

COMMITTEE REPORT

Date: 15th May 2014 **Ward:** Huntington/New Earswick
Team: Major and Commercial Team **Parish:** Huntington Parish Council

Reference: 14/00672/OUTM

Application at: Land Adjacent Hopgrove Roundabout Beechwood Hopgrove York
For: Outline planning application with all matters reserved for erection of petrol filling station, restaurant and 50-bedroom lodge accommodation with associated access, car parking and landscaping

By: Enita Europe Limited

Application Type: Major Outline Application (13 weeks)

Target Date: 24 June 2014

Recommendation: Refuse

1.0 PROPOSAL

1.1 Beechwood, Hopgrove Roundabout Malton Road comprises a large partially secluded area currently in pasture use circumscribed by the A64 and A1237 York Outer Ring Road . The site is well landscaped along the eastern, south western and southern edges with residential properties set within large grounds adjacent to the former Malton Road to the north. The site is accessed from the A1237 and lies within the York Green Belt as well as being partially within Flood Zone 3. Outline planning permission is sought with all matters reserved for erection of a "signed" trunk road service area comprising a petrol filling station, restaurant/cafe, 50 bedroom lodge accommodation and a range of ancillary works.

1.2 A Screening Request under The Town and Country Planning(Environmental Impact Assessment) Regulations 2011 has previously been received in respect of the proposal ref:- 13/00651/EIASN.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CGP15A - Development and Flood Risk

CYGB1 - Development within the Green Belt

CYGP1 - Design

CYGP4A - Sustainability

CYNE6 - Species protected by law

3.0 CONSULTATIONS

INTERNAL:-

3.1 Design, Conservation and Sustainable Development express concern in respect of the impact of the proposal upon water vole and bat habitat and the lack of information submitted with the proposal relating to sustainability.

3.2 Highway Network Management were consulted in respect of the proposal on 31st March 2014. Views will be reported orally if available.

3.3 Environmental Protection Unit object to the proposal on the grounds of adverse impact upon residential amenity by virtue of increased noise, light pollution and odour from cooking equipment. Serious concern is also expressed in relation to the possibility of land contamination being present in the area.

EXTERNAL:-

3.3 The Environment Agency were consulted on 31st March 2014. Views will be reported orally if available.

3.4 Huntington Parish Council object to the proposal on the grounds that it fails to respect official Highways Agency Guidelines in respect of motorist facilities, it would cause a harmful build up of traffic on the local highway network and it would seriously harm the residential amenity of neighbouring properties by virtue of noise and light pollution.

3.5 The Foss (2008) Internal Drainage Board object to the proposal on the grounds it lies partially within Flood Zone 3 and that it would seriously exacerbate issues of flood risk in the surrounding area.

3.6 Yorkshire Water Services Ltd raises no objection to the proposal.

3.7 The Highways Agency raises no objection to the proposal.

3.8 One letter of objection has been received in respect of the proposal expressing concern in relation to its impact upon the open character and purposes of designation of the Green Belt along with increased traffic levels on the surrounding highway network.

3.9 A further detailed letter of objection has also been received on behalf of a Local Resident's Action Group living directly adjacent to the proposal. The following is a summary of its contents:-

- Serious concern in respect of the inappropriate nature of the development within the Green Belt and its associated detrimental impact upon its open character and the reasons for its designation;
- Concern in respect of the complete absence of a case for "very special circumstances" to overcome the usual presumption against inappropriate development within the Green Belt and to justify the intended location of the proposal;
- Serious concern in respect of the impact of the proposal upon the residential amenity of neighbouring properties by virtue of noise, light pollution and very substantial increases in traffic levels;
- Serious concern in respect of the impact of the proposal upon the level of flood risk to properties down stream in Hopgrove village;
- Serious concern in respect of the impact of the proposal upon the habitat of the water vole; a protected species.

Accompanying the letter of objection is a detailed critique of the submitted Transport Assessment.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the open character and purposes of designation of the York Green Belt;
- Impact upon the residential amenity of neighbouring properties;
- Impact upon the level of flood risk in the locality;
- Impact upon the habitat of a protected species;
- Impact upon traffic levels on the surrounding highway network;
- Sustainability of the proposal.

STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN:-

4.2 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations in arriving at Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

POLICY BACKGROUND:-

4.3 Paragraph 17 of the National Planning Policy Framework, "Key Planning Principles", is of particular relevance in considering this application. This urges Local Planning Authorities to give significant weight to securing a good standard of amenity for all existing occupants of land and buildings.

4.4 Paragraphs 87 -90 of the National Planning Policy Framework are of particular relevance in considering the proposal. Paragraph 87 identifies that inappropriate development within the Green Belt should not be approved except in "very special circumstances". Paragraph 88 indicates that substantial weight should be given to any harm to the Green Belt. "Very special circumstances will not be deemed to exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations. Paragraph 89 , meanwhile identifies the construction of new building within the Green Belt as automatically inappropriate unless it falls within one of a number of specific categories deemed to be appropriate and paragraph 90 identifies certain other forms of development including local transport infrastructure that can demonstrate the need for a Green Belt location as being not inappropriate providing it preserves the open character of the Green Belt and does not conflict with the purposes of including land within it.

4.5 Paragraph 103 of the National Planning Policy Framework urges that significant weight should be afforded to ensuring that flood risk is not increased elsewhere and only consider development as appropriate in areas at risk of flooding where informed by a site specific risk assessment and following a Sequential Test.

4.6 Paragraph 118 of the National Planning Policy Framework is of relevance in that it urges Local Planning Authorities to refuse planning applications which would result in harm to or the loss of important areas of wildlife habitat.

IMPACT UPON THE OPEN CHARACTER AND PURPOSES OF DESIGNATION OF THE YORK GREEN BELT:-

4.7 The application site comprises a partially secluded area presently used for pasture to the north east of Hopgrove village within the York Green Belt. The proposal envisages the erection of a 50 bed room hotel, a restaurant and a petrol filling station with substantial associated areas of hard surfacing, which would be accessed from the Old Malton Road connected with the A1237 Outer Ring Road a short distance away. It comprises inappropriate development within the Green Belt

as the absence of an access direct from the A64 Trunk Road invalidates the concession in respect of transport infrastructure included within paragraph 90 of the NPPF. The proposal does therefore comprise inappropriate development within the Green Belt, whereby "very special circumstances" would need to be demonstrated to outweigh the presumption against inappropriate development within the Green Belt. "Very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is outweighed by other considerations.

4.8 No case for "very special circumstances" has been put forward to justify the location of the proposal in the Green Belt; indeed the submitted application details fail to address the presence of the proposal within the Green Belt at all. The purposes of including land within the Green Belt include the prevention of encroachment into open countryside, the protection of the setting of historic towns and cities and the prevention of coalescence of built up areas. The application site makes a significant contribution to the fulfilment of Green Belt purposes as so defined which would be substantially prejudiced by the implementation of the proposal. The application site makes a significant contribution with its lightly landscaped fringes to the open character and setting of the north eastern approach to York. This character would be substantially compromised by the implementation of the proposal.

4.9 The development has been justified by the applicant primarily on the basis of an absence of defined motorist services comprising hotel accommodation, petrol and a restaurant in combination along the route of the A64 between Bilbrough and Staxton Wold; a distance of 41.9 miles. The application site is not however along the alignment of the A64 and it is accessed from the A64 through two signal controlled roundabouts causing traffic to leave the Trunk Road for an average of 10 minutes at a time in order to access it. The Highways Agency drew attention to this situation in response to the earlier EIA Screening Application and indicated that the proposal would not have their support as a signed facility. The submitted information furthermore fails to address the presence of each of the identified facilities singly located adjacent to the A64 in the near vicinity or within Hopgrove village or the Monks Cross Retail Park both of which are within a 10 minute drive time. No justification is also given for a Green Belt location per se. As such the submitted case for the development can be afforded very little material weight and the proposal can be seen as contrary to Central Government Planning Policy as outlined in paragraphs 87 to 90 of the National Planning Policy Framework.

