

## COMMITTEE REPORT

**Date:** 24<sup>th</sup> July 2014      **Ward:** Osbaldwick  
**Team:** Major and      **Parish:** Osbaldwick Parish  
Commercial Team      Council

**Reference:** 14/00809/FUL  
**Application at:** Holly Tree Farm Murton Way York YO19 5UN  
**For:** Siting of 8no. holiday let log cabins and excavation of fishing lake  
**By:** Mr Robert Winston  
**Application Type:** Full Application  
**Target Date:** 6 June 2014  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 Planning permission is sought for the creation of a lake and the siting of eight log cabins with access and parking provision on 0.75ha of paddock land associated with Holly Tree House, Murton Way, Osbaldwick.

1.2 Holly Tree House is located on the south side of Murton Way. The current access to the property is via a bridge access over Osbaldwick Beck. The existing property is a modest two storey dwelling with detached double garage. To the rear of the house is a traditional stable block building which has permission for conversion into a two bed holiday let. A new vehicular access to serve the stable conversion has also been granted to the east of the existing access. This has not yet been implemented but will necessitate the removal a section of front boundary hedge. The front boundary is presently defined by a hedge standing in excess of 3 metres high; there is a wide verge between the hedge and the Murton Way frontage. The application land is currently used as a paddock. Although the traditional stable buildings are now no longer used there are stable buildings to the rear of the house and to the side of the house which are in use.

1.3 To the north of the site, along the Murton Way frontage, is a residential dwelling, Carr Close. This property has a significant land holding to the rear which abuts the northern boundary of the application site. To the south there is a residential property to the road frontage, Brook Nook, also set in a substantial land area. Part of the land to the rear of Brook Nook has an extant permission for a caravan and camping site (partially commenced but not brought into use).

1.4 The proposal is to construct a 3 metre wide tarmac one way circulation road within the application site to serve eight log cabins set around the site perimeter. Within the circle created by the cabins a lake will be excavated. The plans indicate that the lake will be between 1200 and 1500mm deep, a central island will remain

within the lake and will be landscaped. The overall dimensions of each log cabin is shown as 9.6 metres ( 2.8 of which is an open veranda area) by 8.8 metres. The overall internal height is shown as 4.2 metres. Each log cabin has two bedrooms as well as a first floor mezzanine sleeping area in the roof space. A gravel car parking area is provided for each unit and separate gravel parking space for visitors to the lake are proposed. The lake will be operated as a fishing lake open to the general public. It is proposed that the fishing lake and log cabins will operate year round. Access to the site will be via the approved new access road from Murton Way.

## POLICY HISTORY

1.5 Planning permission was refused for the conversion of stable to a 2 bedroomed holiday let in August 2011 because of the site's location within flood zone 3b ( Planning reference 11/00497/FUL). The application was subsequently allowed on appeal in June 2012 where the Inspector accepted modelling showing the site to be in flood zone 3a.

1.6 Planning permission was granted for a new vehicular access to approved holiday let and paddocks in October 2012 (Planning reference 12/02993/FUL).

## ENVIRONMENTAL IMPACT ASSESSMENT:-

1.7 Because of its scale and nature the development is not considered to fall within the scope of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

## 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Floodzone 2 GMS Constraints: Flood zone 2

Floodzone 3 GMS Constraints: Flood zone 3

2.2 Policies:

CYGP4A	Sustainability
CYGB1	Development within the Green Belt
CYV1	Criteria for visitor related devt
CYV5	Caravan and camping sites

## 3.0 CONSULTATIONS

### INTERNAL

#### HIGHWAY NETWORK MANAGEMENT

3.1 No objections subject to conditions. Murton Way is part of the Way of the Roses cycle route; cycle parking should be provided.

#### FLOOD RISK MANAGEMENT TEAM

3.2 The sequential test has not been proven. The drainage information is inadequate to show the potential impact on the existing drainage system.

### EXTERNAL

#### MURTON PARISH COUNCIL

3.3 Object for the following reasons:

- The scheme erodes the separation of Osbaldwick and Murton villages, a key policy for the villages in the City of York Local Plans. Coalescence is to be avoided wherever possible. The rural setting would be endangered by this development. Successive decisions to protect villages against coalescence have been beneficial to both communities.
- The development being proposed is in the Green Belt and there are no very special circumstances that would allow the development. It will detract from the open character of this area. This proposal appears to have considerable similarities to the proposal for caravans along the Malton Road which was refused on appeal (APP/C2741/A/13/2203642). Further, there have been recent decisions within this parish in which the openness of the Green Belt was a paramount element in the decision. The Parish Council see no mitigating circumstances which would allow for this development (NPPF 2012).
- It is noted that the Local Plan Draft 2014 excludes a proposal for development from a nearby property (number 112) which was refused on criteria 1.
- The buildings and facilities being proposed are out of scale for the area.
- There will be another incremental increase in traffic using Murton Way.

