether people parked in this area because it was close to an entrance point, or whether the Ice Factor increased the likelihood of this happening. The Designer Outlet is private property and it is the responsibility of on- site management to control indiscriminate car parking. The manner in which visitors to the site choose to park their cars is not something, which is reasonable for the Planning Department to control through this application, and any condition would be virtually unenforceable.

4.10 The Transport Planning and Highway Network Management teams have no objections to this application. From an analysis of last year's event there were no known public highway problems associated with the ice rink operation. It is recommended that a condition be added to any approval whereby a method of promoting sustainable transport choice is agreed prior to the event taking place. Discussions are ongoing with the event organisers regarding the best way to promote sustainable travel choice and an update will be given at Planning Committee.

GREEN BELT

4.11 The coach park within which the proposed ice rink is to be sited is within the Green Belt. Green Belt Policy GB1 allows for the development of essential facilities for outdoor sport or recreation where it would not detract from the open character of the Green Belt and where it would not conflict with the purposes of including land within the Green Belt. The proposed ice rink provides outdoor sport and recreation. The facilities proposed to be included around the ice rink include a small office and first aid unit, a ticket office, skate hire and changing marquee, and a cafe. This level of development is not considered to be above and beyond what is typically accepted as ancillary development in association with outdoor sport and recreational facilities of this scale. In addition, given that the proposed ice rink would only operate for a small proportion of the year and that the development is adjacent to a large shopping centre, it is considered that the proposal complies with Policy GB1.

OTHER ISSUES RAISED BY LOCAL RESIDENTS

4.12 A number of local residents raised concerns relating to the impact of the proposal on wildlife, particularly bats. Advice taken from the Countryside Assistant at the Council was that given the existing level of illumination and lighting at the Designer Outlet, the proposed development is unlikely to have an additional impact on wildlife. Some concerns were also raised about cars parking on the grass verge in Naburn Lane rather than using the car park. Whilst it is understandable that this is of concern to local residents living opposite, there is no evidence that these cars are associated with the Ice Factor rather than the Designer Outlet in general. Should this become a road safety issue it would be for the Highways Department to put measures in place to stop cars using the grass verge for parking. It is not considered reasonable to object to this application based on the fact that some visitors appear to be parking cars outside the site.

5.0 CONCLUSION

5.1 It is considered that subject to appropriate conditions as recommended below, the proposed development complies with relevant local and national planning policies.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The use hereby approved shall only operate between 1st November and 31st January for a period of five years and shall cease by 31st January 2016 unless prior to that date the consent of the Local Planning Authority has been obtained to extend the period of the permission.

Reason: The temporary nature of the structures is such that the use is considered inappropriate on a permanent basis.

2 The development hereby permitted shall be carried out in accordance with the following plan: -

Drawing Number 1007 Rev P3

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

3 All buildings and equipment used in association with the ice rink shall be removed from the site and the land reinstated to its former condition and use as a coach park at or before 31st January of each year for the period of this consent unless an extension of the period shall first have been approved in writing by the Local Planning Authority.

Reason: To ensure the coach park is re-instated in line with the requirements of the shopping centre.

4 The hours of operation of the ice rink and associated cafe shall be confined to 0830 and 2130 hours Mondays to Sundays.

Reason: To safeguard the amenities of local residents.

5 Lighting shall be installed and operated in complete accordance with details received by the City of York Council on 1st June 2011, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenity of local residents

6 No lighting associated with the development, other than security lighting, shall operate outside the hours of 0800 to 2230, unless required for emergency purposes.

Reason: To safeguard the amenity of local residents

7 No audio systems associated with the development shall operate outside the hours of 0830 to 2130, unless required for emergency purposes.

Reason: To safeguard the amenity of local residents

8 Prior to the commencement of the use hereby approved full details of the location of the acoustic enclosure around the plant and equipment to be located in the service yard shall be submitted to and approved in writing by the local planning. The acoustic enclosure shall be installed in complete accordance with the approved details and shall be in place for the entire operation of the use hereby approved.

Reason: To safeguard the amenity of local residents

9 The development shall be operated at all times from a mains electrical source. An electric generator shall only be used in the case of an emergency.

Reason: To safeguard the amenity of local residents

10 The two outdoor heating units serving the development shall only be operated during the hours of 0900 to 2200, unless required for emergency purposes.

Reason: To safeguard the amenity of local residents

11 Prior to the commencement of the use hereby approved full details of the location of the acoustic enclosure around the outdoor heating units shall be submitted to and approved in writing by the local planning. The acoustic enclosure shall be installed in complete accordance with the approved details and shall be in place for the entire operation of the use hereby approved.

For the avoidance of doubt, the acoustic enclosure shall be at least 2.0m in height and imperforate in construction with no air gaps to allow the passage of noise, such as a close boarded fence.

Reason: To safeguard the amenity of local residents

12 The ice resurfer shall only be operated during the hours of 09:00 to 22:00, unless required for emergency purposes.

Reason: To safeguard the amenity of local residents

13 Prior to the first use of the ice rink, details shall be submitted to and approved in writing by the Local Planning Authority as to how sustainable transport choices will be promoted. This shall include promotion of bus services and safe and illuminated pedestrian and cycle routes. The development shall be carried out in accordance with the approved details.

Reason: For the reasons of sustainability and traffic management.

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 the impact on the

amenities of local residents, the impact on the openness of the Green Belt, and impact on the local highway network and car parking. As such the proposal complies with Policies GB1, GB13, GP1 and GP23 of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance Note 2 'Green Belts'.

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