IMPACT OF THE PROPOSAL UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES:-

4.10 Paragraph 17 of the NPPF "Core Planning Principles" urges Local Planning Authorities to give significant weight to the provision and safeguarding of a good standard of amenity for all new and existing occupants of land and buildings. Policy GP1 of the York Development Control Local Plan at the same time establishes a

firm policy presumption that new developments should ensure that residents living nearby are not unduly affected by noise or disturbance. The application site comprises a relatively quiet and tranquil area of pasture land partially circumscribed by a landscaped bund and accessed from a very lightly trafficked section of Malton Road. The adjacent highway provides access to a number of residential properties, some of which are set a significant distance back from the road frontage. Two properties, Beechwood Cottage and Beechwood Lodge are however directly on the road frontage in the vicinity of the proposed access points to the proposal. In marked contrast to the existing situation, the occupants of the two properties would be subject to significant volumes of traffic at regular intervals throughout the day and night.

4.11 The indicative site plans also indicate that the majority of the built development and parking area would be in close proximity to the road frontage in order to mitigate for the location of the application site partially within Flood Zone 3. Little if any opportunity is thereby afforded to lessen the potential impact in terms of noise and light pollution on the adjacent residential properties. The submitted application fails to take any account of impacts upon the residential amenity of nearby properties or indeed acknowledge that there are nearby residential properties. A road traffic noise assessment has been submitted but that solely addresses the impact of traffic on the A64 and within the site on the occupants of the hotel bedrooms. The proposal therefore fails to comply with the requirements of paragraph 17 of the NPPF or Policy GP1 of the York Development Control Local Plan.

IMPACT UPON THE LEVEL OF FLOODRISK IN THE LOCALITY:-

4.12 Policy GP15a) of the York Development Control Local Plan sets out a clear policy presumption that developers must satisfy the Local Planning Authority that any flood risk will be successfully managed with the minimum environmental effect and ensure that the site can be developed, serviced and occupied safely. The application site lies across the boundaries of Flood Zones 1 and 3 although the proposed buildings are illustrated as being within Flood Zone 1. A water course crosses the site before draining to the south west through Hopgrove village into the River Foss. A detailed Flood Risk assessment has been submitted. This recommends the controlled closure of the hard surfaced parking areas in the event of a severe rainfall or flooding event and the provision of a separate system of attenuation for the petrol filling station which gives rise to a higher risk of pollution to surrounding water courses. However, the consequence of controlled closure of the parking areas which may in all likelihood be at short notice, would be significant additional parking along Old Malton Road seriously exacerbating the previously identified concerns in relation to impact upon residential amenity.

4.13 The Foss IDB has raised serious concerns in respect of the substantially increased areas of hard surfacing exacerbating flood risk to properties a short distance away in Hopgrove village. The submitted Flood Risk assessment simply fails to address this issue and as a consequence the proposal fails to comply with

the requirements of Policy GP15a) of the York Development Control Local Plan or paragraph 103 of the National Planning Policy Framework.

IMPACT UPON THE HABITAT OF A PROTECTED SPECIES:-

4.14 Paragraph 118 of the National Planning Policy Framework urges Local Planning Authorities to refuse planning permission if significant harm to biodiversity resulting from a development cannot be avoided, mitigated or compensated for. A water course draining south west wards Hopgrove village and the River Foss crosses the site. This has been identified as being a habitat for water voles a species protected by the 1981 Wildlife and Countryside Act. Serious concerns have been expressed in respect of the physical destruction of the water vole habitat through the proposal, the encouragement of water vole predators such as the brown rat and adverse consequences to water quality as a result of the proposed foul water treatment facilities. The application fails to recognise the presence of the water vole habitat or to mitigate against the significant harm that the proposal would generate. The scheme is therefore contrary to the requirements of paragraph 118 of the National Planning Policy Framework.

IMPACT UPON THE LEVELS OF TRAFFIC USING THE SURROUNDING HIGHWAY NETWORK:-

4.15 The proposal has been justified on the basis of being a signed Trunk Road MSA in relation to the A64 which links West Yorkshire conurbation with Scarborough. Notwithstanding that the proposal is not accessed from the Trunk Road or even directly related to it but accessed from a short section of unclassified road linked by a signal controlled roundabout to the A1237 Outer Ring Road. As a consequence, significant volumes of traffic would be flowing backwards on to the local highway network from the A64 including onto a section of road not designed to cope with it. A detailed Transport Assessment has been submitted with the proposal. This identifies only a modest impact upon local traffic levels arising from the proposal. However, the assumptions behind the study fail to take account of the degree of functional disassociation between the application site and the A64 Trunk Road and fails to take account of potential cumulative impacts resulting from recent developments at the nearby Monks Cross Retail Park including the impending relocation of the York City Football Club, issues picked up by the Consultant acting on behalf of the Local Resident's Action Group. As such the Assessment can only be afforded little weight.