#### OSBALDWICK PARISH COUNCIL

3.4 Object for the following reasons:

- The proposals represent inappropriate development within the greenbelt and would form part of the incremental loss of the greenbelt separation between Osbaldwick and Murton.

- The applicant fails to demonstrate 'very special circumstances' to outweigh the harm to the openness of the greenbelt and reference is made to the recent planning inspector's decision regarding 12/03690/FUL, Chowdene, Malton Road. The conclusions of which can be applied to the change of use of this greenbelt land to accommodate the applicants proposals.
- The flood risk status of the land was clearly established when 11/0049/FUL was refused. The application site lies within flood zone 3b (function floodplan) and as such should not be considered for development.
- The potential for extra traffic entering/existing the site not only to use the holiday lets but the fishing lake is a major concern. The potential for conflict on a bad bend on a narrow road given the proximity of the Outgang Lane Industrial Estate and Link Road Junction needs to be addressed. As does the potential for harm to the rural nature of Murton Way, as this point should the need to mitigate against such an increase in potential traffic conflict require highway safety measures/signage.
- Concern is expressed as to the future use of the advertising signage associated with the operation of the site on the rural character of Murton Way.

## NEIGHBOUR NOTIFICATION AND PUBLICITY

3.5 An adjacent occupier has written expressing his support or the development. A further letter of support makes the following points:-

- The landscape proposals in the design and access statement are supported
- The log cabins are considered a modern interpretation of the Viking houses once found in this area and at the nearby Murton Park Open Air Museum.
- Consider that the proposal is 'permitted development' in the green belt, as it will make a positive contribution to both the local environment and the economy

3.6 One letter of concern has been received covering the following points:-

- The question of flood risk is not clear
- Murton Way is a rat run taking the overflow of traffic from Hull Road
- There is already a planning permission for a caravan site next door to the site, concerned that the area may turn into a CentreParcs type location.

## FOSS INTERNAL DRAINAGE BOARD

3.7 This application site is within the Foss 2008 Internal Drainage Board District. The Board has two maintained watercourse adjacent to the site. The nature of the proposed drainage would dictate that any surface water discharged from the new development would enter either of these watercourses and would in any event enter Osbaldwick Beck. The site must be regulated to that of a 'greenfield' runoff and the applicant should be asked to demonstrate how this will be achieved. Detailed calculations including invert levels to ordnance datum should be produced covering a range of scenarios should be produced along with information in regard to how the

flow will be regulated and full details of the attenuation. Although the application is not one that the Board would object to in principle, there is a need to ensure that no additional volumes of surface water enter Osbaldwick Beck. If permission were to be approved a condition is proposed to ensure 'green field' run off through sustainable means.

## ENVIRONMENT AGENCY

3.8 The Environment Agency have reviewed the model information and flood risk investigation report. Subject to the applicant clearly demonstrating to them that the model has been amended as described in Environment Agency review of the flood zone investigation for Holly Tree Farm, Murton Way (dated 20 December 2011), we agree with the findings that the site does not appear to flood in a 1 in 25 year event. The designation in the Strategic Flood Risk Assessment (SFRA) will need to be formally challenged as the flood zone designation is clearly critical in deciding the outcome of this application. If permission is granted a condition is requested which stipulated that finished floor level should be set a minimum of 600mm above whichever is the greater of the 1 in 100 modelled level or existing ground levels. The Environment Agency agree with the Internal Drainage Board's (IDB's) comments that all surface water drainage arrangements must be agreed with the IDB before any development commences.

## 4.0 APPRAISAL

### 4.1 Key Issues:

- Policy background
- Principle of the development
- Highways, Access and parking arrangements
- Flood risk

## PLANNING POLICY

4.2 The site is located within the Green Belt. One of the twelve core planning principles set out in the National Planning Policy Framework (NPPF) is to protect the Green Belt around urban areas, recognising the intrinsic character and beauty of the countryside (Paragraph 17).

