

COMMITTEE REPORT

Date: 24th July 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 in respect of the 2011 Town and Country Planning(Environmental Impact Assessment) Regulations 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 raise no objection to the proposal.

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 object to the proposal on the grounds that a non-mains system of drainage is proposed where it would be feasible to connect to the public sewer network. In the event of the proposed system failing a significant risk of pollution to the water environment would arise.

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 raise no objection to the proposal.

3.7 The Highways Agency raise 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;
- Proposed means of foul drainage.

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 is by definition harmful to the Green Belt and 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 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. The detailed Planning Statement submitted with the application seeks to justify the proposal on the grounds of the A64 being a Trunk Road and the proposal coming within one of the categories deemed to be appropriate development within the Green Belt, as outlined in paragraph 90 of the NPPF as "local transport infrastructure which can demonstrate a requirement for a Green Belt location." This derives ultimately from DfT Circular 02/2013 which identifies a functional need for a range of services on long distance transport routes, what that range of facilities should be as well as the ideal operational distance between facilities. The Circular sets out minimum criteria which facilities should achieve to secure signing from the strategic road network. The submitted planning statement examines the perceived need for the facility in relation to the requirements of the Circular. It does however fail to acknowledge the characteristics of the road or more importantly the close proximity of the site to its final destination. The A64 whilst a trunk road in the area of the application is not a long distance route in the sense of the A1 between Newcastle and Edinburgh and the A38 between Exeter and Penzance. The A64 runs between West Yorkshire and Scarborough and the application site is within an hour's drive time of Scarborough and many of the host destinations in West Yorkshire. An appeal case is cited in support of the development from the South West which however relates to the A38, a road with fundamentally different characteristics and which does not lie within a Green Belt area.

4.8 Furthermore in order to be considered as compliant with the DfT criteria the development must be either accessed from the Trunk Road or accessed directly from a conjoining road. The current application does not fulfil the criteria since it is accessed from an unclassified road, in turn accessed from the A1237 Outer Ring Road at some removed from the Trunk Road itself. The test in paragraph 90 of the National Planning Policy seeks to establish that the highway infrastructure proposed requires a Green Belt location. Other sites to the east and outside of the Green Belt are discounted in the submitted Planning Statement on the basis that traffic travelling in one direction either east or west must cross the line of on-coming vehicles, however that is the case in terms of the existing facilities at both Staxton and Bilbrough which operate without significant difficulty. It is therefore argued that the exemption outlined in paragraph 90 does not apply and the proposal remains inappropriate within the Green Belt.

4.9 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 forms a green wedge separating peripheral development around Stockton on the Forest from more recent development to the north east of Huntington. As such it 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. Green Belt areas are also specifically characterised by their openness and 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.

4.10 In emphasising the perceived need for the proposed facility the submitted information fails to address the presence of each of the identified facilities singly located adjacent to the A64 in the near vicinity with a range of restaurant and hotel accommodation lying within the 2 mile stretch of the A64 directly to the north east with petrol available a short distance further on. In view of the need to depart from the Trunk Road to access the site the presence of similar facilities within Hopgrove village or the Monks Cross Retail Park both of which are within a 10 minute drive time are also material and reflective of actual driver behaviour. Accident statistics are also used in order to further support the case; however in no case is driver fatigue given as a contributory factor. 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:-

4.11 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.

4.12 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 any 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. Attention is drawn to the presence of lighting columns on the A64 and it is argued on that basis that the required lighting for the site would not impact upon the visual amenity of the surrounding area. However that fails to take into account the substantial landscape bund running around the south and east of the site which has the effect of substantially lessening the impact of light and noise from the A64 into the surrounding area. 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:-

4.13 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. 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 mentions the presence of the water vole within the site but fails to indicate how harm would be properly mitigated during the process of development. Mention is made of trapping the brown rat (a principal predator of the water vole during the operational phase of the development), but this is felt to be insufficient in terms of the overall scale of harm caused. Central Government Planning Policy in respect of planning and the natural environment is very clear in this respect, the presumption in favour of sustainable development simply does not apply in respect of the habitat of protected species if harm can not be properly mitigated then permission should simply be refused. 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 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. The Local Highway Authority does not however feel that the development would result in such material harm on traffic grounds as to warrant refusal of the proposal.

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 indicates that the proposal would support the requirement of the NPPF to support sustainable development but it fails to indicate precisely how it would do so and furthermore it fails to establish that the normal presumption in favour of sustainable development does not apply within the Green Belt. As a consequence the requirements of Policy GP4a) of the York Development Control Local Plan would not be complied with.

MEANS OF FOUL DRAINAGE:-

4.17 Serious concern has been expressed in respect of the proposed means of foul drainage. A treatment plant is proposed which would discharge treated water into a feeder watercourse into the River Foss which is also a water vole habitat. The Environment Agency indicates that it is possible to connect to the public sewer network in this location and that there is a significant risk of pollution to the water environment by the usage of a treatment plant as an alternative.

ENVIRONMENTAL IMPACT ASSESSMENT:-

4.18 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. Taking into account the indicative criteria within Schedule 3 of the 2011 Regulations it was felt that the proposal would not have significant environmental effects so as to require the undertaking of a formal Environmental Impact Assessment.

THE CASE FOR "VERY SPECIAL CIRCUMSTANCES" TO JUSTIFY DEVELOPMENT WITHIN THE GREEN BELT:-

4.19 The fact that the proposal comprises inappropriate development within the Green Belt sets up a requirement for a detailed case of "very special circumstances" to overcome the usual 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. No case for "very special circumstances" other than the

perceived need for the proposal in relation to DfT Circular advice has been brought forward. The applicant has sought a derogation from the DfT from the normal policy requirements which the DfT appear minded to give however they at the same time indicate that they are reviewing their policy criteria as a whole and as such this can be afforded little weight.

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 provide adequate justification for location within the Green Belt; it fails to address the impact of the development upon the residential amenity of neighbouring properties, the 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 wholly unacceptable and it is recommended that planning permission be withheld.

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 runs clearly 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 strong policy presumption against inappropriate development within the Green Belt and to justify the clearly unacceptable harm that the development would cause to the character and openness of the Green Belt.

2 The proposed development would give rise to a severe 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 GP15a) 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).

6 The proposal envisages the use of a treatment plant discharging into a watercourse which forms a sensitive wildlife habitat. In the event of a likely failure of the plant serious pollution would occur that would unacceptably harm the habitat of the water vole and the wider water environment,

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, the applicant/agent was unwilling to withdraw the application and enter into further discussions, resulting in planning permission being refused for the reasons stated.

Contact details:

Author: Erik Matthews Development Management Officer

Tel No: 01904 551416