SUSTAINABILITY OF THE PROPOSAL:-

4.16 Policy GP4a) of the York Development Control Local Plan sets out a firm policy presumption that new developments must demonstrate how they comply with the principles of sustainable development including the usage of sustainably sourced materials, the use of recycling and access by non-car modes of transport. At the same time the associated Supplementary Planning Guidance covering Sustainable

Construction sets out a clear requirement for new commercial developments to achieve a BREEAM standard of "Very Good". The submitted planning application fails to address the sustainability of the proposal in any way and as such falls below an acceptable standard. As a consequence the requirements of Policy GP4a) of the York Development Control Local Plan would not be complied with.

ENVIRONMENTAL IMPACT ASSESSMENT:-

4.17 The proposal has previously been the subject of a formal Screening Request to determine whether or not an Environmental Impact Assessment in line with Schedule 2 of the 2011 Town and Country Planning (Environmental Impact Assessment) Regulations was required. It was concluded that the environmental impacts could properly be addressed through the conventional planning application process and that a formal Environmental Impact Assessment was not required, notwithstanding the very clear and substantial concerns in respect of the proposal

5.0 CONCLUSION

5.1 Beechwood, Old Malton Road, Hopgrove, comprises a large partially secluded area presently in pasture use within the Green Belt to the north east of the City Centre. The proposal fails to acknowledge and address the Green Belt location of the site and the fact that it is inappropriate development, the significant adverse impact of the development upon the residential amenity of neighbouring properties, the potential impact of the development upon the habitat of the water vole, a protected species, or the impact of the development upon the level of flood risk to properties in the vicinity. As such the development is considered to be unacceptable and it is recommended that planning permission be refused.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The proposed development is inappropriate within the Green Belt within the definition outlined in paragraphs 89 and 90 of the National Planning Policy Framework and therefore by definition materially harmful to its openness. The proposal is contrary to the principles of including land within the Green Belt namely the prevention of encroachment into open countryside and the safeguarding of the setting of historic towns and cities. No case for "very special circumstances" has been brought forward to overcome the policy presumption against inappropriate development within the Green Belt and to justify the clear harm that the development would cause to the character and openness of the Green Belt.

2 The proposed development would give rise to a significant and on-going harmful impact to the residential amenity of occupants of the adjacent residential properties Beechwood Lodge and Beechwood Cottage in terms of light pollution, noise and general disturbance contrary to paragraph 17 of the National Planning Policy Framework "Core Planning Principles" and Policy GP1 of the York Development Control Local Plan.

3 The development site lies partially within Flood Zone 3 and is therefore defined as being at a high risk of flooding. The applicant has failed to demonstrate that the proposed development by its nature involving substantial increases in the areas of hard paved surface, would not materially increase the level of flood risk to neighbouring properties in Hopgrove village, contrary to paragraph 103 of the National Planning Policy Framework and Policy GP15(a) of the York Development Control Local Plan.

4 The application site forms part of the habitat of a group of water voles, a protected species. The planning application fails to demonstrate how the very significant harm to the water vole habitat can be effectively mitigated within the context of the development proposal contrary to the requirements of paragraph 118 of the National Planning Policy Framework.

5 The submitted planning application fail to demonstrate how the proposal would address the principles of Sustainable Development and ensure that the development achieves a minimum standard of BREEAM "very good" contrary to Policy GP4a) of the York Development Control Local Plan and the Adopted Interim Policy Guidance on Sustainable Design and Construction(2007).

7.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

Sought clarification of the case for "very special circumstances" justifying the location of the site within the Green Belt.

However, no very special circumstances were brought forward and the Council's suggestion to withdraw the application and enter into further discussions was declined, resulting in planning permission being recommended for refusal for the reasons stated.

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