4.3 Section 3 of the NPPF says that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

4.4 Section 9 of the NPPF says that the essential characteristics of green belts are their openness and their permanence (para.79). One of the five purposes of including land within the Green Belt is to assist in safeguarding the countryside from

encroachment (Paragraph 80). Once defined Local Planning Authorities should plan positively to enhance the beneficial use of the green belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land (para.81). The construction of new buildings should be regarded as inappropriate. Exceptions to this include the provision of appropriate facilities for outdoor sport and outdoor recreation as long as the openness of the green belt is preserved and proposals do not conflict with the purposes of including land within the green belt (para.89).

4.5 Paragraph 87 says inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to 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 clearly outweighed by other considerations (Paragraph 88).

4.6 Paragraph 90 states that certain forms of development are also not inappropriate in green belt provided they preserve the openness of the green belt and do not conflict with the purposes of including land in it.

4.7 Paragraph 100 says inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where necessary, making it safe without increasing flood risk elsewhere. Paragraph 101 to 103 sets out how to apply the sequential and exceptions test to development proposals which are within flood zone 2 and 3, and require these tests to be applied.

4.8 The application site falls within the general extent of the Green Belt as shown on the Key Diagram of the RSS (the Yorkshire and Humber Plan) (RSS) saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. Policies YH9 and Y1 (C1 & C2) and the key diagram on page 214 of the RSS form the statutory Development Plan for York. Policy YH9 says the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. All other policy documentation can be accorded weight as material considerations in accordance with Annex 1 of the NPPF.

4.9 The York Development Control draft Local Plan was approved for development control purposes in April 2005. Its policies are material considerations in the determination of planning applications although it is considered that their weight is limited except in accordance with the NPPF. Development Control Local Plan Policy GB1 'Development in the Green Belt' states that planning permission for proposals involving essential facilities for outdoor sport and outdoor recreation will only be granted where:

Application Reference Number: 14/00809/FUL

Item No: 4c

- a) the scale, location and design of such development would not detract from the open character of the Green Belt; and
- 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.

4.10 Policy V1 says that visitor related development will be encouraged. In determining applications account will be taken of whether the proposal has made adequate servicing arrangements; is accessible by public transport; will result in increased traffic; is likely to improve the prosperity of the tourism industry and the city's economy; will adversely impact on the reasonable use and enjoyment of adjacent buildings and land and adverse impacts on the countryside setting of the city.

4.11 Development Control Local Plan Policy V5 'Caravan/Camping Sites' states that planning permission for new caravan/camping sites outside settlement limits will only be granted provided:

- a) the number of pitches does not exceed 20; and
- b) there will be no pitches for static caravans; and
- c) the proposal does not involve the erection of permanently-sited ancillary buildings other than toilets/washrooms and a site office; and
- d) the site is associated with an existing settlement and of a compatible scale to the settlement; and
- e) the site is readily accessible by public transport; and
- f) there is no adverse effect on the openness of the Green Belt; and
- g) it provides a direct benefit to the local residential workforce; and
- h) the approach roads are suitable for caravans; and
- i) there is no adverse effect on the provision of local services; and
- j) the proposal is complimentary to recreational opportunities in the vicinity; and
- k) it provides a direct benefit to the local residential rural community.

4.12 Policy GP4a 'Sustainability' of the DCLP seeks, amongst other things, to ensure that developments are accessible by other means than the car and be easily accessible for pedestrians and cyclists.

4.13 Policy GP15a 'Development and flood risk' proposals for new built development on previously developed land outside development limits will only be granted where it can be demonstrated that the development will not result in net loss of floodplain storage capacity not impede water flows and not increase flood risk elsewhere. The use of sustainable drainage systems is encouraged.

## PRINCIPLE OF THE DEVELOPMENT

4.14 The proposal is for the siting of log cabins to be used for holiday accommodation and the forming of a fishing lake for public use and available to occupiers of the log cabins. The site is located within green belt on an area of land used as a paddock between the villages of Osbaldwick and Murton.

4.15 The proposed log cabins each represent a substantial physical presence which would be erected permanently on the site. The log cabins would not sit on traditional foundations but would have some form of ground level strengthening. The cabins could be moved off the site in sections although the application is for the cabins to be permanently sited. Given their size, permanence and degree of physical attachment to the land, it is Officers' view that the log cabins would comprise operational development and would therefore be treated in policy terms as buildings.

4.16 In terms of the green belt status of the site the main considerations in relation to the proposed development is

- whether the proposal constitutes inappropriate development in the Green Belt,
- its effect on the openness of the Green Belt and the purposes of including land within it
- if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development;

4.17 Buildings for holiday accommodation are not listed in Paragraph 89 of the NPPF as exceptions to inappropriate development in the Green Belt. The formation of the fishing lakes for commercial use form part of the wider scheme for holiday lodges.

4.18 Paragraph 79 of the NPPF says that the essential characteristics of Green belts are their openness and their permanence. The boundaries of the land are defined by mature hedges and there is a reasonably wide grass verge between the hedge and the road. Officers have noted the detail of the approved access road (not yet implemented) which is proposed to serve the development as well as the conversion details for the approved, but not implemented, stable conversion into a holiday let. Murton Way beyond the entrance to the industrial estate to the west of Murton Way maintains a rural character consisting of a small number of dwellings set in substantial land areas and defined by mature green boundaries. Beyond the application site boundaries to the south and east existing industrial buildings and infrastructure are discernible but the landscaped backdrop within which these are set and the separation of the site from the southern boundary by a neighbouring field gives the site a separate rural feel. The amount of development, its siting and design, the year round opening of the site, with necessary lighting and reduced level



of cover from existing hedges and greenery in winter months, would mean that the development would impact on the openness of the green belt.

4.19 In accordance with paragraph 88 very special circumstances will not exist unless potential harm to the green belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Very special circumstances are considered at paragraph 4.26 – 4.28 below.

4.20 Furthermore policy V5 of the DCLP does not support development of touring caravan and camping sites where there is an impact on the openness of the green belt. More permanent accommodation (referred to in the policy as static caravans) is stated not to be appropriate due to their visually intrusive characteristics and permanence; permanent facilities other than toilets/washrooms are discouraged.

## HIGHWAYS ACCESS AND PARKING ARRANGEMENTS

4.21 Permission was granted for the construction of a new access to serve the approved stable conversion to holiday lets in October 2012. Highway Network Management did not object to the formation of the new access and consider that the traffic generated by this proposal can be accommodated within the design of the access road. It is pointed out that the Way of the Roses cycle route runs past the site and that any approval should include conditions to ensure cycle parking provision within the site.

## FLOOD RISK

4.22 The National Planning Policy Guidance says that flood zones as defined in the Strategic Flood Risk Assessment (SFRA) for the area provides the basis for applying the sequential test. The SFRA for York (updated 2013) identifies the site as falling within flood zone 3b. The National Planning Policy Guidance (NPPG) says development should be directed to the areas at least risk of flooding. Local Planning Authorities should take into account the flood risk vulnerability of land uses and consider reasonably available sites in flood zone 2 applying the exceptions test if required. Only where there are no reasonably available sites in flood zone 1 and 2 should the suitability of sites in flood zone 3 be considered taking into account the flood risk vulnerability of land uses and applying the exceptions test if required.

4.23 The site is identified as being within Flood zone 3b in the SFRA. Modelling undertaken for the change of use of the stables into holiday accommodation showed that the site could be re-categorised as flood zone 3a. The Flood Risk Management team indicate that the modelling for this application has not been incorporated into the flood risk assessment and therefore re-categorisation to flood zone 3a cannot be confirmed. The Inspector in allowing the appeal for the use of the stables on site as a holiday cottage accepted the modelling for the re-categorisation and this re-categorisation was accepted by both the Environment Agency and our Flood Risk

Management Team at this time. In Officers view this application can be considered to be within flood Zone 3a based on the findings of the Inspector.

4.24 The NPPG advises that land within flood zone 3a is assessed as having a 1 in 100 or greater annual probability of river flooding where water compatible and less vulnerable uses are considered appropriate. The SFRA regards sites used for holiday or short-let caravans and camping, subject to a specific warning and evacuation plan, as falling within the more vulnerable category. In these circumstances the SFRA and the NPPF requires the sequential and exception test to be applied to the proposed development. In accordance with paragraph 102 of the NPPF the exception test is applied where the sequential test has been passed (the sequential test will not be passed if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding), for the exceptions test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and a site specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account the vulnerability of its users without increasing flood risk elsewhere.

4.25 In relation to the sequential test the applicant indicates that there are no sites allocated in the emerging local plan for log cabins and therefore there are no sequentially available sites. The NPPG says that the developer should justify with evidence to the local planning authority what area of search has been used for the sequential test when making the application. Officers accept that the emerging local plan is not sufficiently far advanced to identify sites suitable for the use proposed or a criteria by which such development could be assessed. However policy V1 and V5 of the DCLP set out the basis upon which new visitor/ tourist facilities will be considered. The aims of these policies are considered to be consistent with NPPF and it is reasonable that there will be other sites that may be outside flood zone 3 that could meet the requirements of these policies. The area of land to the rear of the site is located within flood zone 2 and were the scheme to be considered acceptable from a green belt perspective the rear part of the site would more easily pass the sequential test because of its lower probability of flood risk. The scheme is not sufficiently detailed to pass the sequential test. The exceptions test cannot be applied as the sequential test has not been passed however Officers consider that the submitted information does not demonstrate that there are wider community benefits to the surrounding community the outweigh flood risk. Furthermore the submitted details do not show how the scheme will be drained giving priority to the use of sustainable drainage systems.

## WHETHER THERE ARE VERY SPECIAL CIRCUMSTANCES TO OUTWEIGH THE HARM TO THE GREEN BELT

4.26 Supporting information from the applicant sets out the factors they consider to represent very special circumstances to outweigh harm to the Green Belt by reason of inappropriateness and any other harm. These are:-

- The site at present is a poor grade pony paddock; the proposal will enhance the site and its surroundings
- The scheme provides for outdoor sport and recreation and the land is already a leisure activity
- Paragraph 81 says that Local Planning Authorities should plan positively to enhance the beneficial use of the green belt. There are no specific policies or allocations that provide for this type of tourist accommodation
- Log cabin schemes have been approved in adjacent Local Planning Authority areas

4.27 The present equestrian use of the site is clearly that which paragraph 81 of the NPPF is seeking to support. In this sense the site is already being put to a beneficial use. The supporting information does not indicate that the current use is not viable. Change to a more intensive use with the associated buildings would have a greater visual impact which would be detrimental to the openness of the green belt. The use of the site as a paddock is accommodated without detriment to the role the land plays in providing a transition between the urban edge of the settlement and rural land beyond.

4.28 The proposal would undoubtedly increase both the quantity and variety of tourist accommodation serving York and the wider area but that is a consideration that could apply to any number of sites. The factors set out by the applicant to justify inappropriate development do not clearly outweigh the harm to the green belt due to inappropriateness and any other harm. The harm arising from the inappropriateness of the development and the harm identified above are not outweighed by the very special circumstances advanced by the Applicant.

## 5.0 CONCLUSION

5.1 For the reasons set out above the development considered to be inappropriate development in the Green Belt. The harm arising from the inappropriateness of the development and the harm identified above are not outweighed by the very special circumstances advanced by the Applicant.

5.2 The application details raises no highway concerns.

5.3 The site is considered to be in Flood Zone 3a. The scheme is not sufficiently detailed to pass the sequential test. The exceptions test can not be applied as the sequential test has not been passed, however, the submitted information does not demonstrate that there are wider community benefits to the surrounding community that outweigh flood risk. Furthermore the submitted details do not show how the scheme will be drained giving priority to the use of sustainable drainage systems.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Refuse**

1 Policy YH9 and Y1 of the Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre . Murton Way is located in Green Belt as identified in the City of York Development Control Local Plan (Approved April 2005). It is considered that the proposed development consisting of 8 log cabins, fishing lake open to the public and associated infrastructure constitutes inappropriate development in the Green Belt as set out in section 9 of the National Planning Policy Framework which is by definition harmful to the Green Belt. No 'very special circumstances' have been put forward by the applicant that would outweigh harm by reason of inappropriateness and any other harm, including the impact on the openness of the Green Belt and conflict with the purposes of including land within Green Belt. The proposal is therefore considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt land'.

2 The Council accept that the site is located within Flood zone 3a based on the modelling set out the flood zone investigation report and the additional information submitted with the application. The use of the site for siting of holiday log cabins is a more vulnerable use as identified in table 4.1 of the City of York Council Strategic Flood Risk Assessment (Table 2 of the National Planning Policy Guidance flood zone and flood risk tables). The applicant has not demonstrated in accordance with paragraph 102 of the National Planning Policy Framework and advice within the National Planning Policy Guidance that there are no sequentially preferable sites that could accommodate the development that are at lower risk of flooding . It is considered that the application fails to provide sufficient information for the sequential test to be passed. Furthermore the Local Planning Authority consider that were the sequential test considered to be satisfied the application does not demonstrate, in accordance with paragraph 103 of the National Planning Policy Framework that there are wider community benefits arising from the development to the surrounding community that outweigh flood risk or that the scheme will be drained giving priority to the use of sustainable drainage systems.

## **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:

No pre-application submission was made however Officers wrote to the applicant with concerns about the application following its submission and subsequently met with the applicant on site to explain the concerns about the inappropriateness of the development in green belt. However, the applicant/agent was unwilling to withdraw the application.

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